Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 42 of 2026

In the matter of:

Petition seeking review/modification in the Capacity Utilization Factor of Solar Plant as provided in Uttarakhand Electricity Regulatory Commission (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-Generating Stations) Regulation, 2023.

In the matter of:

RE Power Generators Society … Petitioner

AND

Uttarakhand Power Corporation Ltd.

Uttarakhand Renewable Energy Development Agency … Respondents

CORAM

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

Date of Hearing: August 04, 2026

Date of Order : September 18, 2026

RE Power Generators Society has filed a present Petition on 16.06.2026 seeking review/ modification of Capacity Utilisation Factor (CUF) specified under UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations 2023 (hereinafter referred to as "RE Regulations, 2023"). The present Petition has been filed under Regulation 54, i.e. Power to Relax, Regulation 55, i.e. Power to Amend of RE Regulations, 2023 read with Regulation 59 of the UERC (Conduct of Business),

Regulations, 2014.

1. Background

1.1 The Commission in exercise of the powers vested in it under Section 61(h) and Section 86(1)(e) read with Section 181(2)(zd) of the Act, notified the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2023 (hereinafter referred to as "RE Regulations, 2023") on 16.08.2023 wherein the Commission specified CUF of 19% for Solar PV plants. In accordance with the provisions of Regulation 12 of RE Regulations, 2023, the Commission vide Suo-moto Order dated 04.06.2026 determined the generic tariff for solar power plants and BESS on Suo-moto basis, applicable for FY 2026-27, based on the norms specified in the RE Regulations, 2023 as amended from time to time.

1.2 The Commission, as deliberated in the Order dated 04.06.2026, had decided to extend the applicable tariff of FY 2025-26, i.e. Rs. 4.10/kWh, for the projects to be commissioned during FY 2026-27 as well.

1.3 During the proceedings, RE Power Generators Society (hereinafter referred to as "Petitioner") had submitted that as per generation data obtained regarding existing operational solar Plants having PPA with Uttarakhand Power Corporation Limited (UPCL), older plants utilizing Poly Silicon technology demonstrate a CUF of approximately 17%. Conversely, the newer plants operating with Mono Silicon and other advanced technologies are currently recording an average CUF of only 15%. Uttarakhand is characterized by incredibly complex, hilly terrain. This geographical reality means that achieving a pure south facing orientation for large Plants is frequently impossible, thereby naturally and unavoidably reducing the achievable CUF.

In the matter, the Commission was of the view that the Suo-moto proceedings were limited to the determination of benchmark capital cost and determination of generic tariff for Solar energy based Power Plants in accordance with the norms specified under the RE Regulations. The comments/suggestions of the stakeholders on the parameter, such as CUF, which have already been specified in the said Regulations, were beyond the scope of the present proceedings as tariff determined herein are based on the Regulations presently in

force. Accordingly, the Commission did not examine or modify the normative CUF in the present Order.

The Petitioner filed this Petition stating CUF should be modified as there is non-consideration of important factors impacting the generators.

2. Petitioner's Submission

2.1. The Petitioner, RE Power Generators Society, submitted that it is a Non-Governmental Organization dedicated to the promotion and advancement of renewable energy power generation, and that it represents the collective voice of developers in the State of Uttarakhand who are desirous of investing in solar energy infrastructure. It further submitted that the Petitioner's objective is to facilitate clean and sustainable energy and to create livelihood opportunities within the State, and that a conducive and realistic regulatory environment would help bring industrial ventures and investment to Uttarakhand and foster long-term economic growth. The Petitioner submitted that it is a stakeholder in tariff determination proceedings and that the present Petition is accordingly within the jurisdiction of the Commission.

2.2. The Petitioner has submitted that Regulation 34 of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations 2023 (hereinafter referred to as "RE Regulations, 2023) provides a CUF of 19% for Solar Plants to be installed in the State of Uttarakhand, and that the Commission, while reviewing the Benchmark Capital Cost for Solar PV, Solar Thermal and Grid Interactive Rooftop & Small Solar PV Plants from time to time, has always considered the CUF of 19%.

2.3. The Petitioner referring to Impugned Order dated 04.06.2026 submitted that the Commission had deliberated as under:

"The Commission observed that some of the stakeholders have submitted that the practically achievable Capacity Utilization Factor (CUF) for Solar PV Projects in the State of Uttarakhand ranges between 16.5% to 18% and, accordingly, requested that the normative CUF may be capped at 17% and alternatively, the tariff may be revised proportionately.

In this regard, the Commission notes that the present regulatory exercise is limited to the determination

of benchmark capital cost and determination of generic tariff for Solar energy based Power Plants and BESS in accordance with the norms specified under the RE Regulations. The comments/suggestions of the stakeholders on the parameter, such as CUF, which have already been specified in the said Regulations, are beyond the scope of the present proceedings as tariff determined herein are based on the Regulations presently in force. Accordingly, the Commission is not inclined to examine or modify the normative CUF in the present Order."

2.4. The Petitioner further referred to the Commission's earlier Order dated 20.08.2025 reviewing the benchmark capital cost of Solar Plants for FY 2025-26, and submitted that the Commission had deliberated on the issue of CUF as under:

"As mentioned in the above paragraph of this Order, the Commission has considered CUF of 19% and the Commission as of now is not modifying the CUF stipulated in the regulations without analysing the actual CUF being achieved by latest used/available technology Solar Plants. In this regard, Commission has sought information regarding CUF of the solar plants installed in the State of Uttarakhand from UPCL and the same has been submitted by UPCL. The Commission is under process of reviewing the same and shall take a view to amend the RE Regulations, 2023 to the extent of CUF, if required. The generic tariff of solar energy-based projects shall be re-determined to the extent of amended CUF, if any."

2.5. The Petitioner submitted that although the Commission has, in the aforesaid Orders, discussed the issue of CUF of Solar Plants, no revision of the CUF has so far been proposed by the Commission, and that the Order dated 04.06.2026 has adopted a CUF of 19% for generic solar tariff determination, which, according to the Petitioner, stands completely decoupled from the empirical operational realities of the State.

2.6. The Petitioner submitted that ground-level technical data of the operational solar power plants across Uttarakhand shows that these assets struggle to maintain a consistent CUF of even 17%, which the Petitioner attributes to severe geo-climatic and terrain constraints prevailing in the State.

In this regard, the Petitioner submitted that the challenging topography of Uttarakhand directly degrades the actual generation performance of solar assets, rendering standard regulatory assumptions inaccurate. The Petitioner also submitted that owing to uneven elevations and non-contiguous land profiles, developers are unable to maintain a

uniform south-facing azimuth orientation, which requires them to utilize significantly larger land areas per megawatt to prevent inter-row shading, thereby multiplying cabling and land-use costs, and that high-altitude microclimates also impact actual generation. The Petitioner further submitted that mountain profiles cause severe horizon-shading, whereby surrounding ridges physically block early morning and late afternoon solar radiation and shorten the effective daily generation window. It is also submitted that distributed and small-scale solar plants in hilly terrain, being connected to extended radial rural distribution feeders, are highly vulnerable to prolonged forced downtime and grid operation constraints, and that landslides, forest fires, grid instability and storm-driven line faults lead to extensive power outages during which the plant, although fully operational, is legally and physically unable to evacuate power.

2.7. In support of its submissions, the Petitioner relied upon official operational generation logs and performance data stated to have been procured from UPCL under the Right to Information Act, 2005. The Petitioner submitted that the data shows that the actual energy yield across the State falls short of regulatory expectations, reflecting an average operational CUF of less than 17%, with several installations in hilly terrain stated to be as low as 14% CUF. It is further submitted that the deficit is exacerbated by increasingly erratic weather patterns and extreme precipitation events, which the Petitioner states introduce unpredictability into the future generation profile of the State's solar assets.

2.8. The Petitioner further submitted that the CEA has adopted a standard, realistic solar CUF of 17% for its long-term national modelling, demand projections and resource planning. It is submitted that this is codified in the CEA's Twentieth Electric Power Survey of India and the Petitioner submitted that this baseline demonstrates that the Commission may consider the same without deviating from national technical standards.

2.9. The Petitioner submitted that the CUF is an important parameter in determining the generic tariff, as it affects the total projected generation over which the fixed capital cost is recovered. It was submitted that the normative CUF of 19% results in a higher assumed generation and, consequently, a lower per-unit tariff. According to the Petitioner, this makes it difficult for developers to recover their actual capital costs, affects project viability and discourages private investment. The Petitioner, therefore, submitted that the normative

CUF should be reduced to a realistic level to make solar projects, particularly in the higher regions of the State, financially viable and encourage their development.

2.10. In view of the above, the Petitioner has prayed as follows:

(i) Take the Petition on record;

(ii) Grant suitable opportunity to the Petitioner, within a reasonable time frame, to file additional material information that may subsequently become available and as may be required by the Commission;

(iii) Modify the CUF to 17%, as provided under the RE Regulations, 2023, and, accordingly, consider upward revision of the benchmark tariff for Solar Plants issued vide Order dated 04-06-2026; and

(iv) pass such other order(s) as may be deemed fit and proper in the facts and circumstances of the case.

3. Respondents' Submission

3.1. The Commission fixed the matter for hearing on 04.08.2026 on the admissibility of the Review Petition and forwarded a copy of the Review Petition to UPCL and UREDA for filing their comments. In compliance thereof, UREDA and UPCL submitted their comments vide letter dated 17.07.2026 and dated 21.07.2026 respectively. The submissions made by UREDA and UPCL have been dealt with in the subsequent paragraphs of this Order.

3.2. UERDA vide its reply submitted that the Commission in its Suo-moto Order dated 20.08.2025 has stated that CUF of 19% was fixed considering Poly Silicon Solar Modules and Thin Film Solar Module. However, benchmark capital cost had been considered based on PERC Solar Module which is an advance technology in comparison to Thin film Solar Module which must result into higher CUF.

3.3. UREDA also submitted that MNRE vide its Order dated 06.05.2025 has decided minimum module efficiency threshold of 20% for utility/grid scale power plants. Subsequently, MNRE vide its Order dated 28.11.2025 regarding comments on draft order for increasing threshold solar PV module efficiencies, has proposed existing minimum module efficiency threshold of 20% to be 21% from 01.01.2027 and 21.5% from 01.01.2028 for utility/grid scale

power plants. UREDA also referred to CERC's RE Regulations, 2024 wherein minimum CUF of 21% has been specified for solar PV projects.

3.4. UPCL submitted that the RE Regulations, 2023 were notified on 16.08.2023 under Sections 61(h), 86(1)(e) and 181(2)(zd) of the Electricity Act, 2003. It was submitted that the normative CUF of 19% prescribed under Regulation 34 is an important parameter in the levelised tariff methodology under the RE Regulations, 2023. UPCL further submitted that Regulation 12 provides for a five-year Control Period/Review Period commencing from FY 2023-24 and that the tariff determined for RE projects commissioned during the Control Period remains applicable for the entire Tariff Period, thereby providing stability and certainty to the renewable energy sector.

3.5. UPCL submitted that the Commission had examined the issue of CUF in its Order dated 20.08.2025 in Petition No. 51 of 2025 relating to Benchmark Capital Cost for FY 2025-26. According to UPCL, the Commission had called for the CUF data from UPCL which was submitted by it to the Commission. Any revision in the CUF would require amendment to the RE Regulations, 2023.

3.6. UPCL further submitted that, in the Order dated 04.06.2026 in Petition No. 18 of 2026, whereby the Commission determined the Benchmark Capital Cost and generic tariff for FY 2026-27, the Commission considered comments received from various stakeholders, including the Petitioner. UPCL referred to Para 6.3(c) of the said Order, wherein the Commission observed that comments/suggestions relating to parameters such as CUF, which were already specified in the Regulations, were beyond the scope of the proceedings and declined to examine or modify the normative CUF.

3.7. UPCL further submitted that the Petition has been filed by an association/society and not by any individual generating company or Solar PV project developer claiming any violation of its rights. UPCL submitted that the rights and remedies under the RE Regulations, 2023, including review and relaxation, are available to the entities covered under the Regulations, and that the Petitioner does not fall in this category. UPCL further submitted that no authorisation or resolution from any Solar PV project developer authorising the Society to file the present Petition had been placed on record.

3.8. UPCL further submitted that being the sole distribution licensee and the entity obligated to procure renewable energy for fulfilment of its Renewable Purchase Obligation, it would bear the financial consequences of any reduction in the normative CUF. It was submitted that no order having a material adverse financial impact on UPCL ought to be passed without affording it an opportunity of hearing.

3.9. With regard to Regulations 54 and 55 of the RE Regulations, 2023 and Regulation 59 of the UERC (Conduct of Business) Regulations, 2014, UPCL submitted that Regulation 54 provides for relaxation in individual cases and cannot be invoked for making a permanent, State-wide change in a normative parameter. It was further submitted that Regulation 55 confers the power to amend the Regulations upon the Commission and does not create a right in favour of a private party to seek such amendment through an application. UPCL also submitted that Regulation 59, being an inherent/residuary power, is required to be exercised sparingly and cannot be used to reopen a specific issue already considered and decided by the Commission.

3.10. UPCL submitted that determination or revision of a generic normative technical parameter such as CUF under Regulation 34 involves exercise of regulatory powers under Section 181 of the Electricity Act, 2003. According to UPCL, any amendment to such a generally applicable parameter is required to follow the prescribed regulatory process, including publication of the draft amendment and consideration of objections and suggestions from stakeholders. UPCL submitted that the issue had already been considered in the proceedings culminating in the Order dated 04.06.2026.

3.11. UPCL further submitted that, if the Petitioner is aggrieved by the Commission's observations in the said Order, the appropriate remedy would lie under the applicable statutory provisions and Regulations and not through a fresh application seeking the same relief on the basis of the certain material.

3.12. UPCL submitted that the relief sought by the Petitioner, namely, reduction of the normative CUF from 19% to 17% for all Solar PV Plants in the State, would effectively amount to amendment of a generally applicable Regulation and was not a relief relating to any specific project, PPA, tariff order or individual grievance. According to UPCL, such a change could

only be made through the prescribed process for amendment of the Regulations.

3.13. UPCL further submitted that the five-year Control Period under Regulation 12 was intended to provide stability in tariff and regulatory parameters. It was contended that permitting a normative parameter to be reopened shortly after its consideration by the Commission would affect the regulatory certainty available to existing PPA holders, lenders and prospective developers.

3.14. UPCL submitted that the material relied upon by the Petitioner does not justify reduction of the normative CUF from 19% to 17%. With reference to the data submitted by the Petitioner, UPCL submitted that the CUF of Mono-PERC plants has increased from 0.09% in FY 2020-21 to 15.88% in FY 2024-25. It was further submitted that the figures for FY 2025-26 relied upon by the Petitioner, being 14.81% for Mono-PERC and 16.48% for Poly Solar plants, were based on data available only up to December 2025 and, therefore, did not cover the complete financial year.

3.15. UPCL further submitted that the data relating to Poly Solar plants commissioned before 2019 showed CUF ranging between 16.48% and 18.01% over six financial years. It is submitted by UPCL that if older technology was achieving such CUF levels, there was no basis to conclude that newer technologies such as Mono-PERC, TOPCon and bifacial modules would be unable to achieve the existing normative CUF of 19%. UPCL referred in this regard to the Commission's Order dated 20.08.2025, wherein higher CUF associated with newer technology had been noted.

3.16. UPCL submitted that a substantial number of the projects included in the Petitioner's data had been commissioned only during FY 2024-25, FY 2025-26 or year 2026. It was contended that inclusion of such projects in the State-wide average, without considering their limited operational period, could result in a lower reported CUF.

3.17. UPCL further submitted that the Petitioner itself had attributed generation shortfalls to factors such as landslides, forest fires, grid instability and storm-related line faults. According to UPCL, such factors primarily relate to grid-side and evacuation constraints and should be addressed through strengthening of the grid and evacuation infrastructure rather than by reducing the State-wide normative CUF.

3.18. With regard to the CEA's 20th Electric Power Survey relied upon by the Petitioner, UPCL submitted that the 17% CUF referred to therein related to rooftop solar installations and solar agricultural pumps under PM-KUSUM for the purposes of national-level demand-offset projections. UPCL contended that the said assumption was neither a prescribed CUF for utility-scale, ground-mounted Solar PV projects under Regulation 34 nor State-specific to Uttarakhand.

3.19. UPCL further submitted that its analysis of the data furnished by the Petitioner shows that several Solar PV projects, including projects located in both hilly and plain areas and across different capacity ranges, had achieved or exceeded the existing normative CUF of 19% in one or more financial years. UPCL referred, inter alia, to the generation performance of M/s Sainath Solar Energy Pvt. Ltd., M/s Shree Dhaneshwar Projects Pvt. Ltd., M/s Krishna Solar Energy Pvt. Ltd., M/s Devishi Renewal Energy Pvt. Ltd. and M/s Devishi Solar Power Pvt. Ltd.

3.20. UPCL submitted that the normative CUF is not intended to represent the average actual generation of every Solar PV project and that actual generation may vary depending upon project-specific factors, including site selection, engineering design, module quality, inverter sizing, evacuation arrangements and operation and maintenance. It was, therefore, submitted that variations in the actual CUF of individual projects could not, by themselves, justify revision of the State-wide normative CUF.

3.21. UPCL further submitted that Solar PPAs generally contain CUF-linked provisions relating to minimum and maximum generation. It was contended that reduction of the normative CUF from 19% to 17% could alter the applicable ceiling for generation eligible for payment at the project tariff and may consequently affect generators whose actual generation exceeds the revised normative level.

3.22. UPCL submitted that reduction of the normative CUF from 19% to 17%, without a corresponding change in benchmark capital cost, would result in an increase in the generic tariff determined under the levelised tariff methodology. It was further submitted that, as UPCL is statutorily required to procure renewable energy for fulfilment of its Renewable Purchase Obligation, any increase in the cost of such power would ultimately have an

impact on the cost of supply and, in the ordinary course of tariff determination and Fuel and Power Purchase Cost Adjustment mechanisms, may be passed through to consumers.

4. Petitioner's counter reply

4.1. The Petitioner filed a rejoinder received on 21.07.2026 to the comments filed by UREDA, and a separate rejoinder was received on 31.07.2026 to the objections raised by UPCL which have been discussed in the subsequent paragraphs of this Order.

4.2. In response to UPCL's objection that the Petitioner has no locus standi to maintain the Petition, not being a "generating company"/"generating station" within the meaning of Regulation 2(4) of the RE Regulations, 2023, the Petitioner submitted that UPCL's own reply recorded that the Petitioner had participated, through its Authorised Signatory, as a stakeholder in the proceedings culminating in the Order dated 04.06.2026, and that its submissions were considered by the Commission along with those of UREDA and other stakeholders.

The Petitioner submitted that UPCL cannot first treat the Petitioner as a stakeholder whose comments should be considered while framing the capital cost order and, shortly thereafter, claim that the same Petitioner has no right to be heard. The Petitioner stated that UPCL was taking inconsistent positions on the same issue.

4.3. In reply to UPCL's reliance on Regulation 2(4) of the RE Regulations, 2023, the Petitioner submitted that the said Regulation does not prevent an interested person from approaching the Commission. According to the Petitioner, Regulation 54 refers to "an interested person," while Regulation 59 of UERC (Conduct of Business) Regulations, 2014 gives the Commission general inherent powers. Neither provision, on a plain reading, limits the right to approach the Commission only to a generating company. The Petitioner also submitted that Regulation 2(4) only treats a generating station as a generating company for the purpose of fulfilling its duties and obligations under the Act. It does not exclude representative bodies, associations, or societies from filing petitions before the Commission on matters affecting their common stakeholder interests. The Petitioner submitted that there is nothing in the wording of the Regulation that limits the Commission's power only to case-specific changes. Therefore, the Petitioner urged the Commission not to impose a restriction

that is not expressly provided in the Regulation.

4.4. The Petitioner further submitted that Regulation 12 of the RE Regulations, 2023 allows the benchmark capital cost to be reviewed every year, even though the Control Period is five years. The Petitioner submitted that if capital cost, which is an important part of the tariff calculation, can be reviewed annually, there is no reason why CUF (Capacity Utilisation Factor) should remain unchanged for the entire five-year Control Period. In simple terms, the Petitioner's position is that if one important tariff parameter can be reviewed when circumstances change, CUF should also be capable of being reviewed when justified.

4.5. In response to UPCL's submission that Regulation 55 vests the power to amend the Regulations in the Commission alone, exercisable suo moto, the Petitioner submitted that the power to amend "at any time" does not, on a fair reading, confine that power to suo moto exercise alone, and contended that the present Petition does not usurp the Commission's regulation-making function; it triggers and assists it, exactly as Regulations 54, 55 and 59 when read together, contemplates.

4.6. In response to UPCL's submission that Regulation 59 of UERC (Conduct of Business) Regulations, 2014 cannot be used to reopen a finding already recorded in the Order dated 04.06.2026, the Petitioner submitted that impugned Order did not decide the CUF question on merits at all. The impugned Order expressly declined to examine it because that proceeding was confined to benchmark capital cost. Accordingly, there was no identical prayer that has already been decided, and no finding to reopen, re-agitate or circumvent.

4.7. In response to UPCL's submission that determination/review of CUF under Regulation 34 is an exercise of subordinate legislative power under Section 181 of the Act, not exercisable upon a private application, the Petitioner submitted that it did not ask the Commission to bypass Section 181 of the Act and that the relief sought is that the Commission undertakes the exercise to review CUF.

4.8. The Petitioner relied on the Commission's Order dated 20.06.2014, pointing out that the Commission had previously revised the normative CUF applicable to Small Hydro Power Plants in Uttarakhand after considering the actual CUF achieved by small hydro power

plants in the State, as compared to the CUF that had earlier been fixed on a normative basis. According to the Petitioner, this shows that, in the Commission's own regulatory practice, normative CUF is not a fixed or unchangeable figure and can be revised during the relevant Control Period when circumstances justify such a change.

The Petitioner also responded to UPCL's concern that allowing the present Petition would make Regulation 12 or Section 181 ineffective. The Petitioner pointed out that the RE Tariff Regulations, 2023 had already been amended by the Commission twice—once in 2024 and again in 2025. Therefore, the Petitioner submitted that UPCL's concern that the present Application would make the existing regulatory framework meaningless was not supported by the facts.

4.9. In response to UPCL's contention that the Application was filed at a procedurally inappropriate stage, the Petitioner submitted that the prompt filing of the Application following the Commission's Order dated 04.06.2026 reflected diligence rather than any procedural impropriety. The Petitioner further referred to the Commission's Order dated 20.08.2025, wherein the Commission had observed that it shall take a view to amend the RE Regulations, 2023 to the extent of CUF, if required.

4.10. In response to UREDA's reliance on the Commission's Order dated 20.08.2025 and the MNRE notifications to contend that Mono PERC Solar Modules, being an advanced technology, must result into higher CUF reflecting higher generation from the said modules, the Petitioner submitted that such reliance was technically misconceived. The Petitioner explained that module efficiency is a measure of how much of the incident solar irradiance a module converts into electricity per unit area of the module" and determines the physical land or roof area required for installing a given capacity. However, it was contended that module efficiency is emphatically not a macro-determinant of the Capacity Utilisation Factor of a plant.

The Petitioner further submitted that CUF is primarily influenced by factors such as the quantum and quality of solar irradiance available at the project site throughout the year, ambient temperature, shading, site-specific land contours and orientation, soiling, grid availability and downtime, and O&M practices. According to the Petitioner, higher module

efficiency enables a developer to install the same capacity over a smaller land or roof area, but does not, by itself, increase the availability of solar irradiance, alter site conditions, improve grid reliability, or otherwise result in higher generation. Accordingly, the Petitioner submitted that equating higher module efficiency with higher CUF amounted to a fundamental technical error.

4.11. In response to UREDA's reliance on the CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2024, particularly Regulation 47, which provides that the minimum capacity utilization factor for solar PV power projects shall be 21%, the Petitioner submitted that the CERC norm of 21%, as well as the erstwhile CERC norm of 19% adopted in the RE Regulations, 2023, represents a generic, all-India benchmark developed primarily with reference to the operational experience of large and ultra-mega solar projects, generally of 50 MW and above, located in the plains of Rajasthan, Gujarat, Maharashtra, Madhya Pradesh and other similarly situated States.

The Petitioner contended that such projects typically benefit from flat and contiguous land parcels, minimal shading, favourable and uniform orientation, higher solar irradiance and relatively stable grid evacuation infrastructure. According to the Petitioner, the site and operating conditions prevailing in Uttarakhand are materially different, particularly on account of its hilly terrain and associated site constraints. Therefore, the Petitioner submitted that the adoption of the CERC's generic national benchmark, without accounting for the specific geographical, climatic, topographical and grid-related conditions of Uttarakhand, would not provide an appropriate basis for determining the CUF applicable to solar PV projects in the State.

4.12. The Petitioner further submitted that solar projects in Uttarakhand are, by contrast, small-to-medium scale, fragmented across non-contiguous and undulating parcels of land, subject to horizon-shading from surrounding ridges, and connected to weak radial rural feeders that are themselves prone to prolonged outages on account of landslides, forest fires and storm-related faults, and contended that a CUF norm derived from 50 MW plain-land projects in Rajasthan cannot be mechanically transplanted onto a hilly State.

4.13. In response to UREDA's reliance on the MNRE and CERC's specified CUF %, the Petitioner

further submitted that acceptance of UREDA's approach would render the Commission's specific consideration of the issue of CUF for Uttarakhand in its Order dated 20.08.2025 unnecessary. The Petitioner pointed out that the Commission had, in the said Order, specifically deliberated upon the determination of CUF for the State and had called for site-specific generation data from UPCL. According to the Petitioner, the Commission's decision to seek State-specific data itself demonstrated that a uniform CERC benchmark could not, by itself, be treated as determinative of the CUF applicable to solar PV projects in Uttarakhand.

4.14. In response to UPCL's submission that the 17% CUF assumed in the CEA's 20th Electric Power Survey applies only to rooftop and agricultural-pump installations and, therefore, is not relevant to utility-scale, ground-mounted solar PV projects, the Petitioner, in its Rejoinder to UPCL's objections, submitted that such a distinction could not, by itself, render the CEA's benchmark irrelevant. The Petitioner contended that the underlying photovoltaic technology is common across rooftop, agricultural-pump and ground-mounted utility-scale applications, and that CUF is primarily influenced by the characteristics and performance of the PV technology, power system parameters, and the solar irradiance available at the project site, rather than merely by the mounting configuration or end-use.

The Petitioner further submitted that rooftop installations generally benefit from stable grid connectivity, ease of access for maintenance, and comparatively lower exposure to terrain-related disruptions, whereas solar projects located in the hilly terrain of Uttarakhand may face additional site-specific constraints. Accordingly, the Petitioner contended that the CEA's assumption of 17% CUF provides credible corroboration that a CUF of 17% for solar PV projects in Uttarakhand's hill terrain is realistic and does not constitute an unduly conservative benchmark.

4.15. The Petitioner submitted that any regulatory determination of CUF should be grounded in empirical and verifiable operational data. In support of its contention, the Petitioner relied upon the NITI Aayog report (2024) titled "*Renewable Energy Resource Adequacy Planning to meet RPO by the States in India*", wherein the CUF for Solar PV installations in Uttarakhand has been assessed at 10%. According to the Petitioner, this assessment reflects the State's distinctive geographical, topographical, climatic and seasonal solar irradiance conditions,

which materially influences the generation potential of solar PV projects.

The Petitioner further contended that broad national estimates or macro-level modelling exercises, though useful for policy formulation and national-level forecasting, cannot be considered a substitute for actual and verifiable generation data. It was submitted that historical operational data and generation log sheets of solar projects located within Uttarakhand provides a more reliable basis for determining the CUF applicable to the projects in the State.

4.16. In response to UREDA's comments dated 17.07.2026, which did not place any plant-wise generation data on record, the Petitioner submitted that UREDA, being the State Nodal Agency that had floated, processed and monitored several solar tenders over the past decade, was in a position to produce relevant plant-wise information, including generation data, commissioning dates, project capacities and site conditions of solar projects in the State. The Petitioner contended that UREDA's response was conspicuously silent on actual generation figures, despite such data being central to the determination of CUF before the Commission.

The Petitioner further submitted that mere reliance on provisions that, according to it, were inapplicable, without addressing the actual generation performance of solar projects in the State, could not constitute an adequate response to the issue under consideration. Accordingly, the Petitioner reiterated its prayer that UREDA be directed to disclose, on affidavit, a consolidated list of all solar tenders/projects executed or commissioned in Uttarakhand during the preceding ten years, along with their sanctioned capacity, date of commissioning, site location and terrain, and year-wise actual generation and CUF achieved.

4.17. The Petitioner submitted that UREDA, being the State Nodal Agency responsible for inviting developers to establish solar projects for the State Government, was best placed to disclose the minimum annual generation or CUF requirements stipulated in its solar tenders and Power Purchase Agreements. The Petitioner contended that, if UREDA's own tender documents issued pursuant to the CERC Order dated 12.06.2024 prescribed or accepted a minimum guaranteed generation corresponding to a CUF below 21%, it would be "wholly

inequitable and self-contradictory" for UREDA to advocate the retention of a normative CUF of 21% for tariff determination.

Accordingly, the Petitioner requested that UREDA be directed to place before the Commission the minimum generation and CUF requirements stipulated in its solar tenders and PPAs issued during the preceding two years, so as to enable the Commission to assess the consistency of such stipulations with the normative CUF proposed for tariff determination.

4.18. In response to UPCL's reliance on a selected sample of five solar plants without placing the underlying complete data on record, the Petitioner contended that UPCL had not, on the basis of complete and audited data, disputed the assertion that a substantial proportion of solar plants in Uttarakhand fail to achieve a CUF of 19%. Instead, according to the Petitioner, UPCL had relied upon procedural objections and a limited sample of five plants, while withholding the complete State-wise, plant-wise generation data relevant to the determination of CUF.

The Petitioner, therefore, reiterated its prayer that UPCL be directed to place on record, on affidavit, complete, audited, plant-wise and year-wise generation and CUF data for all solar projects connected to its network in Uttarakhand during the preceding ten years.

4.19. In response to UPCL's submission that CUF figures for FY 2025-26 relied upon by the Petitioner had been computed only up to December 2025, the Petitioner submitted that it accepts this observation in the constructive spirit in which the underlying data limitation exists. The Petitioner, therefore, reiterated its request that UPCL, being the entity in possession of the complete and audited plant-wise database, be directed to place on record the full-year CUF and generation figures for FY 2025-26, along with corresponding data for all preceding years.

4.20. In response to UPCL's submission that solar plants commissioned prior to 2019 had demonstrated a stable CUF ranging between 16.48% and 18.01% over six complete years, the Petitioner submitted that this data in fact reinforces, rather than undermines, the Applicant's case. The Petitioner contended that the demonstrated historical performance of

such plants did not support the assumption of a sustained State-wide CUF of 19%. According to the Petitioner, the onus was therefore on UPCL to establish, on the basis of actual multi-year generation data after the stabilization or ramp-up period, that newer PV technology deployed in the hill terrain of Uttarakhand has resulted in a sustained CUF of 19% or higher across the State.

4.21. In response to UPCL's submission that the Petitioner's own statement regarding forced downtime caused by landslides, forest fires and grid instability amounted to an admission that generation shortfalls were due to grid-side or evacuation constraints, the Petitioner submitted that this did not support UPCL's case. Rather, it reinforced the Petitioner's contention that such terrain-specific conditions are not adequately reflected in the plain-based CERC/MNRE benchmarks. The Petitioner further submitted that grid evacuation infrastructure in the hill districts of Uttarakhand is substantially within UPCL's responsibility as the distribution licensee, a point which, according to the Petitioner, was not addressed in UPCL's reply.

4.22. In response to UPCL's reliance on five plants achieving or exceeding 19% CUF, the Petitioner submitted that these represented only about 2% of the more than 200 projects and, therefore, could not establish a generic CUF. It further pointed out that two plants were located in Udham Singh Nagar in the Terai/plains region and were not representative of hill conditions. Of the three hill-district plants, one remained below 19% in two out of three years, another showed a declining CUF from 20.33% to 18.71%, and the third remained only marginally above 19%. The Petitioner, therefore, contended that the data did not support adoption of 19% as a sustained CUF for the State.

4.23. In response to UPCL's argument that reducing the normative CUF would also reduce the excess-generation ceiling under the solar PPAs, the Petitioner submitted that such ceilings are determined by the Commission through the tariff and PPA framework. The Petitioner contended that the Commission could lower the normative CUF while independently deciding the appropriate ceiling or excess-generation threshold. According to the Petitioner, this issue can be addressed through suitable modification of the regulations and does not warrant rejection of the Application.

4.24. In response to UPCL's submission that accepting the Petitioner's contention would turn normative tariff determination into an actual-cost reimbursement mechanism, and that project performance varies depending on project-specific factors, the Petitioner submitted that such an argument was inconsistent with UPCL's own opposition to reducing the normative CUF. The Petitioner contended that a normative benchmark will, by its very nature, be higher than the performance of some projects and lower than that of others, and this alone does not make the norm inappropriate.

The Petitioner submitted that its case was not for project-specific reimbursement, but that where a large majority of solar projects in the State, across different years and technologies, consistently fail to achieve the prescribed CUF even after reaching stable operations, the existing norm can no longer be considered a reasonably achievable benchmark and instead becomes disconnected from actual operating conditions.

4.25. In response to UPCL's submission that developers had voluntarily assumed the commercial risks associated with project location, technology and financing, the Petitioner submitted that developers assess such risks based on the regulatory framework prevailing at the time and are entitled to rely on normative parameters prescribed by the Commission being reasonable and evidence-based. The Petitioner further contended that where a normative CUF is found to be unrealistic on a State-wise basis, the resulting shortfall cannot be attributed solely to project-level commercial risk, but indicates that the regulatory parameter itself requires reconsideration. According to the Petitioner, Regulations 54 and 55 provide the Commission with the necessary regulatory mechanism to review and modify such parameters where warranted.

4.26. The Petitioner further submitted that UPCL's reply was silent on how it proposed to meet the additional renewable energy requirement arising from Section 61(h) of the Electricity Act, 2003 and its own Renewable Purchase Obligation, particularly in view of the increasing electrification for cooking, growing adoption of electric vehicles, and the emergence of data centres and other high-load digital infrastructure. The Petitioner contended that if adequate renewable capacity could not be secured due to an unrealistic or commercially unviable CUF norm, the resulting burden would ultimately fall on consumers, potentially through RPO shortfall consequences, higher Renewable Energy Certificate costs, or more expensive

power procurement.

4.27. The Petitioner submitted that the limited purpose of the Application was to place on record the actual generation achieved by existing solar power plants in Uttarakhand, for comparison with the theoretical/normative CUF presently prescribed in the Regulations, so that the Commission may determine a realistic and defensible CUF benchmark. The Petitioner contended that such a benchmark would promote viable and bankable investment in solar projects in the State, as an inflated and unachievable CUF may reduce the tariff on paper but could prevent developers from recovering their actual costs and, consequently, discourage investment in the sector.

4.28. The Petitioner reiterated its prayers for rejection of UPCL's objections regarding maintainability, locus standi and jurisdiction; rejection of UREDA's comments dated 17.07.2026 for lack of supporting generation data; directions to UREDA and UPCL to place on record, on affidavit, comprehensive plant-wise generation and CUF data for solar projects in Uttarakhand for the preceding ten years, along with UREDA's tender-wise minimum generation/CUF requirements; and determination of a realistic, State-specific normative CUF of 17% for Solar PV projects under Regulation 34 of the RE Regulations, 2023, with a suitably calibrated excess-generation ceiling to ensure that well-performing projects are not adversely affected.

5. Commission's Analysis and Ruling

5.1. The Present Petition has been filed under Regulation 54, i.e. Power to Relax and Regulation 55, i.e. Power to Amend, of RE Regulations, 2023 read with Regulation 59, i.e. Inherent power of the Commission of UERC (Conduct of Business) Regulations, 2014.

5.2. With regard to locus standi of the Petitioner to file the present Petition, the Commission observes that Regulation 9(1) of the UERC (Conduct of Business) Regulations, 2014 provides that the Commission may initiate proceedings suo motu or on a Petition filed by any affected person. In the present case, the Petition has been filed by the RE Power Generators Society, an association. However, the Petitioner has not demonstrated how it is directly affected by the Impugned Order dated 04.06.2026 so as to qualify as an "affected person" within the meaning of the said Regulation considering the nature of

issues raised and since during the hearing the arguments of both the parties were heard, the Commission decides to delve into other issues raised by the Petitioner.

5.3. The primary issue that arises for consideration in the present Petition is whether the relief sought by the Petitioner, i.e. modification of the normative CUF specified under Regulation 34 of the RE Regulations, 2023 from 19% to 17% for Solar PV Plants in the State of Uttarakhand, along with consequential upward revision of the benchmark tariff determined for Solar Plants vide Order dated 04.06.2026, can be granted in the present proceedings.

The Commission notes that the relief sought is not limited to any particular Solar PV project, PPA, or project-specific circumstance. Rather, the Petitioner seeks a change in the normative CUF specified under Regulation 34, which would have general application to Solar PV Plants in the State, along with consequential revision of the generic benchmark tariff. Accordingly, the question before the Commission is not merely whether the provisions invoked by the Petitioner have been cited in support of the prayer, but whether the nature and effect of the relief sought can legally be granted through the present proceedings. In this regard, the substance of the relief sought, rather than the form or nomenclature of the Petition, is required to be examined.

5.4. Regulation 34 of the RE Regulations, 2023 specifies a normative CUF of 19% for Solar PV Plants to be installed in the State. The RE Regulations, 2023 were notified by the Commission on 16.08.2023 in exercise of the powers conferred under Section 61(h) and Section 86(1)(e), read with Section 181(2)(zd), of the Electricity Act, 2003. Accordingly, the normative CUF of 19% specified under Regulation 34 forms part of the regulatory framework to Solar PV Plants in the State and is not a term or condition applicable to any particular project, PPA or tariff order.

The Petitioner has invoked three distinct provisions in support of the relief sought, namely, Regulation 54 (Power to Relax) and Regulation 55 (Power to Amend) of the RE Regulations, 2023, read with Regulation 59 (Inherent Powers of the Commission) of the Conduct of Business Regulations, 2014. These provisions operate in different fields and confer powers of distinct nature and scope. The Commission, therefore, considers it

necessary to examine, in the succeeding paragraphs, the scope and applicability of each of these provisions and whether any of them, either individually or collectively, empowers the Commission to grant the relief sought by the Petitioner in the present proceedings.

5.5. Regulation 54 of RE Regulations, 2023 specifies as follows:

"The Commission, for reasons to be recorded in writing, may vary any of the provisions of these regulations on its own motion or on an application made before it by an interested person."

Further, Regulation 55 of RE Regulations, 2023 specifies as follows:

"The Commission may, at any time add, vary, alter, modify or amend any provision of these Regulations."

Further, Regulation 59 of UERC (Conduct of Business) Regulations, 2014 specifies as follows:

"59. Inherent power of the Commission

(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.

(2) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Central Act or State Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing deems it necessary or expedient for dealing with such a matter or class of matters.

(3) Nothing in these Regulations shall, expressly or impliedly bar the Commission to deal with any matter or exercise any power under the Central Act or State Act, for which no Regulations have been framed, and the Commission may deal with such matters or exercise such powers and functions in a manner it thinks fit."

5.6. The Petitioner has submitted that Regulation 54 of RE Regulations, 2023 refers to "an interested person" and, on a plain reading, is not confined only to a generating company and that there is nothing in the wording of the Regulation limiting the Commission's power under it to case-specific changes alone. UPCL, on the other hand, has submitted that Regulation 54 provides for relaxation in individual cases and cannot be invoked for

making a permanent, State-wide change in a normative parameter.

The Commission observes that the power to relax under Regulation 54 is intended to permit departure from the strict application of a particular regulatory provision in an individual case or in specific circumstances, without altering the provision itself or its general applicability. Even if it is accepted, for the purposes of the present Petition, that the expression "interested person" in Regulation 54 is not limited to a generating company, the nature of the relief sought by the Petitioner remains to be examined.

The power to relax regulations can be exercised only in exceptional circumstances to prevent undue hardship or correct an injustice caused by strict rule application. Authorities cannot use this power in a routine or mechanical way. Power to relax can be exercised in the following cases:

a) **To Prevent Hardship or injustice caused by the Regulation itself:** Power to Relax Regulations can be exercised only when a Regulation causes unfair pain or hardship in a specific case or when strict Regulations create an unintended unfair result for a person. Hon'ble APTEL in its Judgment dated 8th April, 2025 in Appeal no. 318 of 2019 held that the Commission must get satisfaction from the material of record that there are sufficient reasons to justify such relaxation and non-exercise of power to relax would cause hardship and injustice to the party/person concerned. Additionally, Commission must gain satisfaction with regards to the fact that the circumstances under which relaxation is sought are not created due to any act of omission or commission attributable to the part/person claiming the relaxation. Hon'ble APTEL in NTPC v. MPSSEB held that the power to relax is essentially available where a regulation causes hardship to a party, works injustice, or where applying it strictly would lead to an unjust result. This power to relax is essentially triggered when a regulation causes hardship to a party or works injustice, or when its application leads to an unjust result.

b) **It cannot be exercised arbitrarily**: Hon'ble APTEL in its Judgment dated 20.03.2025 in Appeal No. 124 of 2021, held that a regulator cannot refuse to

relax a regulation and leave a party remediless when genuine hardship is shown, but also reaffirmed limits on the exercise of this power: the power to relax must not be exercised arbitrarily, as doing so would contravene Article 14 of the Constitution, and it cannot be used capriciously or to grant undue advantage. The Tribunal also drew on general administrative law precedent, holding that the power to relax must not override the letter and spirit of the Regulations or undermine the regulatory framework (following the Supreme Court's reasoning in State of Orissa v. Sukanti Mohapatra, 1993 SCC (2) 486). In that case, APTEL found the Commission had failed in its duty as a sectoral regulator: the Commission, as a sectoral regulator, neglected its obligation to exercise regulatory flexibility to mitigate undue hardship, particularly during exceptional circumstances such as the COVID-19 pandemic.

In the present case, the Petitioner is not seeking relief in respect of any particular Solar PV project, generating station or specific circumstance. Rather, it seeks to reduce the normative CUF specified under Regulation 34 of RE Regulations, 2023 from 19% to 17%, with such change to apply to all the Solar PV Plants in the State, along with a consequential revision of the benchmark tariff. Such relief would not merely relax the application of Regulation 34 in a particular case; it would alter the normative parameter itself and change its general application.

Accordingly, the Commission is of the view that the relief sought is in the nature of an amendment to the existing regulatory norm and cannot be treated as a relaxation under Regulation 54 of RE Regulations, 2023. Regulation 54, therefore, does not provide a legal basis for granting the relief sought in the present Petition.

5.7. The Petitioner submits that the power to amend the Regulations "at any time" under Regulation 55 of RE Regulations, 2023 is not limited to suo moto action and that the present Petition only seeks to trigger and assist the Commission in reviewing the CUF. UPCL, however, submits that Regulation 55 confers the power to amend the Regulations on the Commission and does not give a private party a right to seek such amendment through a petition. UPCL further submits that any change in a generally applicable parameter such as CUF must follow the prescribed regulatory process. The Petitioner

clarifies that it is not seeking to bypass the procedure under Section 181 of the Electricity Act, 2003, but only requesting the Commission to undertake a review of the normative CUF.

The Commission observes that Regulation 55 gives the Commission the power to amend the RE Regulations, 2023. This is a regulatory/legislative function of the Commission which is different from its role of deciding a Petition filed by a stakeholder.

Even if the Petitioner's submission, that a stakeholder can bring the need for amendment to the Commission's notice, is accepted, it does not mean that the amendment itself can be made through an order passed in the present Petition. The relief sought by the Petitioner requires a change in Regulation 34, which would apply generally to all Solar PV Plants in the State. Such a change is, therefore, an amendment of the Regulations and not a relief limited to the parties before the Commission.

The Commission, therefore, is of the view that the power under Regulation 55 has to be exercised by the Commission in its capacity as the regulation-making authority, if and when it considers such amendment necessary. The Petitioner cannot claim amendment of Regulation 34 as a relief in the present Petition. Accordingly, Regulation 55 does not provide a basis for granting the relief sought by the Petitioner.

5.8. The Petitioner has submitted that Regulation 59 of UERC (Conduct of Business) Regulations, 2014 gives the Commission broad inherent powers and on a plain reading of said regulations, there is no requirement that only a generating company can approach the Commission. UPCL, however, has submitted that the inherent power under Regulation 59 is to be used sparingly and cannot be invoked to reopen an issue that has already been considered by the Commission.

The Commission observes that inherent powers can be used in following situations:

a) **To fill a genuine regulatory gap:** where no specific regulation, contract clause, or statutory provision covers the situation before the Commission.

b) **Where the difficulty is real and arises from the Act/Regulations themselves:** not an external or commercial difficulty. Hon'ble APTEL in

Appeal No. 351 of 2018, has clarified that there is no scope for a Commission to exercise inherent or suo motu powers outside the explicit bounds of the statute.

Thus, Regulation 59 of UERC (Conduct of Business) Regulations, 2014 gives a general power to the Commission to deal with situations that are not specifically covered by the Regulations, or where such power is necessary to ensure justice in a proceeding. However, this power is not meant to be used as an alternative way to grant a relief when the Regulations already provide a specific provision for that purpose.

In the present case, Regulation 55 of the RE Regulations, 2023 specifically provides the procedure for amending the Regulations. Therefore, Regulation 59 of UERC (Conduct of Business) Regulations, 2014 cannot be used to achieve the same result, i.e. to change a generally applicable normative parameter, such as the one involved in the present Petition.

Accordingly, in light of the above discussion, the Commission is of the view that the relief sought by the Petitioner cannot be granted under Regulation 59 of UERC (Conduct of Business) Regulations, 2014.

5.9. The Petitioner has relied upon the observation made by the Commission in its Order dated 04.06.2026 and submitted that the Commission had not examined the issue of CUF on merits in the said Order. According to the Petitioner, the issue was not considered only because it was beyond the scope of those proceedings, which were limited to the determination of benchmark capital cost and generic tariff. On the other hand, UPCL has relied upon the same observation to contend that the Commission had already considered the issue of normative CUF and had declined to examine or modify it.

The Commission notes that the Order dated 04.06.2026 clearly recorded that the comments and suggestions of the stakeholders on parameters such as CUF, which were already specified in the RE Regulations, 2023, were beyond the scope of those proceedings. The said proceedings were confined to determining the benchmark capital cost and generic tariff for Solar energy-based power plants and BESS projects proposed to be commissioned during FY 2026-27, based on the Regulations then in force.

Accordingly, the Commission did not examine the merits of the normative CUF or consider any change to it in that Order.

However, the fact that the CUF issue was not decided on merits in the Order dated 04.06.2026 is separate from the question of whether the present Petition provides a legally permissible route for seeking modification of the normative CUF. The earlier Order only opened the possibility of considering the CUF issue through an appropriate legal process. It did not imply that the Petitioner has a right to seek modification of Regulation 34 through the present Petition.

5.10. The Petitioner has principally relied upon the observation made by the Commission in its Order dated 20.08.2025, to contend that the Commission had itself contemplated a review of the normative CUF and, therefore, the present Petition ought to be entertained. The relevant observation is reproduced below:

"As mentioned in the above paragraph of this Order, the Commission has considered CUF of 19% and the Commission as of now is not modifying the CUF stipulated in the regulations without analysing the actual CUF being achieved by latest used/available technology Solar Plants. In this regard, Commission has sought information regarding CUF of the solar plants installed in the State of Uttarakhand from UPCL and the same has been submitted by UPCL. The Commission is under process of reviewing the same and shall take a view to amend the RE Regulations, 2023 to the extent of CUF, if required. The generic tariff of solar energy-based projects shall be re-determined to the extent of amended CUF, if any."

A plain reading of the above observation makes it clear that, vide its Order dated 20.08.2025, the Commission had considered the normative CUF of 19% and continued to apply the same. Besides it was in the process of examining the information received from UPCL regarding CUF achieved by Solar Power Plants to take a view on whether any amendment to the RE Regulations, 2023, particularly with regard to CUF, was required. The said observation, however, cannot be construed as a decision or finding by the Commission that the existing normative CUF of 19% was required to be modified. The Commission had only indicated that it was examining the available data and would take an appropriate view "if required." Thus, any amendment to the Regulations was expressly made subject to the outcome of the Commission's further examination and

decision.

Accordingly, the observation neither bound the Commission to amend RE Regulations, 2023 nor created any vested or enforceable right in favour of the Petitioner or any other stakeholder to seek modification of the normative CUF through a Petition.

5.11. Further, the Petitioner has referred to the Commission's Order dated 20.06.2014, stating that the Commission had earlier revised the normative CUF for Small Hydro Power Plants after considering the actual CUF achieved by such plants. The Petitioner has, therefore, argued that normative CUF is not a fixed or unchangeable figure.

In this regard, it is pertinent to note that the Commission had revised the CUF for Small Hydro Power Plants (SHPs) in exercise of its powers under the Act. However, SHPs involve a different technology and are governed by separate provisions of the RE Regulations, 2023. Therefore, revision of CUF for SHPs does not mean that the Commission is required to similarly revise the normative CUF for Solar PV Plants under Regulation 34.

The normative CUF is specific to each technology and is determined based on its technical and operational characteristics. Accordingly, a revision made for one technology does not automatically justify or require a similar revision for another technology. Therefore, the Order dated 20.06.2014 does not provide a basis for modifying the normative CUF applicable to Solar PV Plants under Regulation 34.

5.12. The Petitioner also submitted that since Regulation 12 allows the benchmark capital cost to be reviewed every year, even during the five-year Control Period, the normative CUF, being an important tariff parameter, should also be open to review during the same period.

In the matter, it is pertinent to mention that Benchmark Capital Cost and CUF are different in nature. Regulation 12 specifically provides for periodic review of benchmark capital cost which is changing year on year as part of the tariff-setting process. On the other hand, the normative CUF is a technical parameter prescribed under Regulation 34 and forms part of the RE Regulations, 2023 and which does not change so drastically.

Therefore, the fact that benchmark capital cost can be reviewed annually does not

mean that every other parameter prescribed in the Regulations can also be changed through an individual petition during the Control Period.

5.13. Based on the above discussion, the Commission is of the view that the Petitioner's request to reduce the normative CUF under Regulation 34 of the RE Regulations, 2023 from 19% to 17%, along with a consequential increase in the benchmark tariff, is essentially a request to amend a generally applicable Regulation. Such a change cannot be made through the present Petition under Regulations 54 and 55 of RE Regulations, 2023 or Regulation 59 of UERC (Conduct of Business) Regulations, 2014.

5.14. In view of the above, the Petition seeking modification of the normative CUF under Regulation 34 of the RE Regulations, 2023 from 19% to 17%, along with consequential revision of the benchmark tariff for Solar Plants determined vide Order dated 04.06.2026, is not maintainable and is accordingly rejected.

6. Ordered Accordingly.

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