

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 49 of 2026

In the matter of:

Petition seeking review of the Order dated 04.06.2026 passed by the Commission in the matter of review of the Benchmark Capital Cost for Solar PV, Solar Thermal and Grid Interactive Rooftop & Small Solar PV Plants to be applicable for FY 2026-27.

In the matter of:

RE Power Generators Society ... 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: August 11, 2026

Date of Order : October 12, 2026

RE Power Generators Society has filed a present Review Petition on 30.06.2026 under Regulation 54 and Regulation 55 of UERC (Conduct of Business) Regulations, 2014 seeking review of Commission's Suo-moto Order dated 04.06.2026 in Petition no. 18 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 benchmark capital cost and generic tariff/capacity charges for solar energy based power plants and Battery Energy Storage System (BESS) to be applicable for FY 2026-27.

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 16th August, 2023 as amended from time to time. In accordance with the provisions of Regulation 12 of RE Regulations, 2023, the Commission vide impugned Order dated 04.06.2026 determined the generic tariff for solar power plants and BESS on Suo-moto basis based on the norms specified in the RE Regulations, 2023 as amended from time to time.
- 1.2 The Commission, as deliberated in the Impugned Order dated 04.06.2026, after considering the concerns raised by the stakeholders and taking into account the prevailing uncertainty and volatility in module prices, exchange rates, metal prices, and the potential cost implications arising from ALMM/DCR compliance and geopolitical developments, decided to continue the generic tariff applicable for FY 2025-26 for FY 2026-27 as well.

The Petitioner filed this Review Petition stating that 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 the 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 review Petition is, accordingly, within the jurisdiction of the Commission.
- 2.2. The Petitioner submitted that, in exercise of its powers under Regulation 12 of RE Regulations, 2023, the Commission issued a Draft Order dated 07.04.2026 regarding review

of the Benchmark Capital Cost for Solar PV, Solar Thermal and Grid Interactive Rooftop & Small Solar PV Plants applicable for FY 2026-27 and onwards, until further review / revision by the Commission. The Petitioner relied upon and reproduced Regulation 12 of the RE Regulations, 2023 as under:

“12. Control Period or Review Period

The Control Period or Review Period under these Regulations shall be of five years, of which the first year shall be the financial year 2023-24.

Provided that the benchmark capital cost of Solar PV, Canal Bank & Canal Top Solar PV, Solar Thermal, Municipal Solid Waste based power projects, Refuse Derived Fuel based power projects and Grid interactive Roof Top and Small Solar PV projects may be reviewed annually by the Commission.

Provided further that the tariff determined as per these Regulations for the RE projects commissioned during the Control Period, shall continue to be applicable for the entire Tariff Period.”

- 2.3. The Petitioner submitted that in response to the Draft Order dated 07.04.2026, it had submitted a representation vide letter dated 30.04.2026, raising concerns before the Commission regarding the price of solar modules and its impact on the overall cost of solar projects; and Capacity Utilisation Factor (CUF), taking into account the saleable energy from solar projects.
- 2.4. The Petitioner submitted that the Commission, vide its Order dated 04.06.2026, issued the final order and retained the generic tariff applicable for FY 2025-26 for FY 2026-27. With regard to solar module pricing, the Petitioner referred to the observations made by the Commission in the said Order and is reproduced hereunder:

“6.3 (d) The Commission has carefully examined the submissions made by various stakeholders regarding the proposed benchmark capital cost and generic tariff for Solar PV Projects for FY 2026-27. The stakeholders have, inter alia, highlighted concerns regarding significant volatility in solar module prices, fluctuations in foreign exchange rates, increase in prices of steel, aluminium, copper and other metals, higher transportation and logistics costs, as well as the likely impact of geopolitical developments in the Middle East on global supply chains and currency markets. The stakeholders have also brought to the notice of the Commission the impending implementation of ALMM List-II and mandatory DCR norms from 01.06.2026, which are expected to substantially

increase the cost of solar modules and overall project execution.

The Commission notes that the solar sector is presently witnessing considerable uncertainty in relation to module pricing, exchange rate movements, raw material prices, and global market conditions. The Commission further observes that the State of Uttarakhand presents unique geographical and infrastructural challenges, including hilly terrain, higher transportation costs, fragmented land availability, and elevated civil and structural costs, which materially impacts the overall project economics, particularly for small and medium-scale projects.

Accordingly, after considering the concerns raised by the stakeholders and taking into account the prevailing uncertainty and volatility in module prices, exchange rates, metal prices, and the potential cost implications arising from ALMM/DCR compliance and geopolitical developments, the Commission considers it appropriate and prudent to continue the generic tariff applicable for FY 2025-26 for FY 2026-27 as well....

(e) The Commission may review the benchmark capital cost and tariff structure in subsequent years based on stabilization of market conditions, actual project execution data, and technological and policy developments."

- 2.5. The Petitioner submitted that subsequent developments relating to solar modules have substantially affected their pricing and, therefore, warrant review of the Commission's Order dated 04.06.2026. In this regard, the Petitioner has referred to the Office Memorandum dated 25.05.2026 issued by MNRE, stated to have enforced implementation of the Approved List of Models and Manufacturers (ALMM) List-II for Solar PV Cells, with no blanket extension beyond 01.06.2026. The Petitioner also submitted that, consequently, Net-Metering, Open Access and other grid-connected renewable energy projects commissioned on or after 01.06.2026 are required to source solar PV cells from domestic manufacturers listed under ALMM List-II.
- 2.6. The Petitioner further submitted that, subsequent to the MNRE communication, UREDA issued a communication dated 02.06.2026, whereby the applicability of the said requirement in Uttarakhand was clarified and copies were forwarded to UPCL. It has also been submitted that the said communication was circulated to the concerned Project Officers for

ensuring compliance under the Mukhyamantri Saur Swarojgar Yojana (MSSY) and other renewable energy projects being implemented by UREDA.

- 2.7. The Petitioner submitted that, consequent to the enforcement of the aforesaid requirements by MNRE and UREDA, imported cells and non-ALMM international modules are no longer available for use in the project supply chain. According to the Petitioner, this has made international price indices such as PV-Insights and Bloomberg-NEF ineffective for determining the prevailing domestic module prices, as the market is required to operate through domestic price discovery mechanisms.
- 2.8. The Petitioner further submitted that the resulting demand-supply mismatch in the domestic cell manufacturing sector, particularly in respect of high-efficiency cells such as Mono PERC and TOP-Con N-type, has led to a significant price premium. It has contended that this has resulted in a substantial escalation in the capital cost of solar projects, including rooftop, ground-mounted and canal-top projects. The Petitioner also submitted that it has estimated that the cost of solar modules may increase by a minimum of Rs. 12/Wp upon stabilisation, while the current cost may be more than Rs. 15/Wp for projects.
- 2.9. The Petitioner submitted that, in order to prevent project failures and safeguard the recovery of developers' investments, immediate intervention and financial relief are required from the Commission. It has, accordingly, sought an upward revision of the benchmark tariff by considering a solar module price of Rs. 25/Wp and revision of the tariff for Solar PV Plants to Rs. 5.50/unit, so as to ensure viability of solar projects.
- 2.10. The Petitioner submitted that the cause of action has arisen on account of the enforcement of the MNRE Order dated 25.05.2026 and the subsequent UREDA communication, resulting in the mandatory applicability of DCR modules and a substantial increase in the capital cost of solar projects. It has submitted that the grounds for relief are the same as those set out in the Petition.
- 2.11. The Petitioner has prayed before the Commission as follows:
- a) take the Petition on record;
 - b) grant the Petitioner an opportunity, within a reasonable time, to submit additional material/information that may subsequently become available and as may be

required by the Commission;

- c) review the Order dated 04.06.2026 and increase the tariff for Solar PV Plants to Rs. 5.50/unit by revising the capital cost on account of the increase in solar module cost;
- d) review the tariff for Rooftop Solar, Canal Top and Canal Bank Solar, in view of the increase in overall project costs; and
- e) pass such other order(s) as may be deemed fit and proper in the facts and circumstances of the case.

3. Respondent's Submission

3.1. The Commission fixed the matter for hearing on 11.08.2026 on the admissibility of the Review Petition and forwarded a copy of the Review Petition to UPCL for filing its comments. In compliance thereof, UPCL submitted its comments vide letter dated 24.07.2026. The submissions made by UPCL have been dealt with in the subsequent paragraphs of this Order

3.2. UPCL submitted that the Commission notified RE Regulations, 2023 under the Electricity Act, 2003. Regulation 12 provides for the Control Period/Review Period and permits the Commission to review the benchmark capital cost of renewable energy projects annually.

UPCL further submitted that, accordingly, the Commission initiated the process for reviewing the benchmark capital cost and determining the generic tariff for FY 2026-27 and issued a Draft Order dated 07.04.2026 inviting comments from stakeholders. Comments were received from the stakeholders, including the Review Petitioner, who raised issues relating to solar module prices, capital cost, exchange rate fluctuations and CUF, and sought an increase in tariff.

UPCL submitted that, after considering the submissions received, the Commission passed its detailed Order dated 04.06.2026. According to UPCL, the Commission had already considered the various factors affecting project costs, including changes in module prices, exchange rates, prices of metals, transportation and logistics costs, geographical challenges in Uttarakhand, and the impact of ALMM List-II and mandatory DCR requirements. After such consideration, the Commission consciously decided to continue

the FY 2025-26 generic tariff for FY 2026-27 as well.

- 3.3. UPCL submitted that the present Review Petition is not maintainable and should be dismissed at the initial stage, as the Review Petitioner does not have the necessary legal standing to seek review of the Commission's Order. UPCL has stated that the Petition has not been filed by any individual generating company or Solar PV developer claiming that any of its legal rights have been affected. Instead, it has been filed by an association/society claiming to represent the collective interests of certain unnamed developers.

UPCL further submitted that Regulation 2 of the RE Regulations, 2023 limits the application of the Regulations to renewable energy generating stations supplying electricity to distribution licensees. It has referred to Regulation 2(4), which provides:

"the generating stations covered under these Regulations shall be deemed to be the generating station of a generating company and all functions, obligations & duties assigned to such generating company under the Electricity Act, 2003 shall apply to these generating stations."

Based on above stated provision, UPCL has contended that the rights and remedies available under the RE Regulations, 2023, including the right to seek review of benchmark capital cost and tariff under Regulation 12, are available to generating companies/generating stations and the concerned distribution licensee. Since the Applicant Society is neither a generating company nor a generating station, UPCL has submitted that it cannot claim an independent statutory right to seek review of the tariff determined by the Commission.

- 3.4. UPCL further submitted that the Review Petition is based on the Petitioner's claim that it represents the collective interests of renewable energy developers in the State. However, according to UPCL, the Petitioner has not placed on record any document showing that any identified generator or project developer has authorised it to file the present Review Petition on its behalf. No resolution, mandate or specific authorisation from any of its members has also been filed.

UPCL has, therefore, contended that merely claiming to represent the interests of some unnamed developers is not enough. The Society must first establish that it has a legally recognised right to seek review of the Commission's Order. UPCL also submitted

that merely participating as a stakeholder in the tariff determination proceedings does not give the Review Petitioner an independent right to file a Review Petition. According to UPCL, the proceedings under Regulation 12 of the RE Regulations, 2023 are a consultative process in which stakeholders are given an opportunity to present their views and suggestions before the Commission. However, taking part in such proceedings does not automatically give a stakeholder the right to seek reconsideration of the final Order.

UPCL submitted that if every stakeholder were allowed to seek review simply because the final decision did not meet its expectations, it would affect the finality of regulatory proceedings and could result in tariff orders being repeatedly reopened at the request of different stakeholders or associations. On this basis, UPCL has submitted that the Review Petitioner has neither shown any personal legal right affected by the Commission's Order nor produced any authorisation from an affected generator. Therefore, according to UPCL, the Review Petitioner has no locus standi to maintain the present Review Petition.

- 3.5. UPCL submitted that the provisions invoked by the Review Petitioner do not confer any jurisdiction upon the Commission to undertake the exercise sought through the present Review Petition. UPCL has specifically contended that Regulation 59 of UERC (Conduct of Business) Regulations, 2014, being an inherent power of the Commission, cannot be invoked as a means to reopen a concluded regulatory determination.
- 3.6. UPCL submitted that the present Review Petition is also not maintainable within the limited scope of review jurisdiction. According to UPCL, the Petition is essentially an attempt to reopen and reconsider issues which have already been examined and decided by the Commission after following the due regulatory process.

UPCL submitted that a review is not the same as an appeal. It cannot be used to re-examine the evidence, take a different view on an issue already decided, or conduct the tariff determination afresh merely because a party is not satisfied with the final decision. According to UPCL, review is permissible only in limited circumstances, where there is an error apparent on the face of the record, where new and important material has been discovered which could not have been produced earlier despite due diligence, or on any other recognised ground for review.

In support of its submission, UPCL relied upon the judgment of the Hon'ble Supreme Court in *State of West Bengal & Ors. v. Kamal Sengupta & Anr.*, (2008) 8 SCC 612, and submitted that a review cannot be used simply to rehear the matter or repeat arguments which have already been considered. According to UPCL, if a party is dissatisfied with the views taken by the Commission on an issue that was already argued and decided, the appropriate remedy, if available, would be an appeal and not a review. UPCL submitted that the present Review Petition, being an attempt to seek a fresh consideration of matters already decided by the Commission, falls outside the limited scope of review jurisdiction and is liable to be dismissed.

- 3.7. UPCL submitted that the Review Petitioner has not pointed out any error apparent on the face of the Commission's Order dated 04.06.2026. According to UPCL, the main ground of the Review Petition is the increase in solar module prices due to ALMM List-II and mandatory DCR requirements which was already considered during the original proceedings.

UPCL submitted that several stakeholders, including the Review Petitioner, had raised concerns regarding module prices, ALMM List-II, DCR requirements, exchange rates, raw material costs, transportation and other related factors during the proceedings which has been dealt by the Commission in its Order dated 04.06.2026. UPCL further submitted that the Commission consciously decided to continue the generic tariff applicable for FY 2025-26 for FY 2026-27 after considering these factors. Therefore, according to UPCL, the Review Petitioner is merely seeking a fresh consideration of an issue that has already been examined by the Commission.

UPCL also submitted that the Review Petitioner, having participated in the original proceedings and having placed its submissions before the Commission, cannot be permitted to reopen the same proceedings by projecting the same considerations in the garb of a subsequent development, and that allowing such a course would render the finality of the proceedings uncertain and would permit repeated challenges whenever a stakeholder disagrees with the regulatory outcome.

- 3.8. UPCL submitted that the MNRE Office Memorandum dated 25.05.2026 relied upon by the

Review Petitioner cannot be treated as a new development or a valid ground for review. UPCL stated that this Office Memorandum was already available and had been specifically brought to the notice of the Commission during the original proceedings. Therefore, the issue of mandatory applicability of ALMM List-II and its possible impact on project cost was already part of the record and was considered while passing the Order dated 04.06.2026.

UPCL further submitted that MNRE, through its subsequent Office Memorandum dated 18.07.2026, has provided a limited transition period for certain projects. Under the said Office Memorandum, there is no general extension of ALMM List-II. However, Net-Metering and Open Access RE projects have been allowed to commission without complying with ALMM List-II for solar PV cells up to 31.12.2026, instead of the earlier deadline of 31.05.2026. Projects commissioned after 31.12.2026 will have to comply with ALMM List-II. Accordingly, UPCL submitted that neither the Office Memorandum dated 25.05.2026 nor the subsequent policy changes constitute a new ground for review, particularly when the issue of ALMM/DCR compliance had already been considered by the Commission while determining the tariff.

- 3.9. UPCL submitted that the Review Petition does not raise any new or important matter that would justify review of the Commission's Order dated 04.06.2026. According to UPCL, the Review Petitioner is only seeking to reconsider the determination of benchmark capital cost and generic tariff on the basis of material that was already available and had been considered by the Commission. UPCL, therefore, submitted that reopening a matter already decided, under the guise of a review, is not permissible in law.

4. Petitioner's counter reply

- 4.1. The Petitioner filed a rejoinder received on 10.08.2026 to the comments filed by UPCL which have been discussed in the subsequent paragraphs of this Order.
- 4.2. The Petitioner submitted that UPCL's reply raises three principal objections which are as follows:
- (i) The Petitioner has no locus or right to maintain the present Petition.;
 - (ii) The scope of review does not permit reopening of issues already considered by the

Commission and

(iii) There is neither any error apparent in the impugned Order nor any new material warranting review.

- 4.3. The Petitioner submitted that UPCL's objection to the Petitioner's locus is an afterthought and is contrary to UPCL's own submissions in its reply. The Petitioner contended that UPCL cannot adopt inconsistent positions by accepting the Petitioner as a stakeholder in the proceedings and, at the same time, questioning its right to seek review of the manner in which its submissions were considered. In support, the Petitioner relied upon the judgment of the Hon'ble Supreme Court in *R.N. Gosain v. Yashpal Dhir*, (1992) 4 SCC 683.
- 4.4. The Petitioner pointed out that UPCL itself acknowledged that comments on the draft Order dated 07.04.2026 were invited from and submitted by various stakeholders, including the present Review Petitioner and UPCL also admitted that the Review Petitioner had participated as a stakeholder in the tariff determination proceedings. The Petitioner submitted that UPCL cannot now contend that the Petitioner has no right to question the manner in which its submissions were dealt with having accepted its participation and having allowed its submissions to be considered by the Commission while passing the Order dated 04.06.2026. The Petitioner further pointed out that the Commission's Order records and considers the submissions of stakeholders, including those of the Petitioner, on merits, without treating its participation as improper or unauthorised.
- 4.5. The Petitioner further submitted that Regulation 54 of the UERC (Conduct of Business) Regulations, 2014, under which the present Review Petition has been filed, is not restricted to "generating companies" or "generating stations" as defined under the RE Regulations, 2023. According to the Petitioner, the definitions contained in Regulations 2 and 2(4) of the RE Regulations, 2023, relied upon by UPCL, operate only within the specific framework of those Regulations, particularly in relation to eligibility for tariff and benchmark capital cost. They cannot, therefore, be relied upon to restrict the scope of Regulation 54, which is a separate and general provision enabling an aggrieved party to seek review of an order passed by the Commission.

- 4.6. The Petitioner reiterated that it represents renewable energy developers and stakeholders across Uttarakhand and has regularly participated in proceedings before the Commission and interacted with UREDA and UPCL in that capacity. The Petitioner submitted that the present Review Petition has not been filed for any private or commercial benefit of the Society, but in the interest of larger public and State, with the objective of promoting the development of solar projects in Uttarakhand and ensuring a fair and viable tariff framework that supports investment, clean energy generation, employment and related infrastructure. The Petitioner submitted that such an objective is consistent with the mandate of the Commission under Section 61(h) read with Section 86(1)(e) of the Electricity Act, 2003, to promote renewable energy generation. Accordingly, the terms “stakeholder” and “standing” should be interpreted in a practical and purposive manner rather than in a narrow and technical manner.
- 4.7. The Petitioner submitted that UPCL’s reliance on *State of West Bengal v. Kamal Sengupta*, (2008) 8 SCC 612, regarding the limited scope of review is misplaced. According to the Petitioner, the present case does not involve an attempt to re-argue issues already considered and decided by the Commission. Rather, the Petitioner’s specific grievance is that two material documents, namely, the MNRE Office Memorandum dated 25.05.2026 and the UREDA notification dated 02.06.2026, which, according to the Petitioner, confirmed that compliance with ALMM List-II had become mandatory without any further extension, were neither referred to nor considered in the Order dated 04.06.2026.
- 4.8. The Petitioner further submitted that the power of review is not confined to correcting clerical, typographical or mathematical errors, but may also be exercised where a material document or relevant evidence, which was available before the Commission, was inadvertently not considered and such omission has a bearing on the findings recorded in the Order. In support, the Petitioner relied upon *S. Nagaraj v. State of Karnataka*, 1993 Supp (4) SCC 595, and *Board of Control for Cricket in India v. Netaji Cricket Club*, (2005) 4 SCC 741. The Petitioner contended that the present case falls within this broader scope of review and is distinguishable from *Kamal Sengupta*, which, according to the Petitioner, concerned an attempt to re-agitate matters that had already been considered and decided.
- 4.9. The Petitioner specifically denied UPCL’s comment that the MNRE Office Memorandum

dated 25.05.2026 was already available and was specifically brought to the attention of the Commission during the original proceedings. The Petitioner submitted that the deadline for filing stakeholder comments was 04.05.2026, and the Petitioner had submitted its comments on 30.04.2026, whereas the MNRE Office Memorandum itself was issued only on 25.05.2026. Therefore, neither the Petitioner nor any other stakeholder could have placed before the Commission a document that had not yet come into existence. The same applies to the UREDA notification dated 02.06.2026.

- 4.10. The Petitioner further submitted that the position regarding ALMM List-II was still uncertain at the time of submission of comments by the stakeholder. At that stage, stakeholders could only point out the possibility of an increase in costs if the requirement became mandatory, particularly since the deadline had been extended in the past and there remained a possibility of a further extension. The Petitioner relied upon the Commission's observation in the impugned Order dated 04.06.2026, wherein the Commission noted that the solar sector was facing considerable uncertainty due to factors including module prices, exchange rate movements, raw material prices and global market conditions. On this basis, the Commission considered it appropriate and prudent to continue the generic tariff applicable for FY 2025-26 for FY 2026-27.
- 4.11. The Petitioner submitted that the position had materially changed by the time the Order was passed on 04.06.2026. The MNRE Office Memorandum dated 25.05.2026 had clarified that there would be no further blanket extension of the ALMM List-II requirement beyond 01.06.2026. Thereafter, the UREDA notification dated 02.06.2026 confirmed the applicability of the requirement to solar projects in Uttarakhand with effect from 01.06.2026. Thus, both documents were in existence and publicly available before the Commission passed the Order dated 04.06.2026. However, the Petitioner pointed out that neither document finds any mention or consideration in the said Order.
- 4.12. According to the Petitioner, the failure to consider these two material documents is significant because they changed the position from a possible future risk into a confirmed and binding requirement. The Petitioner submitted that the finding of continuing "uncertainty", insofar as it related to the ALMM List-II/DCR requirement, did not reflect the position that existed on the date of the Order. The Petitioner contended that the

omission to consider material documents that were available before the Order was passed constitutes an error apparent on the face of the record.

- 4.13. Referring to UPCL's submission that stakeholders, including the Petitioner, had raised concerns during the original proceedings regarding the expected increase in module prices and the impact of ALMM List-II and mandatory DCR compliance, the Petitioner clarified that it does not dispute that the issue was raised at that stage. However, the Petitioner submitted that its grievance is more specific. When the submissions were made, the ALMM List-II/DCR requirement was only a possible concern, whereas by the date of the Order it had become a confirmed and binding requirement. The Petitioner contended that this material development, which had a direct bearing on the determination of benchmark capital cost, was not brought to the Commission's attention or considered before the Order was passed.
- 4.14. The Petitioner further submitted that solar modules constitute a substantial portion of the capital cost of a solar project. Since DCR and ALMM List-II-compliant modules had become the mandatory option for projects under the generic tariff framework, the benchmark capital cost determined on the basis of FY 2025-26 module prices, according to the Petitioner, no longer reflected the actual cost of setting up a solar project during FY 2026-27. The Petitioner requested that the benchmark capital cost be reconsidered specifically to account for the change in solar module prices arising from the mandatory requirement. The Petitioner clarified that it was not, at this stage, seeking reconsideration on other factors such as exchange rate movements, steel and copper prices, transportation and logistics costs or geopolitical developments, and reserved its right to raise such issues separately at an appropriate stage.
- 4.15. The Petitioner submitted that MNRE Office Memorandum dated 18.07.2026, filed by UPCL with its reply, grants a limited exemption from ALMM List-II only up to 31.12.2026 for Net-Metering and Open Access renewable energy projects. It does not extend the exemption to grid-connected solar projects covered under the generic/benchmark tariff framework, which are the projects relevant in the present case. The Petitioner submitted that the Office Memorandum dated 18.07.2026 supports its position that the ALMM List-II requirement continues to apply to the projects covered by the Order dated 04.06.2026,

without any such exemption.

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 (Conduct of Business) Regulations, 2014, a review petition is required to be filed within 60 days from the date of issuance of the order sought to be reviewed.

The Impugned Order was issued on 04.06.2026 and hence, the limitation period for filing a review petition expired on 03.08.2026. The present review Petition has been filed before the Commission on 30.06.2026, i.e. within the period specified under the above mentioned Regulation.

5.1.2. Locus Standi

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.

5.1.3. 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 the order.
- (ii) **Mistake or error apparent on the face of the record.**
- (iii) **Any other sufficient reason** interpreted to mean reasons analogous to (i) and (ii).

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

5.1.4. **Discovery of New Evidence**

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

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

In this regard, it is relevant to refer to the 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 justitiae. Not only this, the party seeking review has also to show that such

additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court earlier."

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

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

5.1.5. **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 negated. 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.

5.1.6. Any Other Sufficient Reason

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

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

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

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

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

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

20.1. When the review will be maintainable:

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

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in *Chajju Ram vs. Neki*¹⁷, and approved by this Court in *Moran Mar Basselios Catholicos vs. Most Rev. Mar Poullose 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 negated.

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."

5.1.7. 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.

The Hon'ble Supreme Court in the said judgement has provided distinction between power of review and appellate power and restated the power and scope of review jurisdiction, summing up 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 Poulouse Athanasius, AIR (1954) SC 526.)

5.1.8. 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. The present review Petition has been filed under Regulation 54 and Regulation 59 of UERC (Conduct of Business) Regulations, 2014.

Regulation 54 of UERC (Conduct of Business) Regulations, 2014 specifies as follows:

"54. Review of the decisions, directions and orders

- 1. The Commission may on its own or on the application of any of the persons or parties concerned, within 60 days of the making of any decision, direction or Order, review such decisions, directions or Orders and pass such appropriate orders as the Commission thinks fit.*
- 2. An application for such review shall be filed in the same manner as a Petition under Chapter II of these Regulations.*
- 3. An application for review shall be listed before the Commission within a period of 15 days from the date of filing such application.*
- 4. The Review applications shall be disposed of within 30 days from the date of hearing if the review is not admitted and within a period of ninety days from the date of admission if the application is admitted.*
- 5. Provided that where the review applications cannot be disposed of within the period as stipulated, the Commission shall record the reasons for the additional time taken for disposal of the review applications."*

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.”*

5.2.2. Before examining the merits of the present Review Petition, the Commission notes that the present proceedings are confined to the benchmark capital cost and generic tariff determined for Solar energy based power plants to be commissioning during FY 2026-27 as fixed by the Commission vide its Impugned Order dated 04.06.2026. Since the Petitioner has not sought review of the decision/findings of the Commission related to BESS projects, those findings are beyond the scope of the present proceedings and are, therefore, not being considered.

5.2.3. The Review Petitioner has not pointed out any error in the calculation, clerical mistake or accidental slip in the Order dated 04.06.2026. It has also not relied on the ground of “any other sufficient reason”. The Petitioner’s entire case, as stated in the Review Petition and reiterated in its rejoinder, is based on one specific contention: that two documents, namely (i) the Office Memorandum dated 25.05.2026 issued by MNRE and (ii) a letter dated 02.06.2026 issued by the UREDA clarifying that MNRE OM dated 25.05.2026 is applicable in the State, were available before the Order dated 04.06.2026 was passed, but were not considered by the Commission.

5.2.4. The Commission has examined the sequence of events relevant to the present issue, which is largely not in dispute between the parties:

- a) The Commission issued Draft Order dated 07.04.2026 on Misc. Application No. 19 of 2026 (Suo-Moto) and invited comments from stakeholders, to be submitted latest by 04.05.2026. 36 numbers of stakeholders, including the Review Petitioner, submitted their comments.
- b) MNRE issued an Office Memorandum dated 25.05.2026 titled "*Approved List of Models and Manufacturers (ALMM) – No blanket extension of ALMM List-II beyond 01.06.2026 subject to Protection of Investments already made.*" The Office Memorandum stated that, as per the earlier O.M. dated 09.12.2024, reiterated on 28.07.2025, Net-Metering and Open Access RE projects commissioned on or after 01.06.2026 would be required to use solar PV modules from ALMM List-I and solar PV cells from ALMM List-II. After considering requests for extension of the deadline, MNRE decided that there would be **no blanket extension beyond 01.06.2026**. A limited exemption was provided only for projects where modules had already been installed or effective steps had been taken before 01.06.2026.
- c) The impugned Order was passed on 04.06.2026.

It is explicitly clear from the above chronology that the MNRE Office Memorandum dated 25.05.2026 was issued after the last date of submission of comments and prior to the Order dated 04.06.2026. Thus, the document was available before the Order was passed, although it was issued after the stakeholders' comment process had formally closed.

- 5.2.5. The test for review on the ground of discovery of new evidence, as laid down by the Hon'ble Supreme Court in *State of West Bengal & Ors. v. Kamal Sengupta & Anr.*, (2008) 8 SCC 612, as mentioned above, requires the Petitioner to establish (i) that the matter/evidence is relevant and of such a character that, had it been produced, it "might have altered the judgment", and (ii) that it was not within the Petitioner's knowledge and could not, despite due diligence, have been produced earlier.
- 5.2.6. On examining the record of Petition No. 18 of 2026 (Suo-Moto), the Commission finds that the issue now being presented as "new" was, in substance, already brought before the Commission by several stakeholders in their comments in the matter. The

stakeholders had already raised the issue that ALMM List-II compliance and DCR sourcing would become mandatory from 01.06.2026 and that this could increase the cost of solar modules.

UREDA, in its comments recorded in the Impugned Order dated 04.06.2026, referred to the MNRE O.M. dated 28.07.2025 and stated that solar PV modules and cells would have to comply with the ALMM requirement from June 2026, which was “likely to push tariff higher”. UREDA, accordingly, requested that the proposed tariff be reconsidered in view of this requirement.

Other stakeholders namely, M/s Tridev Urja Pvt. Ltd., M/s Fidato Consultants Pvt. Ltd. and M/s S&S Energy Systems Pvt. Ltd., in their joint submission specifically stated that ALMM List-II compliance would be mandatory from 01.06.2026. They also discussed the price difference between DCR and non-DCR modules and sought a separate capital cost and tariff on that basis. Similar concerns about the proposed mandatory ALMM/DCR requirement from 01.06.2026 were also raised by ENMAX Associates, Mr. Abhay Semwal and Mr. Jagrat Rana.

5.2.7. The Commission’s own findings in the Order dated 04.06.2026 also show that the issue was already brought before the Commission. The Commission specifically recorded that stakeholders had raised the concern that ALMM List-II and mandatory DCR requirements would come into effect from 01.06.2026 and were expected to significantly increase the cost of solar modules and project execution. The Commission took this concern, along with other factors, into account while deciding to continue the FY 2025-26 generic tariff for FY 2026-27.

5.2.8. It is therefore clear from the record that the mandatory ALMM List-II/DCR requirement from 01.06.2026, and its likely impact on the cost of solar modules, was not a new issue before the Commission. The issue had already been raised by several stakeholders and was considered by the Commission while deciding the generic tariff for FY 2026-27.

The MNRE Office Memorandum dated 25.05.2026 confirmed that there would be no blanket extension of the 01.06.2026 deadline, a requirement whose likely impact on module prices was already in the Commission’s notice through the earlier MNRE

communications dated 09.12.2024 and 28.07.2025.

- 5.2.9. The Petitioner has not shown how the MNRE Office Memorandum dated 25.05.2026 could have changed the Commission's decision. The Commission had already considered the ALMM/DCR requirement and its possible impact on module prices as one of the factors creating uncertainty in the solar sector. On that basis, the Commission decided to continue the existing FY 2025-26 generic tariff for FY 2026-27 instead of revising the benchmark capital cost at that stage.

The Office Memorandum dated 25.05.2026, therefore, did not bring any new issue before the Commission. It only confirmed the position regarding a requirement that was already known to the Commission and had already been considered. It, therefore, does not meet the test of a new or material fact warranting review.

- 5.2.10. Further, the Petitioner has submitted that UREDA, through its letter dated 02.06.2026, had clarified and confirmed that the MNRE notification dated 25.05.2026 was applicable in Uttarakhand. However, on examining the annexures filed by the Petitioner, it appears that the document referred to by the Petitioner is actually dated 12.06.2026, and not 02.06.2026. The Commission notes that there is a discrepancy in the Petitioner's own pleadings.

- 5.2.11. The Commission has considered the document as it actually appears on record, rather than relying on different dates mentioned in the Petition. The UREDA communication annexed by the Petitioner is dated 12.06.2026, which is after the date of impugned Order and was not in existence when the Order was passed and could not have been placed before the Commission at that time.

A document created after the Order cannot be treated as evidence that was already available but was overlooked by the Commission. The ground of "discovery of new fact" applies only to a fact or evidence that already existed but could not be produced despite due diligence. Since the UREDA communication itself came into existence after the Order, it cannot form the basis for review on the ground of discovery of new evidence.

Moreover, UREDA letter, on its own terms, does no more than transmit and

administratively implement, within the State of Uttarakhand, the directions already issued by MNRE vide its Office Memorandum dated 28.07.2025 and 25.05.2026, both of which pertain to a mandate whose substance, was already before the Commission through stakeholder submissions filed before the Commission. A State-level communication that merely operationalises a central directive already known to and considered by the Commission does not, constitute a new and important matter capable of altering the Commission's determination.

5.2.12. Further, merely because the MNRE Office Memorandum dated 25.05.2026 was not specifically mentioned does not mean that the underlying issue was not considered by the Commission. To establish that the Commission completely overlooked the issue would require a detailed comparison of the Order with other documents and an exercise of reasoning. As held in *Lily Thomas* and *Kamal Sengupta*, an error apparent on the face of the record must be obvious and self-evident; it cannot be an error which can be found only after undertaking such a process of reasoning.

5.2.13. The Review Petitioner has requested the Commission to increase the benchmark module price to Rs. 25/Wp and the generic tariff for Solar PV Plants to Rs. 5.50/unit. This is not simply a request to consider a document that was missed earlier. In effect, the Petitioner is requesting the Commission to reopen and change a decision that has already been taken after considering the submissions of 36 stakeholders, including the Petitioner, on module prices and their impact on project viability.

A review petition cannot be used to reconsider the merits of a matter that has already been decided. The Supreme Court has held in *Parsion Devi v. Sumitra Devi*, (1997) 8 SCC 715, *Jain Studios Ltd. v. Shin Satellite Public Co. Ltd.*, (2006) 5 SCC 501, and *Kamlesh Verma v. Mayawati & Ors.*, (2013) 8 SCC 320, that a review cannot be used as a second hearing or as an appeal in disguise.

In the present case, the Commission had already considered the possible increase in module prices due to ALMM List-II and DCR requirements. These issues were raised by the Petitioner and other stakeholders. After considering these concerns and the uncertainty in the solar sector, the Commission decided to continue the existing

tariff for FY 2026-27. The Commission also left open the possibility of reviewing the tariff in future years based on market conditions, actual project costs, and changes in technology and policy.

Therefore, the Petitioner is essentially asking the Commission to take a different view on an issue that has already been considered and decided. Such reconsideration is not permissible in a review petition.

5.2.14. Further, the Petitioner though calling it a review Petition has also relied on Regulation 59 of UERC (Conduct of Business) Regulations, 2014 which talks about the inherent powers of 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 instant matter, the provisions of Regulation 12 of RE Regulations, 2023 requires the Commission to determine the generic tariff for solar power plants and BESS on Suo-moto basis based on the norms specified in the RE Regulations, 2023 as amended from time to time. Therefore, Regulation 59 of UERC (Conduct of Business) Regulations, 2014 cannot be used to achieve the same result, i.e. to change the tariff which has already

been determined under Regulations 12 of RE Regulations, 2023. 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.

5.2.15. For the reasons recorded above, the Commission is of the considered view that the Review Petitioner has failed to establish any of the recognised grounds for exercise of review. 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