

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION
GANDHINAGAR**

Review Petition No. 29 of 2024 in Order No. 05 of 2025.

In the Matter of:

Review Petition under Regulation 72 (1) of GERC (Conduct of Business) Regulations, 2004 notified vide Notification No. 02/2004 against the Wind Tariff Order No. 05/2024 of the Commission regarding "Tariff Framework for Procurement of Power by Distribution Licensees and others from Wind Power Projects for State of Gujarat, and clarification regarding control period effective date.

Petitioner : M/s Safar Polyfibres Pvt. Limited
Represented by : Mr. Vikram Shah.

And

IA No. 51 of 2025 in Review Petition No. 29 of 2024.

In the Matter of:

Application seeking impleadment of the Applicant GUVNL as Respondent.

Applicant : Gujarat Urja Vikas Nigam Limited
Represented by : Ld. Adv. Ms. Ranjitha Ramachandran with Mr. Kishore Lakhani.

CORAM:

**Mehul M. Gandhi, Member
S. R. Pandey, Member**

Date: 11/11/2025

ORDER

(i) This Review Petition has been filed by the Petitioner M/s Safar Polyfibres Pvt. Limited under Regulation 72 (1) of GERC (Conduct of Business) Regulations, 2004 seeking review of Wind Tariff Order No. 05 of 2024 dated 31.08.2024 in the matter of “Tariff Framework for Procurement of Power by Distribution Licensees and others from Wind Power Projects for State of Gujarat, with respect to rectification of effective date of control period of Wind Tariff Order No. 05 of 2024.

(ii) Facts mentioned in the Petition in brief are as under:

2.1. It is stated that the Government of Gujarat has notified the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003 in May, 2003 for reorganization of the entire power sector in the State of Gujarat and pursuant thereof, the Gujarat Electricity Industry Reorganization and Comprehensive Transfer Scheme, 2003 has been notified under the Gujarat Electricity Industry (Reorganization and Regulation) Act, 2003, whereby, erstwhile Gujarat Electricity Board

was reorganized and its functions have been vested in different entities.

2.2. The Petitioner is a company registered under the provisions of the Companies Act and is engaged in the business of recycling plastic and related products at Revenue Survey No. 12/1/1, NH 27, Near Kuvadava GIDC, Kuchiyadad, Rajkot 360023. The Petitioner is an HT consumer of PGVCL, having connection No. 28758 and a contract demand of 2200 KVA under the HTP - 1 tariff. In order to pursue the quest for green energy, the applicant has established the 2.7 MW windmill for captive use in line with the Wind Power Policy 2016 declared by the E & P Department, Government of Gujarat.

2.3. The 2.7 MW windmill was primarily registered with GEDA to the developer M/s Ganesha Wind Park Pvt. Limited on 11.08.2023 and transferred to the Petitioner on 04.09.2023. A transmission agreement was executed with Gujarat Energy Transmission Corporation Limited on 22.12.2023.

2.4. The windmill was commissioned on 26.12.2023 as per GEDA Commissioning certificate No. GEDA/PWF/SPPL/01/2023-24/6511 dated 20.01.2024. The Government of Gujarat declared the 'Gujarat

Wind Power Policy, 2016 on 02.08.2016. The said policy was extended many times and the final extension was granted up to 30.09.2023.

2.5. The Government of Gujarat declared the 'Gujarat Renewable Energy Policy 2023 on 04.10.2023.

2.6. Thereafter, the GERC (Terms and Conditions of Green Energy Open Access) Regulation 2024 dated 21.02.2024 and Order No. 5 of 2024 in the matter of "Tariff Framework for Procurement of Power by Distribution licensees and Others from Wind Power Projects for the State of Gujarat was issued on 31.08.2024.

2.7. This Petition was filed under Regulation 72 (1) of the GERC (Conduct of Business) Regulations, 2004 before the Commission regarding the control period declared in the Tariff Order for Wind Power Projects dated 31.08.2024. The Regulation 72 (1) of the GERC (Conduct of Business) Regulations, 2004 is reproduced as under:

".....72. Review of the decisions, directions, and orders

72(1) Any person aggrieved by a decision or order of the

Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/order to the Commission.”

- 2.8. The Petitioner is a manufacturer under the MSME Act and as a common consumer is not aware of the day-to-day proceedings of the Electricity Regulatory Commission. The wind power project of the Petitioner was commissioned on 26.12.2023 with sufficient reason to believe that the wind power generator will be governed by the Gujarat Wind Power Policy, 2016 as narrated in the subsequent arguments. A captive power consumer is unaware of any change that can be made with a retrospective effect. The Petitioner has not participated in the proceedings of the Wind Power Tariff Framework including the study of the Draft Notification and hearing before passing the said order. The generated unit from the wind power project is granted as per Gujarat Wind Power Policy, 2016 and subsequent amendments and extensions.

2.9. Considering the situation, the Petitioner prays the Commission to admit this review petition considering sufficient reasons to allow the same. As far as the operative period of Policy 2016 is concerned, the same is read as under:

“2. Operative Period

This policy will come into effect from the date of G.R. and shall remain in operation for a period up to 30th June 2021.”

2.10. The Government of Gujarat has extended the operative period of the Policy 2016 via different GRs. The last extension was granted up to 30.09.2023 or a new policy is announced by a GR dated 31.03.2023, which is reproduced as under:

“.....

Resolution:

After careful discussion, the Government is pleased to further extend the operative period of the Gujarat Wind Power Policy-2016 up to 30th Sept-2023 or till a new Wind Power Policy/a new Policy is announced, whichever is earlier, incorporating the amended GRs referred at serial no.2 to 6. All other provisions of the Gujarat Wind Power Policy-2016 and amendments thereof shall

remain the same.

.....”

2.11. The Government of Gujarat has declared the ‘Gujarat Renewable Energy Policy 2023’ on 04.10.2023 and the Clause No. 34 of the Policy 2023 read as under:

“....

34. Wind Projects registered under Gujarat Wind Policy 2016:

Wind power projects which are registered with GEDA as per provisions of Gujarat Wind Policy 2016 as amended and extended from time to time, before notification of this policy, but not commissioned until effective date of this policy shall be eligible to avail the benefits under the Wind Power Policy-2016 if the registered projects are commissioned by 31/12/2023. All the projects commissioned after 31/12/2023 will be governed as per the Gujarat Renewable Energy Policy, 2023.

.....”

2.12. Since the Petitioner's windmill was registered with GEDA on 11.08.2023 and the same was commissioned on 26.12.2023, the

Petitioner is fulfilling both the criteria with regard to the Petitioner's windmill project under the Wind Power Policy 2016.

- 2.13. It is submitted that as far as the control period of the impugned tariff order dated 31.08.2024 is concerned, the same is reproduced as under:

“2.2 Clause 3.2 (a): Control Period

2.2.3 Analysis and Commission's Ruling

The Commission has gone through the suggestions received from the stakeholders. The Commission also noted that the Order No. 02 of 2020 dated 30.04.2020 for Wind Power Project having control period up to 31.03.2022 and thereafter, no extension in control period of said order is granted. The Commission has noted that the Ministry of Power, Government of India has notified the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 on 6th June 2022 outlining the policy and regulatory provisions for promotion of renewable sources of energy through Open Access. Further, the MoP Rules are effective from the date of its Notification, i.e. from 06.06.2022. The Commission also notes that the Wind Tariff dated 30.04.2020 was

having control period only up to 31.03.2022 and there was no tariff order of the Commission as on 06.06.2022 and also specified in the discussion paper that the new Order shall be effective from 06.06.2022. Accordingly, the control period of previous tariff order dated 30.04.2020 deemed to be extended up to 05.06.2022.

Considering above aspects and to give effect to the provisions of Green Energy Open Access Rules 2022 notified by Ministry of Power, Govt. of India under the Electricity Act, 2003 and specifically when there was no tariff order of the Commission as on 06.06.2022 with regard to Wind Power Project tariff framework, the Commission found it more appropriate to adopt the policy and regulatory provisions outlined in MoP' Green Energy Open Access Rules, 2022 and defined the Control Period of new tariff order to be made effective from 06.06.2022 in the discussion paper also. Accordingly, the Commission decides to define the Control Period of this tariff framework effective from 06.06.2022 to 31.03.2027. The projects which are commissioned during aforesaid Control Period shall be governed by the provisions MoP's Green Energy Open Access Rules, 2022, read with provisions of GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024 and this Order of the Commission and eligible for the benefits stipulated

in this Order. Further, Wind Power Projects commissioned during the Control Period of this Order shall be liable to pay applicable Open Access charges and provisions related to banking facility, energy accounting etc. and shall be governed by this Order read with GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024.”

- 2.14. As per above, the control period of the said tariff framework dated 31.08.2024 was effective from retrospective effect from 06.06.2022, which is a violation of the Gujarat Renewable Energy policy 2023. Moreover, Clause 31 of the Gujarat Renewable Energy Policy 2023 states as under:

“31. Regulations

The Hon'ble Gujarat Electricity Regulatory Commission shall be guided by this policy while framing its rules, regulations, and orders.”

- 2.15. On perusal of the above, it is clear that the control period effective from 06.06.2022 is a clear violation of the Gujarat Renewable Energy Policy 2023 as the effective date as per the said policy of the new tariff framework should be 01.01.2024 or later.

2.16. It would also be relevant to refer the Clause 1.7 of the Order No. 5 of 2024 in the matter of “Tariff Framework for Procurement of Power by Distribution Licensees and Others from Wind Power Projects for the State of Gujarat” which is reproduced below:

“...1.7. GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024.

The Commission has notified the GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024. While notifying the present tariff framework, the Commission has also considered the provisions of GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024.

2.17. Regulation 1.3 of the GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024 states as under:

“.....1. Short Title, Extent and Commencement

.....

.....

3) These Regulations will come into force from the date of their notification in the Official Gazette of Gujarat...”

The Order No. 5 of 2024 states that the Commission has considered the provisions of GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024 which came into force from 21.02.2024, it is not possible that the tariff order can be implemented from the earlier date than Regulation itself. Considering the above retrospective effective date from 06.06.2022 is not a valid date.

2.18. Moreover, Clause 12 of the MoP Notification of 'Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 dated 06.06.2022 states as under:

"12. Model regulation on methodology.-

(1) In order to have a common methodology for calculation of all the open access charges, the forum of regulators shall prepare a model regulations on methodology for calculation of open access charges, as well as banking charges within a period of four months from the date of commencement of these rules.

(2) The framing of methodology referred to in sub-rule (1), of the forum of regulators shall ensure that various permissible charges are not be onerous and shall meet the prudent cost of the distribution licensee in order to fulfil the objective of promoting the

procurement of green energy by Green Energy Open Access Consumers.”

As per above it is clear that in order to have a common methodology of calculation of all the access charge, Forum of Regulators (FOR) shall prepare a model Regulation. It is obvious that only after such model Regulation by a FOR does the State Regulatory Commission make Green energy open access Regulations.

2.19. The Forum of Regulators (FOR) in its 84th and 85th meetings held at Gandhinagar on 03.02.2023 and at Dharamshala on 18.04.2023 respectively, discussed the aforesaid MoP Notification in line with the GERC' Regulations for Green Energy Open Access dated 21.02.2024. MoP has not directed the Regulatory Commission to implement the notification with effect from the date of publication.

2.20. It is stated that the transmission agreement with GETCO was executed as per Gujarat Wind Power Policy 2016 and related tariff orders. Now the change of policy will disrupt this contractual arrangement leading to a dispute. Further, a provisional wheeling agreement was executed with PGVCL on 23.12.2023 and with the retrospective effective date of tariff Order No. 5 of 2024, the

conditions of the wheeling agreement with PGVCL are now opposite to each other, creating a legal tangle.

2.21. If the retrospective effective date of the Tariff Order 2024 is continued, it will violate the provisions of the Gujarat Renewable Energy Policy 2023. Also, in the case of the Petitioner, the transmission agreement with GETCO is executed under Gujarat Wind Power Policy 2016 while the wheeling agreement with PGVCL will be revised under Tariff Order No. 5 of 2024.

2.22. The retrospective applicability of the Order undermines the legal Principles and leads to investment uncertainty. In the recent past also, the Commission has extended the control period of the renewable tariff Order till the issuance of the new tariff order. In line with the same, the renewable energy stakeholders has entered into contracts based on existing tariff orders and policies. Retrospective tariff orders can disrupt these contractual arrangements, leading to disputes and undermining contractual stability.

(iii) GUVNL has also filed IA being IA No. 51 of 2025 seeking impleadment of GUVNL as the Respondent in the present review Petition.

3.1. Facts mentioned in the IA in brief are as under:

- 3.2. The present Review Petition is being filed by the Petitioner M/s Safar Polyfiber Pvt. Limited under Regulation 72(1) of the GERC (Conduct of Business) Regulations, 2004, against the Order dated 31.08.2024 passed by the Commission in Order No. 05 of 2024 in the matter of “Tariff framework for Procurement of Power by Distribution licensees and Others from Wind Power Project for State of Gujarat”.
- 3.3. The Applicant GUVNL seeks impleadment in the present Review Petition. GUVNL is the holding company of distribution licensees in the State of Gujarat and is responsible for bulk procurement and supply of electricity to consumers through its distribution subsidiaries.
- 3.4. It is submitted that the issues raised in the present Review Petition regarding the control period i.e. retrospective application of the same for Wind Power Projects in the Order under the Review will have an impact on subsidiary companies of GUVNL with whom wheeling and connectivity agreements have been signed by their consumers, including energy accounting, banking and other aspect with respect to Wind Projects in the State of Gujarat. Any direction(s)/Order(s) passed in the present Review Petition will have a direct bearing on the financials of GUVNL. Therefore, GUVNL is a necessary and proper party for the complete and effective adjudication of the present dispute.

3.5. It is submitted that GUVNL was actively involved in the tariff determination proceedings before the Commission and had submitted its views/comments on the discussion paper dated 02.03.2024 floated by the Commission on 02.04.2024 prior to the passing of the Order No. 05 of 2024. Therefore, the presence of GUVNL before the Commission is necessary in order to ensure that all relevant facts, contentions, and interests of the affected parties are duly considered.

3.6. It is a settled law that if the party can show a fair semblance of any interest in the matter, then such party can file the Application for Impleadment. In this regard, reliance is being placed upon the case of *Sumtibai v. Paras Finance Co. Regd. Partnership Firm Beawer (Raj.)*, (2007) 10 SCC 82 at Para 14.

3.7. It is stated that the impleadment of GUVNL would not cause any prejudice to the existing parties but rather aid in the just and complete resolution of the dispute, ensuring that no necessary stakeholder is left unheard.

(iv) The above matter was kept for hearing on 19.09.2025 along with hearing in the remand proceedings for Order No 05 of 2024.

(v) During the hearing, the representative appearing on behalf of the Review Petitioner M/s Safar Polyfibres Pvt. Limited, submitted that

the present review Petition is filed to rectify the control period of Order No. 05 of 2024 dated 31.08.2024, i.e., effective from date of the Order instead of effective from 06.06.2022. He submitted that as such the arguments in the present review petition is in line with the arguments made by other Ld. Advocates in the remand proceedings of Order No. 05 of 2024 which is already heard by the Commission and has nothing more to add in the matter. However, he further reiterated that the control period of Order No. 05 of 2024 dated 31.08.2024 effective from 06.06.2022 is in clear violation of Gujarat RE Policy 2023 as the effective date as per the said Policy should be 01.01.2024 or later. He also submitted that the Clause 12 of the Green Energy Open Access Rules, 2022 notified by MoP, Govt. of India vide Notification dated 06.06.2022 provides that the FOR has to prepare Model Regulations for the common methodology for open access charges. As of date, FOR has not prepared any common Regulations and the MoP has not directed the Electricity Regulatory Commission to implement the Notification from the date of its Notification. He submitted that the control period of the Order No. 05 of 2024 be made effective from the date of Order

- 5.1. Ld. Adv. Ms. Ranjitha Ramachandran, appearing on behalf of the Applicant GUVNL, submitted that the Applicant GUVNL has filed the

IA No. 51 of 2025 seeking impleadment of GUVNL as Respondent in the present Review Petition. However, she submitted that with consideration of submissions already made in the remand proceedings of Order No. 05 of 2024, nothing more is required to be added in the matter. She requested that the Commission may accordingly decide the matter considering the submissions made by the parties.

Commission's Analysis and decision:

6. We have carefully considered the submissions made by the parties. We note the statement made by the review Petitioner that the Petitioner has adopted the arguments in the present review petition is in line with the arguments made by other Ld. Advocates in the remand proceedings of Order No. 05 of 2024 which is already heard by the Commission and the Petitioner has nothing more to add in the matter. We also note the submissions of the counsel appearing for GUVNL that GUVNL has filed IA No. 51 of 2025 seeking impleadment of GUVNL as Respondent in the present Review Petition and with consideration of submissions made in the remand proceedings of Order No. 05 of 2024, she has nothing more to added in the matter. Accordingly, the Commission has proceeded with the present review matter and examined the submissions, affidavits, and oral arguments

tendered by the parties during the hearings of remand proceedings of Order No. 05 of 2024 and also the legal framework governing renewable energy promotion and tariff determination in Gujarat.

6.1. We note that the present petition is filed by the Petitioner seeking review of the Order No. 5 of 2024 dated 31.08.2024 in the matter of “Tariff Framework for Procurement of Power by Distribution Licensees and others from Wind Power Projects for State of Gujarat” with regard to control period of the said order retrospectively decided by the Commission from 06.06.2022 instead of from the date of Order i.e. 31.08.2024, mainly on the ground that:

- i. The retrospective applicability of Order No. 05 of 2024 is impermissible under the law and leads to investment uncertainty.
- ii. The Green Energy Open Access Rules, 2022, Notified by Ministry of Power did not per se provide for retrospective applicability of the Commission’s Order. The rules envisaged to frame model Regulations within 4 months from implementation of the rules, which yet not notified at that time.
- iii. The Gujarat Wind Power Policy, 2016, was extended by the State Government and superseded only by Gujarat Renewably Policy, 2023. Therefore, the Wind Project commissioned prior to

01.04.2023 must be governed by the provisions of previous policy of the government.

- iv. The Green Energy Open Access Regulations, 2024, Notified by the Commission is effective from its gazette notification i.e. 21.02.2024. Therefore, any order deriving its authority therefrom cannot have an earlier effective date.

6.2. We also note that the Commission has issued discussion paper on 'Tariff Framework for Procurement of Power by Distribution licensees and Others from Wind Power Projects for State of Gujarat', inviting comments/suggestions from the stakeholders. The Commission also conducted the public hearing in the present matter. After following due process of law and considering the comments/suggestions/objections of all the Stakeholders, the Commission issued the Wind Tariff Order No. 05 of 2024 on 31.08.2024.

6.3. As regard to decision of the Commission in the Order No. 05 of 2024 on the issue of control Period of the Order, the relevant part of said order read as under:

“.....

2.2 Clause 3.2 (a): Control Period

2.2.1 Proposed in Discussion Paper

The Commission proposes that the control period of the tariff framework under this discussion paper shall be effective from 06.06.2022 up to 31.03.2027.

2.2.2 Suggestions/Objections of the Stakeholders

GUVNL submitted that the State Government has notified Gujarat Renewable Energy Policy, 2023 on 04.10.2023, in which control period of Gujarat Wind Policy, 2016 has extended up to 31.12.2023. Therefore, in order to have operational ease, it will be more prudent to start the control period of wind tariff order from 01.01.2024 with applicability for next 5 years. GUVNL suggested that the Control Period of the Commission's previous Order No. 02 of 2020 may be extended up to 31.12.2023.

Ganesha Wind Park Private Limited / OP Wind Energy Private limited and Opera Energy Private Limited submitted that the control period of the new tariff order should be effective from 01.01.2024 to 31.03.2029 stating that the expired Wind Power Policy 2016 was extended up to 31.12.2023.

Indian Wind Energy Association (InWEA) submitted that the order should be made effective prospectively. The retrospective applicability of Order undermines the legal Principles and leading to investment uncertainty. InWEA further submitted that in the

recent past also the Hon'ble Commission has extended the control period of the wind tariff order till the issuance of the new wind tariff order. In the same line, the wind energy stakeholder, entered into contracts based on existing wind tariff order and policy. Retrospective regulations can disrupt these contractual arrangements, leading to disputes and undermining contractual stability.

TPL-D pointed out that the Commission in its Order No. 03 of 2020, has concluded that it is not appropriate to make any dispensation effective retrospectively as projects set up in the intervening period cannot be subjected to a dispensation that has been decided after a public process at a later date, Accordingly, the Commission had extended the then existing order till the date of issuance of the Order No. 03 of 2020. Further, the Gujarat Renewable Energy Policy 2023 has given saving to the existing projects set up under the earlier Policy.

Accordingly, TPL-D suggested to define the control period of the present order from date of its notification considering the complexities in terms of commercial aspects such as energy accounting and settlement, adjustment of banking units, open access charges. etc.

2.2.3 Analysis and Commission's Ruling

The Commission has gone through the suggestions received from the stakeholders. The Commission also noted that the Order No. 02 of 2020 dated 30.04.2020 for Wind Power Project having control period up to 31.03.2022 and thereafter, no extension in control period of said order is granted.

The Commission has noted that the Ministry of Power, Government of India has notified the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 on 6th June 2022 outlining the policy and regulatory provisions for promotion of renewable sources of energy through open Access. Further, the MOP rules are effective from the date of its Notification, i.e. from 06.06.2022. The Commission also notes that the Wind Tariff dated 30.04.2020 was having control period only up to 31.03.2022 and there was no tariff order of the Commission as on 06.06.2022 and also specified in the discussion paper that the new Order shall be effective from 06.06.2022. Accordingly, the control period of previous tariff order dated 30.04.2020 deemed to be extended up to 05.06.2022.

Considering above aspects and to give effect to the provisions of Green Energy Open Access Rules 2022 notified by Ministry of Power, Govt. of India under the Electricity Act, 2003 and specifically when there was no tariff order of the Commission as on 06.06.2022 with

regard to Wind Power Project tariff framework, the Commission found it more appropriate to adopt the policy and regulatory provisions outlined in MoP' Green Energy Open Access Rules, 2022 and defined the Control Period of new tariff order to be made effective from 06.06.2022 in the discussion paper also. Accordingly, the Commission decides to define the Control Period of this tariff framework effective from 06.06.2022 to 31.03.2027. The projects which are commissioned during aforesaid Control Period shall be governed by the provisions MoP's Green Energy Open Access Rules, 2022, read with provisions of GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024 and this Order of the Commission and eligible for the benefits stipulated in this Order. Further, Wind Power Projects commissioned during the Control Period of this Order shall be liable to pay applicable Open Access charges and provisions related to banking facility, energy accounting etc. and shall be governed by this Order read with GERC (Terms and Conditions for Green Energy Open Access) Regulations, 2024.

- 6.4. The aforesaid deliberation clearly establishes that the Commission has duly considered the suggestions/Objections of each of the stakeholders on the issue of consideration of control Period of Order

No. 05 of 2024 effective from 06.06.2022 and passed reasoned order taking into account all relevant aspects in the matter.

6.5. We note that in the review proceedings, there is restricted remedy available only for correction of self-evident mistakes or consideration of genuinely new evidence neither of which exists in the present case. In this regard it is relevant to refer section 94 of the Electricity Act, 2003 which reads as under:

“Section 94. (Powers of Appropriate Commission): --- (1) The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -

xxx

xxx

xxx

(f) reviewing its decisions, directions and orders;”

6.6. It is also necessary to refer the Regulation 72 of the GERC Conduct of Business Regulations, 2004.

“72(1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/order to the Commission.”

The aforesaid provisions states that any person aggrieved by a decision or order of the Commission may apply for review of such order within 60 days of the date of the decision / order of the Commission on following grounds:

- i) Error apparent or mistake on the face of record,
- ii) Or any sufficient reason,
- iii) Discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission.

6.7. The relevant legal provisions of Review under Order 47 Rules 1 and 2 of the Code of Civil Procedure which reads as under:

“Order 47 Rules 1 & 2 of CPC :

1. Application for review of judgment –

(1) Any person considering himself aggrieved-

(a) by a decree or Order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or Order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or Order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or Order made against him, may apply for a review of judgment to the Court which passed the decree or made the Order.

(2) A party who is not appealing from a decree on Order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

[Explanation-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]”

6.8. Thus, the Order 47 rule I provides for a limited power to the same Court that passed a decree or order to re-examine its own judgment. This power exists not to reopen concluded cases or re-argue issues, but only to correct obvious mistakes, or to consider new material evidence that could not have been produced earlier despite due diligence.

6.9. It is settled position of law that the scope of interfering with or disturbing the earlier judgment is very narrow. We cannot re-hear the matter which has already been heard and decided, except on the limited grounds provided in Order 47 of the CPC. The error apparent on the face of record must be a material error manifest on the face of the order undermines its soundness or results in miscarriage of justice. It can be a glaring omission or patent mistake. It is not open to reappreciate the evidence and reach a different conclusion, even if it is possible as review is not a rehearing of the matter. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. A repetition of old and overruled argument is not enough to reopen concluded adjudications.

6.10. We note that re-agitation of the decided issue is not permissible and as long as the point is already dealt with and answered, the parties

are not entitled to challenge the Order in the guise that an alternative view is possible or required to be taken. Thus, there must be an apparent mistake or error on the face of record which is not required to be searched. It must be an inadvertent error. An error should not require any long-drawn process of reasoning on point where there may conceivably two options. This power can be exercised for correction of a mistake and not for a substituted view and it cannot be treated as an appeal in disguise. The sufficient reason should be analogues to the Rules under Order 47. The Hon'ble Supreme Court, in various judgements, deliberated upon the issue of review proceedings which should be strictly confined to the scope and ambit of Order 47, Rule 1 of the CPC. A review is not permissible on the ground that the Court proceeded on wrong proposition of law.

7. After consideration of the pleadings, documentary evidence and submissions of the parties and the record of the original proceedings in Petition No. 2130 of 2022, the Commission finds that the Review Petitioner has failed to demonstrate any error apparent on the face of the record, discovery of new and important evidence, or any other sufficient reason within the scope of Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 72 of the GERC (Conduct of Business) Regulations, 2004. All factual and legal issues raised in this

Review Petition were already considered and decided by the Commission in order No. 05 of 2024 dated 31.08.2024.

7.1. The present Review Petition is therefore nothing but an attempt to re-argue the same issues under the guise of review, which is legally impermissible. The Commission reiterated that review jurisdiction is narrow and cannot be invoked to seek reconsideration of findings on merits or to reopen conclusions consciously reached after due analysis.

7.2. Accordingly, the Commission decides that there exists no mistake or error apparent, or omission or non-consideration of material evidence, and no new fact is discovered which warrants for interfering with the Order No. 05 of 2024 dated 31.08.2024. Therefore, the Review Petition, is devoid of merit and liable to be dismissed.

7.3. We also note that the review Petitioner has adopted the arguments made by other Ld. Advocates in the remand proceeding of Order No. 5 of 2024 which is already heard and decided by the Commission in the order dated 03.11.2025. Therefore, the various issues raised by the review Petitioner in support of its plea to review the effective date of order No. 05 of 2024 area already dealt and thus stands decided in the order dated 03.11.2025 passed by the Commission

after hearing all the stakeholders in the remand proceedings. Therefore, no further deliberation is required on these aspects raised by the Review Petitioner in the present review petition.

7.4. We note that GUVNL has filed IA in the present review Petition. Since, IA No. 51 of 2025 in present Review Petition is filed for seeking impleadment as Respondent and the Commission has already heard the Petitioner and GUVNL in the present matter and decided the Petition. Thus, the prayer made in IA No. 51 of 2025 serves its purpose. Accordingly, IA No. 51 of 2025 in Review Petition No. 29 of 2024 stands disposed of.

8. We hold that the present review Petition is devoid of merit and dismissed and disposed of accordingly.

Sd/-
[S. R. Pandey]
Member

Sd/-
[Mehul M. Gandhi]
Member

Place: Gandhinagar.

Date: 11/11/2025.