## THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
## LUCKNOW
## Petition No. 2368 of 2026

**QUORUM**

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Sanjay Kumar Singh, Member

**IN THE MATTER OF**

Petition under Regulations 17, 19 and 20 of the UPERC (Captive and Renewable Energy Generating Plants) Regulations, 2024, read with Section 86(1)(e) of the Electricity Act, 2003, seeking direction/ clarification for effective implementation of the banking framework applicable to existing Captive Generating Plants.

**AND**

**IN THE MATTER OF**

1. **Amplus Green Power Private Limited,** A-57, DDA Sheds, Okhla Industrial Area, Phase II, New Delhi – 1100020.
2. **Amplus RJ Solar Private Limited,** A-57, DDA Sheds, Okhla Industrial Area, Phase II, New Delhi – 1100020.
3. **Amplus Solar Shakti Private Limited,** A-57, DDA Sheds, Okhla Industrial Area, Phase II, New Delhi – 1100020.

......... Petitioners

**VERSUS**

1. **U.P Power Corporation Ltd. (UPPCL),**
(Through its Managing Director), Shakti Bhawan, 14-Ashok Marg, Lucknow-226001.
2. **U.P Power Transmission Corporation Ltd. (UPPTCL),**
(Through its Managing Director), Shakti Bhawan, 14-Ashok Marg, Lucknow-226001.
3. **Uttar Pradesh State Load Despatch Centre (UPSLDC),**
(Through its Director), UPSLDC Complex, Vibhuti Khand Phase II, Lucknow, Uttar Pradesh – 226010.

........ Respondents

**THE FOLLOWING WERE PRESENT**

1. Shri Manish Dwivedi, CE-PPA, UPPCL
2. Shri Sarvesh Kumar, SE-RAU, UPSLDC
3. Shri Dharmesh Ranjan Gupta, EE-RAU, UPSLDC
4. Shri Vikash Gupta, EE-PPA, UPPCL
5. Shri Shitanshu Yadav, EE, UPPTCL
6. Shri Md. Altaf Mansoor, Advocate, UPPTCL
7. Shri Achal Nath, Advocate, UPPTCL
8. Ms. Pallavi Singh, Advocate, UPPTCL
9. Shri Aditya K Singh, Advocate, UPPCL
10. Shri Vineet Gupta, Advocate, UPPCL
11. Shri Divyanshu Bhatt, Advocate, UPSLDC
12. Shri Prakhar Shukla, Advocate, UPSLDC
13. Shri Shashwat Singh, Advocate, UPSLDC
14. Shri Sitesh Mukherjee, Senior Advocate, Petitioner
15. Shri Gaurav Dudeja, Advocate, Petitioner
16. Shri Prithu Chawla, Advocate, Petitioner
17. Shri Himanshu Nishad, AVP, Petitioner
18. Shri Nitesh Tyagi, AGM, Petitioner

**ORDER**

**(DATE OF HEARING: 16.06.2026)**

1. The present Petition has been filed by the Petitioner No. 1, namely Amplus Green Power Private Limited ("AGPPL"), Petitioner No. 2, namely Amplus RJ Solar Private Limited ("ARJSPL"), and Petitioner No. 3, namely Amplus Solar Shakti Private Limited ("ASSPL") for a limited relief with respect to the timeline for execution of the banking agreement under the UPERC CRE Regulations, 2024. The Petitioners do not seek adjudication of any *inter se* dispute. The Petitioners seek appropriate direction/ clarification so that the transitional framework consciously provided under the CRE Regulations, 2024, for existing CGPs is given full and effective operation.

2. The Petitioners had also submitted that prior to the issuance of the CRE Regulations, 2024, the Petitioners' projects were operating with banking arrangements as

permitted by UPPCL. AGPPL had 13 captive consumers, ARJSPL had 14 captive consumers, and ASSPL had 19 captive consumers, and the extent of banking then available differed consumer-wise and project-wise.

3. The Petitioners further submitted that on 17.10.2025, the Commission notified the CRE Regulations, 2024, wherein, monthly banking for renewable energy-based CGPs stood restricted to the higher of 25% of the energy injected during the month or 30% of the total monthly consumption of electricity from the distribution licensee by the captive users. It had further been submitted that as a necessary consequence of the aforesaid change, the pre-existing LTOA/OA quantum and capacity requirement of several captive users required reassessment and, in appropriate cases, reduction so as to align the same with the revised banking framework.

4. The Petitioners also submitted that the CRE Regulations, 2024, created two provisions for existing CGPs commissioned prior to 31.03.2024, firstly, a one-time relaxation in respect of notice period and relinquishment charges for part relinquishment undertaken to reduce OA quantum for captive users and secondly, fresh banking agreements were to be executed with the distribution licensee by 31.01.2026.

5. Further, the Petitioners submitted that following notification of the CRE Regulations, 2024, the captive users across the three projects broadly fell into two categories, firstly 32 captive users for whom no reduction in OA/LTOA quantum was required and secondly, 14 captive users for whom reduction /revision of OA/LTOA quantum would be required, for whom applications for revision/reduction of OA quantum had been made before UPPTCL on 14.11.2025, 03.01.2026 and 07.01.2026.

6. The Petitioners further submitted that thereafter, UPPTCL, by way of letters dated 14.01.2026, had sought clarifications and the Petitioners furnished their replies dated 16.01.2026 and 23.01.2026 to UPPTCL. The Petitioners had further submitted that UPPTCL, on 23.01.2026, sought documents for ascertaining captive status and thus, on 30.01.2026, they addressed detailed representations to the Managing Director, UPPTCL, seeking his intervention so that the matter could be resolved. However, on 02.02.2026, UPPTCL wrote to the Petitioners directing them to file the list of generating plants, which have been verified by this Commission.

7. The Petitioners also submitted that after issuance of the CRE Regulations, 2024, Chief Engineer (PPA), UPPCL had circulated email dated 18.12.2025 and reminder letters dated 30.01.2026, in continuation of its earlier letters dated 15.12.2025, each time requesting the Petitioners to take necessary action, submitting the requisite documents on priority and to coordinate with their office for initiation and completion of the revised Banking Agreements.

8. Further, the Petitioners submitted that in response to the aforesaid reminder communications, the Petitioners, by way of their email dated 31.01.2026 and separate communications dated 02.02.2026, addressed to the Chief Engineer (PPA), UPPCL, specifically mentioning that applications for LTOA capacity reduction had already been submitted to UPPTCL and that, while the Petitioners were yet to hear from UPPTCL, the Banking Agreements could nevertheless be signed on the existing OA/LTOA arrangement and quantum.

9. The Petitioners submitted that Chief Engineer (PPA), UPPCL on 07.02.2026, referring to its earlier letters dated 15.12.2025 and 30.01.2026 and also the Petitioners' letters dated 02.02.2026 recorded that Clause 12(ii) of the CRE Regulations, 2024 required existing CGPs to enter into fresh banking agreements latest by 31.01.2026 and since the prescribed timeline had lapsed, it advised AGPPL and ARJSPL to approach this Commission for suitable directions and/or clarification in that regard.

10. The Petitioners had also averred that the Petitioners proceeded on a *bona fide* misunderstanding that the reduction in OA / LTOA quantum ought to be secured first, so that the fresh banking agreement executed thereafter would be fully aligned with the revised regulatory framework under the CRE Regulations, 2024.

11. The Petitioners further avowed that issuance of necessary directions/clarification, allowing execution of fresh banking agreements for the Petitioners' remaining users, would not prejudice UPPCL or any third party, as they did not seek any substantive departure or any relaxation from the substantive conditions of banking under the CRE Regulations, 2024.

12. Thus, the Petitioners requested the Commission to clarify that verification of CGP is not a pre-condition for reduction of OA / LTOA quantum under Regulation 12(ii) of the CRE Regulations, 2024 and moreover, in terms of Regulation 6 of the Verification Regulations, 2022, the Petitioners and their captive users had already deposited the appropriate bank guarantees for FY 2025-26 with the concerned distribution licensees.

13. The Petitioners had also sought interim relief, praying that the Commission direct UPPCL to accept and process their request for execution of fresh banking agreements for the remaining captive consumers, pending disposal of the Petition, and direct the Uttar Pradesh State Load Despatch Centre (UPSLDC) to continue permitting banking for such consumers until the revised banking agreements are signed by UPPCL. The Petitioners further prayed that the said interim arrangements be allowed subject to such conditions as the Commission may deem fit.

14. The Commission admitted the Petition and directed the Respondents to file their reply within two weeks and provided one week thereafter to the Petitioner to file the Rejoinder.

15. A submission dated 03.06.2026 was made by UPPCL wherein it was claimed that the failure was caused because of pendency of their LTOA/OA quantum reduction requests before UPPTCL, under a wrong presumption made unilaterally by the Petitioners which had no basis as Regulation 12(ii) of the CRE Regulations, 2024 mandates fresh Banking Agreements be executed with the distribution licensee latest by 31.01.2026 without having any requirement to first complete OA/LTOA revision.

16. UPPCL also submitted that the present Petition has been filed by the Petitioners purportedly under Section 86(1)(e) of the Electricity Act, 2003 read with Regulations 17, 19 and 20 of the CRE Regulations, 2024, seeking what is described as a "direction /clarification" but in effect, what the Petitioners seek is adjudication of a live and contested dispute between themselves as generating companies and UPPCL as the distribution licensee.

17. UPPCL further stated that the Petitioners have invoked Regulations 17, 19 and 20 of the CRE Regulations, 2024 as the basis for the relief sought. The relief sought is, in substance, an order to execute Banking Agreements after the mandatory deadline of

31.01.2026, which amounts to a post-facto extension of a mandatory regulatory deadline, which is not a case of relaxation or a removal of difficulty, or an exercise of inherent powers but an amendment of subordinate legislation.

18. UPPCL further averred that the Petitioners were aware of the OA/LTOA revision requirement as early as 14.11.2025 when their captive consumer, RSWM Limited, filed the first application before UPPTCL, whereas OA/LTOA revision applications for the remaining consumers were filed with UPPTCL only on 03.01.2026 and 07.01.2026, barely three weeks before the Deadline.

19. A rejoinder to UPPCL's submission was made by the Petitioners on 11.06.2026, submitting that UPPCL's own reply confirms that the issue is narrow and also that UPPCL has not rejected the Petitioners' request on merits but has only taken the position that since the timeline of 31.01.2026 had expired, it was not in a position to execute the fresh banking agreements, without suitable directions/clarification from this Commission.

20. The Petitioners have also stated that they were under a bona fide belief that the reduced OA / LTOA quantum ought to be processed first, so that the fresh banking agreements could correctly reflect the revised quantum and could remain aligned with the revised banking framework. The Petitioners have further submitted that when it became clear that the OA/LTOA reduction process may not be completed before 31.01.2026, they requested UPPCL to execute fresh banking agreements even on the existing OA/LTOA quantum.

21. The Petitioners have also stated that they have not sought adjudication of any contractual dispute, claim for damages, declaration of breach, tariff dispute, billing dispute, or monetary claim against UPPCL but they only seek clarification that the timeline of 31.01.2026 should not defeat the transition framework applicable to existing CGPs, and that UPPCL may execute fresh banking agreements for the identified consumers in terms of the CRE Regulations, 2024. The Petitioners have further submitted that such relief is regulatory in character.

22. The Petitioners further submitted that UPPCL's objection that they are seeking amendment of the CRE Regulations, 2024, is misconceived. The Petitioners stated that

Regulation 12(ii) of the CRE Regulations, 2024 provides the transition framework for existing CGPs, whereas Regulations 17, 19 and 20 of the CRE Regulations, 2024 provide the mechanism to deal with special circumstances, implementation difficulties and hardship arising in the application of the said regulations, and these provisions must be read harmoniously. The Petitioners accordingly contended that they did not seek a general extension of the timeline for all entities.

23. The Petitioners also stated that the grant of the limited relief sought in the Petition would not cause any prejudice to UPPCL, UPPTCL, UPSLDC or any third party. The Petitioners submitted that they are willing to furnish such undertaking or comply with such conditions as this Hon'ble Commission may deem fit, including that any consequence lawfully flowing from the final verification of captive status for the relevant period to remain binding on the Petitioners.

24. The Petitioners have further submitted that UPPCL's reliance on judgments restricting inherent powers is also misplaced, as the Petitioners are not asking this Commission to assume any power which is not conferred upon it or to travel outside the regulatory framework. The Petitioners stated that Regulations 17, 19 and 20 of the CRE Regulations, 2024 expressly preserve the powers of this Commission to meet the ends of justice, remove difficulty and relax the provisions of the CRE Regulations, 2024, and the present petition invokes these express provisions.

25. During the present hearing, counsel for SLDC submitted that they did not wish to make any submission in the matter, whereas counsel appearing for UPPTCL informed the Commission that they would be filing their written submission on the same day, after conclusion of hearings. The counsel for UPPTCL further confirmed that they, indeed, had sought a certificate from the Petitioners regarding their captive status before providing the one-time relaxation.

26. UPPTCL, in its submission, made on 16.06.2026, submitted that a perusal of Regulation 12 of the CRE Regulations, 2024, reveals that captive generating plants which fulfil the criteria under the UPERC (Verification of Generating Plants and Captive Consumer) Regulations, 2022 are allowed to bank energy therefore, the 2024 Regulations itself refer to the 2022 Regulations for determination of captive status of

a plant. UPPTCL has further submitted that the one-time relaxation so mentioned in the 2024 Regulations is for captive generating plants and the answering respondent can grant such relaxation only to a captive generating plant, which, under the 2022 Regulations, is mandated to be verified by this Commission.

27. UPPTCL further submitted that the quantum for relinquishment charges amounts to Rs. 102 Crore, and the answering respondent has no security held by it to recover such amount in case the captive status of the Petitioners is found to be non-existent under the 2022 Regulations.

**Commission's View:**

28. The Commission has gone through the submissions made by the parties and the material placed on record. At the outset, the Commission observes that the transition framework provided for existing Captive Generating Plants commissioned prior to 31.03.2024 under Regulation 12(ii) of the CRE Regulations, 2024 contains two separate provisions, firstly, a one-time relaxation in respect of notice period and relinquishment charges for the part-relinquishment of the OA/LTOA quantum of the captive users, which is a matter falling within the domain of UPPTCL, and secondly, the execution of fresh Wheeling and Banking Agreements with the distribution licensee latest by 31.01.2026, which is a matter within the ambit of UPPCL/distribution licensees. The Commission observes that these two exercises operate independent of each other, and the entire difficulty in the present matter has arisen on account of the former being treated as a condition precedent to the latter.

29. As regards the objection of UPPCL that the present Petition is, in substance, a dispute liable to be adjudicated under Section 86(1)(f) of the Electricity Act, 2003, the Commission observes that the Petitioners have not sought adjudication of any contractual breach, claim for damages, tariff dispute, billing dispute or any monetary claim against UPPCL. The relief sought is for implementation of the transition framework under the CRE Regulations, 2024 and is regulatory in nature; thus, the same is maintainable under Section 86(1)(e) of the Electricity Act, 2003, read with Regulations 17, 19 and 20 of the CRE Regulations, 2024. It is further observed that UPPCL itself, vide its letter dated 07.02.2026, had advised the Petitioners to approach this Commission for suitable directions/clarification. UPPCL cannot blow hot and cold

on the same matter at the same time. The objection raised by UPPCL in this regard is, therefore, not tenable and is rejected.

30. The Commission observes that Regulation 12(ii) of the CRE Regulations, 2024, which requires existing CGPs to enter into fresh Wheeling and Banking Agreements with the distribution licensee by 31.01.2026, nowhere provides that the reduction of OA/LTOA quantum, as a one-time relaxation, is required to be completed before the execution of the fresh Banking Agreements. The Petitioners had, therefore, erred in presuming that the reduction in OA/LTOA quantum needed to be secured prior to the signing of the fresh Banking Agreements, which is evident from the Petitioners' own email dated 31.01.2026, wherein they themselves recorded that the Banking Agreements could be signed on the existing OA/LTOA arrangement and quantum.

31. The Commission further observes that, although Regulation 12(ii) of the CRE Regulations, 2024 uses and prescribes the date of 31.01.2026, it does not provide for any consequence of forfeiture, and nowhere provides that if an existing CGP which fails to execute the fresh Banking Agreement by the said date, it shall stand permanently disentitled to banking under the CRE Regulations, 2024. It can, therefore, be inferred that the substantive entitlement of an existing CGP to bank within the revised framework does not stand extinguished merely on account of the lapse of the said date, and what remains to be done is only the completion of a procedural step, namely, the execution of the fresh Banking Agreement, which the Regulations do not explicitly bar even after 31.01.2026. It also requires mention that Clause 6 of the General Clause Act saves the substantive rights of a person under a repealed Act/regulation, i.e. Regulation 2019 in this case; however, it provides that the procedure under the repealed Act is not a right of that person after the commencement of the repeal of the Act/Regulation. Hence, the substantive right of banking for CRE consumers as stipulated under the 2019 Regulations will be saved under the 2024 CRE Regulations to the extent provided in the 2024 Regulations; however, to achieve this, the CRE Generators will have to follow the procedure laid down under the 2024 CRE Regulations.

32. The Commission observes that, within the transition period, the Petitioners executed fresh Banking Agreements in respect of the captive users for whom no reduction in

OA/LTOA quantum was required, initiated the process for reduction of OA/LTOA quantum in respect of the remaining captive users, and also expressed their willingness to execute the Banking Agreements on the existing quantum. The failure to execute the Banking Agreements in respect of the remaining captive users has, therefore, arisen on account of a genuine difficulty in the implementation of the transition framework and not on account of any wilful default on the part of the Petitioners.

33. The Commission, in the light of the foregoing, is of the considered view that this is a fit case for the exercise of the power under Regulation 19 "Power to Remove Difficulties" read with Regulation 17 of the CRE Regulations, 2024. The difficulty in the present case arises in giving effect to the transition framework under Regulation 12(ii). The said power is being exercised only to fix a fresh timeline for completion of a step which Regulation 12(ii) expressly does not bar after 31.01.2026, and not to relieve the Petitioners of any forfeiture or to relax any substantive condition. The revised banking limits and all other conditions prescribed under the CRE Regulations, 2024, shall continue to apply to the Petitioners unchanged. The Commission is conscious of the settled position, as observed by the Hon'ble Supreme Court in *Madeva Upendra Sinai v. Union of India,* that the power to remove difficulty may be used to round off angularities and remove obscurities so as to make the provisions workable, but cannot be exercised so as to change, disfigure or do violence to the scheme and essential features of the Regulations. The relief granted herein remains within these limits and does not, in any manner, alter the scheme of the CRE Regulations, 2024. Further, since the relief proceeds on the view that the timeline under Regulation 12(ii) does not operate as a forfeiture of the banking rights of an existing CGP, the same is equally available to any other similarly placed existing CGP, and does not amount to an amendment of the Regulations under Section 181 of the Electricity Act, 2003 nor to a relief granted selectively in favour of the Petitioners. In fact, former Chief Justice of Hon'ble Supreme Court Hidayatullah J. writes in the context of Section 37 of the Payment of Bonus Act that "Power to remove difficulty cannot be used to add to or deduct from that which the Act provides. The order only makes smooth the working of Act/Regulation, particularly in its initial stages." Thus, invoking the "Removal of

Difficulty" clause in the present context is not only apt but also smoothens the working of the CRE Regulations, 2024.

34. The Commission agrees with the submission made by UPPTCL to the extent that the one-time relaxation in respect of notice period and relinquishment charges, and the consequential reduction/revision/part-relinquishment of the OA/LTOA quantum of the captive users, stands on a separate and independent footing. UPPTCL shall carry out this exercise and decide the issue of one-time relaxation in accordance with the applicable framework. The execution of the Banking Agreements directed hereunder shall not, in any manner, pre-empt or prejudice the said determination by UPPTCL, and the interest of UPPTCL in recovering justified and appropriate relinquishment charges stands fully protected.

35. As regards verification of captive status, the status of a Captive Generating Plant is verified on an annual basis, and the same is done with reference to the position at the end of the financial year. The interest of the distribution licensee, in any case, is secured through the bank guarantee and the consequences provided under Regulation 6 of the UPERC (Verification of Generating Plants and Captive Consumer) Regulations, 2022. The Commission observes that the captive verification of the CGPs, including those of the Petitioners, for the financial year 2024-25 is currently under its consideration.

36. The Commission notes that the Petitioners, both in the Petition and in their Rejoinder, have expressed their willingness to furnish an appropriate undertaking, and to comply with such conditions as this Commission may deem fit, to the effect that any consequence lawfully flowing from the final verification of captive status for the relevant period shall remain binding upon them. The Commission accordingly directs that the Petitioners shall remain bound by final verification of captive status and will be liable to pay all consequences lawfully flowing from it, including Cross Subsidy Surcharge, Additional Surcharge, invocation of the bank guarantee, and any relinquishment charges that may be found payable, in accordance with law.

37. In the light of the foregoing discussion, the Commission directs as under:

(i) UPPCL/the concerned distribution licensee(s) shall execute the fresh Wheeling and Banking Agreements in respect of the remaining 13 captive users of the Petitioners, in terms of Regulation 12(ii) of the CRE Regulations, 2024, on the existing OA/LTOA quantum, latest by 30.06.2026, without insisting upon prior reduction of OA/LTOA quantum as a precondition to such execution. The Commission also directs that banking, in terms of the provisions of the CRE Regulations, 2024, shall also be allowed for the intervening period i.e. from the date of notification of these Regulations till the signing of the revised banking agreements in terms of Clause 6 of General Clauses Act wherein the substantive right of banking for CRE consumers as stipulated under the 2019 Regulations had to be saved under the 2024 CRE Regulations to the extent provided in the 2024 Regulations.

(ii) UPPTCL, upon finalisation of the captive status of the Petitioners' CGPs by the Commission, shall decide the pending applications of the captive users of the Petitioners for reduction, revision, or part-relinquishment of the OA/LTOA quantum, along with the consequential one-time relaxation in respect of the notice period and relinquishment charges, in accordance with the CRE Regulations, 2024. Such decisions shall be based on the captive status of the concerned captive users for the financial year 2024-25, i.e., the financial year immediately preceding the year of application, as determined by this Commission in terms of the UPERC (Verification of Generating Plants and Captive Consumer) Regulations, 2022. All consequences lawfully flowing from any adverse verification shall remain recoverable from and binding upon the Petitioners.

38. The Petition is disposed of with the above directions.

Sanjay

**(Sanjay Kumar Singh)**
**Member**

**(Arvind Kumar)**
**Chairman**

Place: Lucknow
Dated: 22.06.2026