

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 94 of 2020

**Case of The Tata Power Company Limited (Generation Business) seeking review of
Multi Year Tariff Order dated 30 March, 2020 in Case No. 300 of 2019**

Coram

**I.M. Bohari, Member
Mukesh Khullar, Member**

Tata Power Company Limited (Generation Business)

.....Petitioner

Appearance

For the Petitioner

.....Ms. Swati Mehendale (Rep.)

ORDER

Date: 27 June, 2020

1. The Tata Power Company Limited (Generation-Business) (**TPC-G**) has filed a Petition on 23 May, 2020, under Section 94 (1)(f) of the Electricity Act (**EA**) 2003, read with Regulation 85 of the MERC (Conduct of Business) Regulations, 2004, seeking review of certain aspects of the Multi Year Tariff Order issued on 30 March, 2020 for TPC-G in Case No. 300 of 2019 (**Impugned Order**) in the matter of Truing-up for FY 2017-18 and FY 2018-19, Provisional Truing-up for FY 2019-20 and ARR and Tariff determination for 4th Multi Year Tariff (MYT) Control Period from FY 2020-21 to FY 2024-25.
2. **TPC-G's main prayers are as follows:**
 - "A. *To admit the present Review Petition.*
 - B. *To rectify the errors as elaborated in the petition with respect to:*
 - i. *Computation of Interest on Working Capital in case of Unit 5 to 7 & Hydro Stations and Unit 8 for FY 2017-18 and FY 2018-19.*

- ii. *Non consideration of portion of the common assets transferred to Unit 8 while removing Unit 6 GFA from Unit 5 to 7 & Hydro Stations.*
- iii. *Computation of Hydro Incentives for FY 2017-18 and FY 2018-19.*
- iv. *Removal of Unit 4 Depreciation in FY 2017-18 when Unit was classified as Asset Held for Sale at the start of FY 2017-18.*
- v. *Computation of Base O&M Expenditure for arriving at Normative O&M expenses for 4th MYT Control Period.*
- vi. *Removal of typographical error in mentioning the approved Unit 8 Gross Generation as 1180 MUs instead of 1880 MUs.*

C. *To provide clarification as sought by Tata Power-G in Section III of the instant Petition.*

D. *To allow any financial implication arising out of the above Review to be considered during the MTR Petition.”*

3. The Commission scheduled the e-hearing on the Review Petition on 12 June, 2020. At the e-hearing, TPC-G reiterated the issues raised in the Review Petition and submitted that there was an error on the face of the record of the Impugned Order. Hence, review was maintainable as per the provisions of MERC (Conduct of Business) Regulations, 2004.
4. The grounds and submissions of TPC-G and also the Commission’s analysis and ruling thereon are elaborated in the following paragraphs.
5. The Commission notes that the Review Petition has been filed under Regulation 85 of the MERC (Conduct of Business) Regulations, 2004, which specifies as follows:

“Review of decisions, directions, and orders:

“85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon 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 direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.”

6. It is noted that TPC-G’s Review Petition is dated 23 May, 2020. As per the above-mentioned Regulations, the Review Petition is required to be filed within forty-five days from the date of Order of the Commission, i.e., on or before 14 May, 2020. However, the Review Petition has not been filed within the specified period.
7. TPC-G has submitted that the delay in filing of the Review Petition is inadvertent and not intentional and is purely because of the lockdown imposed due to the current COVID-19 situation and the consequent difficulties arising out of it. In this regard, TPC-G has placed reliance on the Order dated 23 March, 2020 passed by the Hon’ble Supreme Court in *Suo Motu Writ Petition (Civil) No(s).3/2020*, wherein it took cognizance for extension of Limitation and held as under:

“This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.”

8. In light of the above, TPC-G has requested the Commission to condone the delay of nine days in filing the Review Petition and has requested the Commission to consider the same.
9. The Commission notes that the Review Petition has been filed by TPC-G within the period of limitation as per the Order passed by Hon’ble Supreme Court dated 23 March, 2020 and delay condonation for the same is not required.
10. The ambit of review is limited, and TPC-G’s Petition has to be evaluated accordingly.
11. The Commission deals with the review issues submitted in the Petition in seriatim as follows:
12. **ISSUE I: Computation of Interest on Working Capital for Unit 5 to 7 & Hydro Station and Unit 8 for FY 2017-18 and FY 2018-19**

TPC-G’s Submission

- 12.1 The 1st Proviso to the Regulation 31.1 of MERC (Multi Year Tariff) Regulations, 2015 (**MYT Regulations**) deals with the Interest on Working Capital (**IoWC**) Computation for Generation Business and reads as follows:

“Provided that for the purpose of Truing-up, the working capital shall be computed based on the actual generation or target availability of the generating Station, whichever is lower”

- 12.2 Also, 2nd Proviso to the same Regulation reads as follows:

“Provided further that for the purpose of Truing-up for any year, the working capital requirement shall be re-computed on the basis of the values of components of working capital approved by the Commission in the Truing-up before sharing of gains and losses;

- 12.3 TPC-G, in its MYT Petition, had computed the cost of coal and fuel gas for arriving at the working capital requirement in line with the aforesaid Regulations.
- 12.4 While approving the IoWC for Unit 5 to 7 and Hydro for FY 2017-18 and FY 2018-19, the Commission, at para 4.13.3 of the impugned Order, stated as follows:

“4.13.3 TPC-G has considered the norms specified in Regulation 31.1 of MYT Regulations, 2015 to compute the working capital requirement for each type of units/plants. The normative working capital corresponding to the primary fuel of thermal plants has been computed based on the normative SHR and target availability with exception in case of Unit 6. It was observed that Rs. 101.23 Crore was included in working capital requirement of Unit 6 against the norm of 2 months fuel cost. The Commission considers the above in line with the methodology and approach adopted by the Commission in MTR Order for approval of Unit 6 working capital requirement.”

- 12.5 However, it is observed from the financial model of the impugned Order that the computation of the fuel cost component of the working capital requirement has been done based on the actual fuel cost for FY 2017-18 and FY 2018-19 which is in turn based on the actual heat rate, instead of the normative unit heat rate.
- 12.6 While computing the cost of coal for 2 months and cost of Gas for 1 month, the Commission has considered total actual coal cost of Rs. 1,028.74 Crore and total actual fuel gas cost of Rs. 207.85 Crore. The annual fuel cost is incurred based on the actual Heat Rates achieved by the generating units.
- 12.7 Under MYT Regulations, 2015, the IoWC is considered as a controllable parameter and hence, the difference between normative IoWC and actual IoWC is shared with the beneficiaries. Hence, it is imperative to work out the Working Capital requirement on normative basis and the normative Heat Rate must be used to arrive at the fuel cost requirement of each unit. The only parameter which is considered on actual basis is Gross Generation while computation of the Fuel requirement of each unit for the year under truing up.
- 12.8 Hence, in TPC-G's view, there is an error in the computation of Working Capital on account of consideration of the total actual coal cost of Rs. 1028.74 Crore and total actual gas cost of Rs. 207.85 Crore instead of computing the same based on the Normative Heat Rate as approved by the Commission in case of Unit 5 and Unit 7 for FY 2017-18 and FY 2018-19.
- 12.9 The Commission is requested to correct the computation of IoWC for Unit 5 to 7 & Hydro Stations as well as for Unit 8 for FY 2017-18 and FY 2018-19 along with its associated impact.
- 12.10 The estimated impact of this error is Rs. 0.85 Crore for Unit 5 to 7 and Hydro and Rs. 0.65 Crore for Unit 8 for truing up years i.e. FY 2017-18 and FY 2018-19.

Commission's Analysis and Ruling

- 12.11 The Regulation 31.1 (a) of MYT Regulations reads as under:

“31. Interest on Working Capital—

31.1 Generation

(a) In case of coal based/lignite-fired Generating Stations, working capital shall cover :—

- (i) Cost of coal or lignite and limestone towards stock, if applicable, for fifteen days for pit-head Generating Stations and thirty days for non-pit-head Generating Stations, for generation corresponding to target availability, or the maximum coal/lignite stock storage capacity, whichever is lower ;*
 - (ii) Cost of coal or lignite and limestone for thirty days for generation corresponding to target availability;*
 - (iii) Cost of secondary fuel oil for two months corresponding to target availability;*
 - (iv) Operation and Maintenance expenses for one month;*
 - (v) Maintenance spares at one per cent of the opening Gross Fixed Assets for the Year ; and*
 - (vi) Receivables for sale of electricity equivalent to forty-five days of the sum of annual fixed charges and energy charges computed at target availability :
minus*
 - (vii) Payables for fuel (including oil and secondary fuel oil) to the extent of thirty days of the cost of fuel computed at target availability, depending on the modalities of payment :*
- Provided that for the purpose of Truing-up, the working capital shall be computed based on the actual generation or target availability of the generating Station, whichever is lower:*

Provided further that for the purpose of Truing-up for any year, the working capital requirement shall be re-computed on the basis of the values of components of working capital approved by the Commission in the Truing-up before sharing of gains and losses;”

- 12.12 The aforesaid Regulation is applicable to coal based Generating Stations. Similarly, Regulation 31.1(b) and Regulation 31.1(c) of MYT Regulations specify the components to be considered for computation of Working Capital for Oil Based and Gas based Generating Stations, respectively.
- 12.13 In the impugned Order, the Commission has computed the IoWC in accordance with the aforesaid Regulations. For computation of working capital requirement, the fuel cost has been considered on normative basis. This normative fuel cost has been computed based on normative Heat Rate and actual Gross Calorific Value (GCV) and price of fuels, as submitted by TPC-G in the MYT Petition. For computation of normative fuel cost, the actual consumption of fuel has been considered in proportion to target availability/actual generation whichever is lower. Further, during proceedings of the impugned Order, the actual fuel cost has been reconciled with audited accounts and the same has been allowed after prudence check.
- 12.14 Upon verification of financial model of impugned Order, it is observed that the normative fuel cost has been considered in IoWC calculations and therefore in order to verify the claims of TPC-G on this issue, the Commission sought the details of working capital computed by TPC-G in the Review Petition.

12.15 TPC-G has submitted the computation of IoWC for its Thermal Generating Units, i.e., Unit 5, Unit 6, Unit 7 and for Unit 8 for FY 2017-18 and FY 2018-19. While submitting these details, TPC-G has stated as under:

“ Regarding, the Normative fuel requirement in case of Unit 5 and 7, it is observed from the financial model that the Hon'ble Commission has converted the actual usage of all the fuel used to the normative Requirement..... ”

Thus, TPC-G has admitted that normative fuel cost has been considered in the impugned Order for IoWC computation. However, TPC-G raised another issue and stated that the approach adopted by the Commission in doing so is incorrect. TPC-G stated that while computing the normative fuel requirement in case of Unit 5 and 7, the Commission has converted the actual consumption of all the fuels to the normative requirement. As per TPC-G, this approach is incorrect, as the MYT Regulations provides for the computation of normative working capital based on the type of fuel used, i.e., Coal/Lignite fired, Oil Fired, Gas fired and Hydro Stations, separately. TPC-G has further stated that in case of Unit 5 which is primarily a coal fired Unit, use of APM gas, which is fired in Unit 5 during Unit 7 outage or excess gas availability from GAIL, is done to reduce the cost of generation. Hence, the same cannot be accounted for normative working capital requirement for Unit 5 and the Commission ought to have considered only coal as the fuel while determining the normative fuel requirement.

12.16 The Commission notes that Unit 5 of TPC-G is a multi-fuel fired Unit, which runs on gas/oil/coal. Further, Unit 7, which is a Gas Based Generating Unit primarily uses APM gas, but other gas such as RLNG is also occasionally used in case of shortages of APM gas. Hence, while operating these Units, a combination of fuels is used by TPC-G, particularly for Unit 5. TPC-G, in the present review Petition, is essentially contending that irrespective of utilization of other fuels (which may be cheaper), only primary fuel (i.e., Coal for Unit 5 and Unit 8 and APM gas for Unit 7) needs to be assumed for meeting the entire normative heat requirement and hence, corresponding consumption of only primary fuel needs to be considered for arriving at normative fuel cost while determining the Working Capital requirement.

12.17 The Commission notes that it is true that there are separate Regulations for coal-based Units, Oil based Units and Gas based Units for determination of working capital requirement under MYT Regulations, 2015. However, 2nd Proviso to the Regulation 31.1 (a) provides as under:

“Provided further that for the purpose of Truing-up for any year, the working capital requirement shall be re-computed on the basis of the values of components of working capital approved by the Commission in the Truing-up before sharing of gains and losses;

12.18 While approving the fuel cost (which is one of the components of working capital) in the impugned Order, the Commission has considered the costs of all the different types of fuels. Hence, the Commission does not accept the submission of TPC-G that computation of normative fuel cost for IoWC computation should be based on primary

fuel cost only. Further, it is noted that TPC-G has computed the normative fuel cost at target availability for Unit 8 for FY 2017-18. Also, normative fuel cost for Unit 8 has been computed for 250 MW capacity for FY 2018-19, instead of 222 MW that has been contracted with the Distribution Licensees. First proviso of Regulation 31.1 of MYT Regulations specifies that at the time of truing up, the working capital shall be computed based on the actual generation or target availability, whichever is lower. Accordingly, the Commission has considered the actual generation or generation at target availability, whichever is lower, in the truing up.

12.19 The Commission notes that the approach adopted in the impugned Order is correct. However, it is observed from the financial model that, while the normative heat requirement has been correctly considered through the combination of all the fuels used (and not primary fuel alone as contended by TPC-G), it is incorrectly mentioned in the Order that fuel cost is computed for primary fuel only while computing working capital requirement. The same has been clarified in this Order. The Commission is of the view that the cost of other fuels also needs to be considered for IoWC computation, since the fuel cost approved in the impugned Order includes cost of all other fuels as well, apart from the primary fuel. Identical approach is adopted for Unit 8 as well which is in line with the Regulation 31.1 (a) of MYT Regulations mentioned at para. 12.17 above.

12.20 Also, the Commission sought the basis for considering actual Heat Rate of 2520 kcal/kWh for Unit 5 for FY 2017-18, given that the total heat content utilised was 81,16,205.80 Million kcal and Gross Generation was 3204.15 MU. TPC-G, in its reply stated as under:

“ Regarding the computation of total heat requirement of Unit 5 for FY 2017-18 we wish to submit that there was an linkage error in the Excel worksheet in our petition formats in case of heat contributed by coal. However, the same happened to incidentally match with the Heat Requirement based on Normative Heat Rate. We further submit that the computation of Heat Contributions computed for all the other fuels used in Unit 5 during FY 2017-18 are correct. ”

12.21 The Commission notes that the financial model in MS Excel submitted by the utilities alongwith the Tariff Petition contains multiple linked Excel worksheets wherein data does flow from one Excel worksheet to other Excel worksheets and ARR computation happens. Further, while preparation of financial model by the utility, the data is usually linked from a number of separate backup files of the utility (which are not part of Tariff filing). While submission of financial model, these links to external files are removed by the utility and such data in financial model is found as hard punched numbers. Thus, linkage error may happen due to incorrect linking of data between the financial model and the backup files of the utility.

12.22 This linkage error could have identified and corrected by TPC-G itself before filing its MYT Petition. During scrutiny of the MYT Petition, this Excel linkage error could have been pointed out by undertaking reverse calculations which also didn't happen at the main MYT proceeding. The Commission, in Para. 22 of this Order, has recorded its observations on this issue. However, TPC-G has now admitted that there was a linkage

error in the Excel worksheets in its MYT Petition Formats in case of *heat contributed by coal*. The same happened to incidentally match with the total heat requirement based on normative Heat Rate. TPC-G has submitted that the computation of heat requirement for all the other fuels used in Unit 5 during FY 2017-18 is correct.

12.23 The *heat contribution by coal* as submitted in present review has been cross-verified with the actual heat rate of 2520 Kcal/kWh for Unit 5 for FY 2017-18 as submitted by TPC-G in the main Petition. Hence, the *heat contribution by coal* as submitted in the present review has been accepted by the Commission. However, it is also observed that TPC-G has revised coal GCV while submitting the data gap replies to the present Review Petition. Since TPC-G while submission of the data gap replies has stated that there was an excel linkage error in their MYT Petition Excel Formats in case of heat contributed by coal, the Commission has accepted the revised *heat contribution by coal* only and the revised GCV of coal has not been taken into consideration. The GCV of coal has been taken as per the submission made by TPC-G and approved by the Commission in original MYT proceeding.

12.24 The Commission has considered the normative fuel cost in proportion to consumption of actual fuels. Hence, the correction is necessary in computation of Working capital requirement for FY 2017-18 for Unit 5 to 7 based on this revised submission of TPC-G in the present review Petition.

12.25 Hence, the Commission approves the revised IoWC for FY 2017-18, as shown in the following Table:

(Rs. Crore)

Sr. No.	Particulars	FY 2017-18	
		Approved in impugned Order	Approved in Review
A	Unit 5 to 7 and Hydro Stations		
1	Interest on Working Capital	42.03	42.14
2	Sharing of efficiency (gains)/losses	(23.01)	(23.08)
3	Net Entitlement	19.02	19.06
B	Unit 8		
1	Interest on Working Capital	10.59	10.59
2	Sharing of efficiency (gains)/losses	(5.71)	(5.71)
3	Net Entitlement	4.88	4.88
C	Grand Total (A+B)	23.90	23.94
D	Net Impact on ARR		0.04

12.26 In view of the above, the Commission approves net impact on ARR of Rs. 0.04 Crore for FY 2017-18, which would be allowed at the time of Mid-term Review. However, the associated Carrying/(Holding) cost shall not be allowed as TPC-G has made incorrect submission in its MYT Petition and revised the computations for Unit 5 in the present Petition, in response to the Commission's query under review Petition.

13 ISSUE II: Non consideration of portion of the common assets transferred to Unit 8 while removing Unit 6 GFA from Unit 5 to 7 and Hydro Stations for FY 2018-19

TPC-G's Submission

- 13.1 TPC-G, in its MYT Petition, while removing the GFA of Unit 6, had proposed the retention of Common Assets worth Rs. 26.03 Crore for rest of the thermal Generating Units. However, the Commission, in the impugned Order, did not consider the same and deferred the decision. Hence, in the impugned Order, GFA of Rs. 19.03 Crore needed to be removed from the Opening GFA of FY 2018-19 for Unit 5 to 7 and Hydro Stations, and the balance GFA of Rs. 7 Crore needed to be removed from the Opening GFA of FY 2018-19 for Unit 8.
- 13.2 However, in the impugned Order, the Commission has removed the entire asset of Rs. 26.03 Crore from the Opening GFA of Unit 5 to 7 and Hydro Stations instead of Rs. 19.03 Crore. In addition, Rs. 7 Crore has been removed from the Opening GFA of Unit 8 giving a total reduction of Rs. 33.03 Crore on account of Common Assets, instead of the required Rs. 26.03 Crore.
- 13.3 The Commission is requested to correct the Opening GFA in case of Unit 5 to 7 and Hydro Stations for FY 2018-19, by reinstating the GFA by Rs. 7 Crore, along with its associated impact and carrying cost. The estimated impact of this error is Rs. 0.73 Crore on account of additional entitlement of Depreciation, Return on Equity and Interest on Long Term Loan.

Commission's Analysis and Ruling

- 13.4 In its MYT Petition, TPC-G had stated that Unit 6 was not tied up from 1 April, 2018 onwards. As per the approach followed in earlier Tariff Orders, the Annual Fixed cost used to be approved for Unit 4 to 7 and Hydro Stations taken together as a whole and then it used to be allocated between different generating units. TPC-G had further stated that, even though, Unit 6 was taken out of service, there were certain assets of Unit 6, which would continue to serve the other generating units in Trombay Thermal Power Station. TPC-G had proposed to continue the assets of GFA of Rs. 26.03 Crore for rest of the generating Units.
- 13.5 However, the Commission did not allow the continuation of these assets and stated that it would take an appropriate view at MTR proceeding after the physical verification of these assets is undertaken. The relevant extract of the impugned Order is reproduced below:

“ 4.8.6 In view of the above, the Commission opines that mere consideration of assets on basis of list provided would not be appropriate as it has cost implication in tariff. Also, it is important to understand use, nature and cost of Common assets based on verification of assets on site for each Unit. The Commission will consider this issue separately after TPC-G submits verifiable details of the assets with proper justification confirming the usage of common assets by the running units. The Commission, on the basis of the detailed submission by TPC-G on this issue will initiate a third party verification of

assets and will take final view in the matter. In this regard, the Commission at this stage has not considered the assets of Rs. 26.03 Crore pertaining to allocation of Unit 6 to other Units for determination of fixed costs for Other Units and the Commission will take appropriate view in the matter during the MTR proceedings.

4.8.7 Accordingly, the Commission at this stage has decided to remove entire amount of Gross Fixed Assets of Unit 6 from Gross Fixed Assets as on March 31, 2018 for Unit 5 to 7 and Hydro Generating Station. Subsequently, the adjustment has been made in removal of normative debt amount and regulatory equity amount.”

- 13.6 Annual Fixed Charges of Unit 6 were being determined as a part of combined ARR of Unit 5 to 7 and Hydro Generating Units. Accordingly, the GFA of common assets of Unit 6 amounting to Rs. 26.03 Crore was removed from Unit 5 to 7 and Hydro at the beginning of FY 2018-19. Also, in case of Unit 8, opening GFA for FY 2018-19 was kept at the same level of closing GFA for FY 2017-18, which cannot be considered as error.
- 13.7 TPC-G, now in present proceeding, has stated that out of Rs. 26.03 Crore, it had allocated Rs. 19.03 Crore for Unit 5 to 7 and Hydro and Rs. 7 Crore for Unit 8.
- 13.8 In this context, the Commission notes that during the proceeding of the impugned Order, the Commission had analysed that certain adjustments were necessary in Gross Fixed Assets, Loan, Equity, and O&M Expenses amongst Units because of different PPA structure for FY 2017-18 and FY 2018-19 and subsequent years. Hence, the Commission had sought the Unit-wise details and computation of expenses. However, TPC-G did not submit the desired information. Hence, the Commission proceeded based on the information available and submitted in the Petition. The same has been explained in the impugned Order, as reproduced below:

“4.1 Background

... ..

4.1.3 The Commission notes that TPC-G submitted the Audited Allocation Statement between Generation, Transmission and Distribution Business. TPC-G also submitted the separate Audited Accounts for TPC-G for FY 2017-18 and FY 2018-19. However, it is noted that the Petition is filed based on the Audited Allocation Statement. The Commission sought the reconciliation with the values submitted in the present Petition, Audited Allocation Statement and Audited Annual accounts for TPC-G, which was duly submitted by TPC-G. Based on the same, the Commission has undertaken the Truing up for FY 2017-18 and FY 2018-19.

4.1.4 Further, the Commission notes that capacity tied up for PPA has changed from FY 2017-18 to FY 2018-19. Specially, Unit 6 was not tied up during FY 2018-19. However, TPC-G submitted the combined computation for Unit 5 to 7 and Hydro Stations. Also, TPC-G has claimed transfer of assets from

Generation to Transmission as well as allocation of Unit 6 assets to other Units. Hence, to reconcile the same, the Commission sought Unit-wise details from TPC-G such as Gross Fixed Assets, actual capitalisation, Depreciation, Equity, Loan balances, O&M Expenses, Revenue from sale of power, etc. In response to this, TPC-G submitted that it has followed approach for submission of combined Annual Fixed cost and then apportioned to individual Unit/Station. As the percentage of share of Distribution Licensees across all units is same, hence, the requirement of unit-wise computation is not significant. Also, it does not affect the recovery of Annual Fixed Cost.

4.1.5 The Commission, in the past Tariff Orders has approved combined Annual Fixed Cost for Unit 5 to 7 and Hydro Stations, since the percentage of share of Distribution Licensee is same across all these units. However, from FY 2018-19 onwards, Unit 6 was not tied up and it was subsequently retired. Hence, the Annual Fixed cost is required to be determined after excluding Unit 6. The Commission notes that TPC-G has not submitted the Unit-wise computation. In the absence of Unit-wise information, the Commission relied on the information placed before it in the Petition, subsequent replies of data gaps, and approach adopted in past Order. Accordingly, the Commission has computed Annual Fixed Cost for Unit 5 to 7 and Hydro Stations for FY 2018-19, after excluding Annual Fixed cost for Unit 6 for FY 2018-19.”(emphasis added)

13.9 Further, the bifurcation of assets of Rs. 26.03 Crore (which is submitted in present review proceeding) was not submitted to the Commission earlier. This is a new submission made before the Commission in the Review Petition. Considering the submission of TPC-G in the Review Petition regarding the allocation of assets, it appears that GFA of Rs. 7 Crore has been deducted twice. However, the criteria regarding new evidence for accepting as a ground for Review under Regulation 85 (a) of the MERC (Conduct of Business) Regulations, 2004 states that the Review Petitioner should have “*discovered 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 direction, decision or order was passed*”. This criterion is not fulfilled in this case, as the present information was very much available with TPC-G and was not made available to the Commission, despite specific query in this regard. Accordingly, TPC-G cannot be allowed to claim relief under Review.

13.10 Further, there is no error apparent in the impugned Order as the Order was based on the data made available by TPC G to the Commission wherein the Unit-wise details were never submitted.

13.11 **In view of the above, the Commission rejects TPC-G’s request for review on this aspect.**

14 ISSUE III: Computation of Hydro Incentives for FY 2017-18 and FY 2018-19

TPC-G’s Submission

- 14.1 TPC-G has submitted that there is an error in the computation of Hydro Incentive for FY 2017-18 and FY 2018-19, as the rate of Incentive has been considered @ 0.80 Rs/kWh as per MYT Regulations, 2011 instead of @ 0.90 Rs./kWh as per MYT Regulations, 2015.
- 14.2 TPC-G has requested the Commission to correct the computation of Hydro incentive for FY 2017-18 and FY 2018-19 by applying the rate of incentive of 90 paise/kWh in line with Regulation 49.8 of the MYT Regulations, 2015 along with its associated impact. The estimated impact of this error is Rs. 8.48 Crore.

Commission's Analysis and Ruling

- 14.3 The Commission notes that Regulation 49.8 of MYT Regulations, 2015 specifies that the incentive on energy charge for hydro generation in excess of design energy shall be billed at 90 paise per kWh.
- 14.4 The Regulation is reproduced below:

“ 49.8 In case the Energy Charge Rate (ECR) for a Hydro Generating Station, as computed in Regulation 49.6, exceeds ninety paise per kWh, and the actual saleable energy in a Year exceeds { DE x (1 – AUX) } kWh, the Energy Charge for the energy in excess of the above shall be billed at ninety (90) paise per kWh only : ”

- 14.5 The earlier MERC (Multi Year Tariff) Regulations, 2011 had similar Regulation which reads as under:

“50.6 In case the Energy Charge Rate (ECR) for a Hydro Generating Station, as computed in Regulation 50.5 above, exceeds eighty (80) paise per kWh, and the actual saleable energy in a year exceeds { DE x (100 – AUX) / 10000 } MWh, the Energy Charge for the energy in excess of the above shall be billed at eighty (80) paise per kWh only: ”

- 14.6 Thus, as per MYT Regulations, 2011, the incentive on energy charge for hydro generation in excess of design energy was billed at 80 paise per kWh whereas as per MYT Regulations, 2015, same is now billed at 90 paise per kWh.
- 14.7 The formula used in computation in the impugned MYT Order (as observed from the financial model of the impugned Order) is as under:

Hydro Energy Charge = (Energy Charge Rate * Net design Energy /10) + **0.8** * (Actual net generation – Net design energy)/10

- 14.8 Thus, it is clear error of computation of net generation in excess of net design energy at 80 paise per kWh as per earlier MYT Regulations 2011 was taken instead of 90 paise per unit as required under MYT Regulations, 2015. Due diligence on part of the office of the Commission could have identified and corrected this computational error as per MYT 2015 at the time of finalization of the impugned MYT Order but the same has failed to do so. However, TPC-G has pointed out this computational error in present review. Hence, this error in computation of Hydro Incentive needs to be corrected and the Review is admissible on this issue.

14.9 Accordingly, revised Hydro Incentive for FY 2017-18 and FY 2018-19 has been recomputed as Rs. 54.14 Crore and Rs. 60.98 Crore as against approved amount of Rs. 50.17 Crore and Rs. 56.46 Crore, respectively.

14.10 **Hence, the Commission approves the net impact on ARR of Rs. 3.97 Crore for FY 2017-18 and Rs. 4.52 Crore for FY 2018-19. The net impact shall be allowed to TPC-G at time of True-up/Mid Term Review Petition with all consequential impacts and applicable carrying cost.**

15 ISSUE IV: Removal of Unit 4 Depreciation in FY 2017-18 when Unit was classified as Asset Held for Sale at the start of FY 2017-18

TPC-G's Submission

15.1 Unit 4 of Trombay Thermal Power station is not in operation since FY 2013-14 and as agreed between TPC-G and its beneficiaries, the Annual Fixed Costs (AFC) of Unit 4 is not charged. Unit 4 was part of the Original PPAs, which were valid up to 31 March, 2018, and was also part of the Regulatory Assets.

15.2 Accordingly, the Commission had been computing the Annual Fixed Costs pertaining to Unit 4, which is nothing but Depreciation and Return on Equity, in its previous Tariff Orders and the same used to be removed from the total Annual Fixed Costs approved for Unit 5 to 7 and Hydro Stations to arrive at the net Annual Fixed Cost for Unit 5 to 7 and Hydro Stations.

15.3 Unit 4 of Trombay has been decommissioned during FY 2016-17 and its status was "Asset held for Sale" since then. Since Unit 4 was classified as Asset held for sale at the end of FY 2016-17, no depreciation could be claimed (and then removed from total AFC) for the same during FY 2017-18, however, the Return on Equity (RoE) needed to be accounted till FY 2017-18. Accordingly, an unallocated fixed cost of Rs. 4.12 Crore, which is nothing but the RoE @ 15.5 % for Unit 4, was mentioned in the MYT Petition. The same was clarified to the Commission in the replies submitted by letter dated 22 March, 2020, in reply to the Commission's query dated 14 March, 2020.

15.4 Considering the depreciation of Unit 4 while computation of Annual Fixed Charges for Unit 5 to 7 and Hydro for FY 2017-18, in spite of such Unit under the category of "*the Asset Held for Sale*" has resulted in a reduction of Rs. 8.14 Crore. In view of the above, TPC-G has requested the Commission to correct the Revenue Gap/(Surplus) in case of Unit 5 to 7 and Hydro stations for FY 2017-18. The error has an impact of Rs. 8.14 Crore.

Commission's Analysis and Ruling

15.5 The Commission notes there was some delay on TPC-G's part in submission of the replies and the replies were received only on 22 March, 2020, when the Order was in advanced stage of finalisation. Upon perusal of the replies, it can be seen that TPC-G had submitted that Unit 4 had been decommissioned during FY 2016-17 and the status

was "Asset held for Sale" since then. Since Unit 4 was classified as Assets held for sale at the end of FY 2016-17, as per TPC-G, no depreciation can be claimed.

- 15.6 In this context, the Commission notes that (as mentioned earlier at para 13.8 above) during the proceedings of the impugned Order, the Commission had sought the Unit-wise details and computation of expenses, as there are certain adjustments in Gross Fixed Assets, Loan, Equity, O&M Expenses amongst Units because of different PPA structure for FY 2017-18 and FY 2018-19 and subsequent years. However, TPC-G did not submit the same information. Hence, the Commission proceeded based on the available information and as submitted in the Petition.
- 15.7 The Commission notes that Regulatory GFA submitted for FY 2017-18 includes GFA for Unit 4. Since, the allocation of depreciation was not submitted by TPC-G, it was not clear from the submission of TPC-G whether depreciation of Unit 4 was included or not. In the present Review Petition as well, TPC-G has not submitted the Unit-wise actual Gross Fixed assets and actual depreciation. Hence, it is not evident whether or not actual depreciation for Unit 4 is included in the depreciation claimed for FY 2017-18.
- 15.8 In absence of requisite details from TPC-G, the Commission had proceeded with the available data and adopted the approach, which had been considered in past Tariff Orders also. In past Tariff Orders (including the MTR Order dated 12 September, 2018), the RoE as well as depreciation have been removed towards Unit 4 unallocated capacity while determining the net AFC for Unit 5 to 7 and Hydro. Hence, same approach has been adopted in absence of requisite information from TPC-G.
- 15.9 **Hence, the Commission is of view that there is no error apparent on the face of the record and the Review is not admissible on this issue.**
- 15.10 Further, the Commission notes that the response submitted by TPC-G vide its letter dated 22 March, 2020 also includes the replies to the queries related to Income Tax and other components.
- 15.11 Since, this reply is being pressed by TPC-G, it has now been considered. The Commission has considered the details submitted by TPC-G in the aforesaid reply in the context of computation of Income Tax.
- 15.12 In its reply dated 22 March, 2020, on the issue of Income Tax computation, TPC-G has stated as under:

*“The details of Tax Depreciation considered in the MYT Tariff Petition is submitted as Annexure 1 and Annexure 2 for FY 2017-18 and FY 2018-19 respectively. **Further, we wish to submit that the tax Depreciation considered in the MYT Petition in case of Unit 5 to 7 & Hydro station in case of FY 2018-19 stands corrected at Rs. 134.07 crores due Inadvertent error in the excel sheet linkage error.** We request the Hon'ble Commission to consider the same. The submission in the Petition is based on the provisional values considered at the time of finalisation of Accounts.”*

15.13 In view of the above, after considering the revised actual tax depreciation of Rs. 134.07 Crore on pro-rata basis of regulatory depreciation approved in Order vis-à-vis claimed by TPC-G, for Unit 5 to 7 and Hydro Stations, the Commission, in present review proceeding, approves the revised Income Tax for Unit 5 to 7 & Hydro Stations for FY 2018-19, as shown in the following Table:

(Rs. Crore)

Sl. No.	Particulars	FY 2018-19		
		TPC-G Petition	Approved in Impugned Order	Revised after Review
1	Total Revenue	2305.38	2345.65	2,341.13
2	Total Expenses	1952.19	2006.94	2,006.94
3	Profit Before Tax	353.19	338.71	334.19
4	Tax adjustment			
	Add			
5	Depreciation considered in Expenses	128.94	127.44	127.44
6	Other disallowance while computing income Tax	(4.60)	(4.60)	(4.60)
7	Total Tax disallowances	124.34	122.84	122.84
	Less			
8	Tax Depreciation	100.30	99.13	132.51*
9	Other expenses allowed for computing Income Tax	0.42	0.42	0.42
10	Deduction u/s 80 IA	0.00	0.00	0.00
11	Total Tax allowances	100.72	99.56	132.94
12	Total Taxable Income	376.81	361.99	324.09
13	Corporate Tax Rate	34.94%	34.94%	34.94%
14	Tax payable at normal rate	131.67	126.49	113.25
	<u>MAT Computation</u>			
15	Profit Before Tax	353.19	338.71	334.19
16	Add: Disallowances under Income Tax (U/s 14 A, provision for doubtful debt)	(0.02)	(0.02)	(0.02)
17	Less: Deduction under Income Tax (Exempt Income, FBT, Wealth Tax, Withdrawal from Income)	5.00	5.00	5.00
18	Book Profit	348.17	333.69	329.17
19	MAT Rate	21.55%	21.55%	21.55%
20	Tax Payable under MAT	75.03	71.91	70.93
21	Tax Applicable	131.67	126.49	113.25
22	Net Impact on ARR			(13.24)

*Since GFA and Depreciation allowed by the Commission in the impugned Order is different from that claimed by TPC-G, the Income Tax Depreciation has been considered on pro-rata basis.

15.14 Hence, the Commission approves the net impact as reduction in ARR by Rs. 13.24 Crore for FY 2018-19, on account of revised Income Tax. This net impact shall be

considered at time of Mid Term Review Petition with all consequential impacts and applicable carrying/(holding) cost.

16 ISSUE V: Computation of Base O&M Expenses for arriving at Normative O&M Expenses for 4th MYT Control Period, i.e. from FY 2020-21 to FY 2024-25

TPC-G's Submission

- 16.1 As per MYT Regulations, 2015, for computation of base year O&M Expenses, O&M expenses after adding/deducting the share of efficiency gains/losses, i.e., the entitlement of the last three trued up years, i.e., FY 2016-17, FY 2017-18 and FY 2018-19 is required to be considered. Since Unit 6 was not tied up from FY 2018-19 onwards, O&M Expenses of Unit 6 was required to be removed from FY 2018-19 onwards. On perusal of the Financial model, it is observed that the Commission has removed Unit 6 expenses at normative level for FY 2018-19 while computing the base O&M expenses.
- 16.2 Unit 6 was in Standby mode entirely during FY 2017-18 and accordingly, the actual expenses of FY 2017-18 already factors the minimal expenses incurred by Unit 6. It would be inappropriate to once again remove the normative component of Unit 6 based on its allocation in normative expenses at 20%. For FY 2016-17 and FY 2017-18, the Commission should have considered the actual expenses of Unit 6, while working out the base O&M expenses for the 4th MYT Control Period.
- 16.3 Hence, the Commission is requested to consider the actual O&M expenses of Unit 6 for FY 2016-17 and FY 2017-18 (Rs. 100.28 Cr. and Rs. 47.74 Cr.) for factoring the reduction of O&M cost on account of Unit 6 to arrive at the Base O&M expenses for 4th MYT Control Period.
- 16.4 The total impact on account of this error is Rs. 92.06 crore over 5 years of the 4th MYT Control Period, i.e., from FY 2020-21 to FY 2024-25.

Commission's Analysis and Ruling

- 16.5 As stated earlier, during the proceedings of the impugned Order, the Commission had sought the Unit-wise details and computation of expenses, as there are certain adjustments in Gross Fixed Assets, Loan, Equity, O&M Expenses amongst Units because of different PPA structure for FY 2017-18 and FY 2018-19 and subsequent years. However, TPC-G did not submit the same information. Hence, the Commission proceeded based on the available information and as submitted in the Petition. The same has been detailed in the impugned Order, as reproduced earlier in this Order, and hence, not reproduced again.
- 16.6 The Commission has computed the Normative O&M Expenses for the MYT Control Period as per provisions of MYT Regulations. The O&M Expenses to be considered for computation of base O&M Expenses (i.e., for FY 2016-17 and FY 2017-18), includes the expenses for Unit 6. Since, Unit 6 was removed from the PPA, the expenses pertaining to Unit 6 were removed. In absence of actual allocation of expenses, the normative expenses, based on approach adopted in previous Tariff Orders, was considered for Unit 6. The approach adopted in the impugned Order is appropriate and

explained along with rationale. The relevant extract is reproduced below:

“4.9.16 The Commission notes that normative O&M Expenses for FY 2017-18 includes normative O&M Expenses towards Unit 6. Hence, for computation of normative O&M Expenses for FY 2018-19, the expenses towards Unit 6 are required to be removed. TPC-G has proposed a methodology for computation of normative O&M Expenses for Unit 6. TPC-G has proposed to consider the difference of normative cost approved in MYT Order and actual O&M Expenses for Unit 6. Accordingly, TPC-G has considered the O&M Expenses of Rs. 63.62 Crore towards Unit 6,

4.9.17 The Commission notes that in MYT Order, it has approved the total O&M Expenses of Rs. 525.27 Crore (including water charges of Rs. 11.46 Crore). Out of these expenses, O&M Expenses of Rs. 100.29 Crore was allocated to Unit 6, which is 19% of total O&M expenses. The Commission notes that TPC-G has not submitted Unit-wise actual O&M Expenses and allocation of common (HO cost, etc.) to each Unit. As discussed earlier, the Commission has not considered the allocation of common assets of Unit 6 to other Units. Hence, its subsequent impact cannot be considered. In the present Order, the Commission has computed the revised normative O&M Expenses for Unit 5 to 7 and Hydro Stations. The normative O&M Expenses for Unit 6 are considered in the same proportion of 19.09% of total normative O&M Expenses. Accordingly, the Commission reduces the base expenses for FY 2018-19. ”

16.7 Hence, the Commission is of the view that there is no error apparent on the face of the record in computation of normative O&M Expenses for the 4th MYT Control Period and Review is not admissible on this Issue.

17 **ISSUE VI: Removal of typographical error in mentioning the approved Unit 8 Gross Generation as 1180 MUs instead of 1880 MU**

TPC-G's Submission

17.1 TPC-G, in MYT Petition had projected gross generation from Unit 8 for FY 2020-21 as 1880 MU. Also, total gross generation for FY 2020-21 for all the Units taken together had been projected as 7789 MUs by TPC-G. The Commission, in impugned Order, had stated that “*In this Order, the Commission has approved the Gross generation as projected by TPC-G*”. However, while approving Unit 8 Gross Generation, it has approved 1180 MUs inadvertently instead of 1880 MU. The total Gross Generation has been approved at 7789 MUs as submitted by TPC-G in its MYT Petition which is arrived at considering Unit 8 Gross Generation of 1880 MUs. Hence, this error needs to be rectified.

Commission's Analysis and Ruling

17.2 The Commission notes that there is a typographical error in consideration of Gross Generation for Unit 8 for FY 2020-21. The Gross Generation for Unit 8 for FY 2020-

21 is 1880 MU and not 1180 MU as mentioned in the impugned Order, and the same needs to be corrected. Accordingly, Table 98 of Order is revised as under:

Table 98 Gross Generation (MU) for FY 2020-21 to FY 2024-25 as approved by the Commission

Generation Unit	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Unit 5	3,163	3,385	3,154	3,325	3,359
Unit 7	1,276	1,276	1,276	1,279	1,198
Unit 8	1,880	1,774	1,839	1,720	1,906
Bhira	896	896	896	896	896
Bhivpuri	292	292	292	292	292
Khapoli	282	282	282	282	282
Grand Total	7,789	7,905	7,739	7,795	7,933

18 Points for Clarification:

A. Revision of the Normative O&M Expense in case of Unit 5 to 7 & Hydro Stations for FY 2018-19 in the Mid Term review Exercise

TPC-G's Submission

- 18.1 The Commission has not considered the continuation of common assets of Unit 6 to Unit 5, 7 and 8, as the decision would be taken during the MTR exercise based on third-party verification of the details to be submitted by TPC-G.
- 18.2 These common assets have remained in service from 1st April 2019 for the purpose of serving the balance generating Units at Trombay Thermal Power Station. Hence, the Commission is requested to clarify whether the normative expenses for FY 2018-19 would also be revised after taking into account the O&M impact on account of Common Asset transfer in the event same is approved by the Commission during the MTR exercise.

Commission's Analysis and Ruling

- 18.3 The Commission clarifies that the decision on consideration of Transfer of Common Assets of Unit 6 to Unit 5, 7 and 8 shall be taken at time of Mid Term Review based on Third party verification of the details to be submitted by TPC-G. Accordingly, the decision on consideration of any consequential impact of the same shall also be taken at time of Mid Term Review.

B. Applicability of Rate of Income Tax from FY 2020-21 onwards

TPC-G's Submission

- 18.4 TPC-G has submitted that for the purpose of Tariff determination, the Commission ought to have considered either of the Income Tax regimes, i.e., Old or New as per Taxation Laws (Amendment) Ordinance 2019. However, the Commission has considered the lower tax rates of both the regimes, i.e., effective tax rate of 25.17% as provided under New Income Tax regime in case of Unit 5 to 7 & Hydro Stations and MAT rate of 17.47 % in case of Unit 8 as provided under existing Income Tax regime.
- 18.5 TPC-G has a single PAN for the Company and cannot choose different tax rates for different divisions / business segments, and it is mandatory to choose one option to pay Income Tax as per the Income Tax Act. The Commission is requested to clarify the effective Tax rate that would be considered for computation of base rate of RoE for a financial year and the basis for the same.

Commission's Analysis and Ruling

- 18.6 The Commission clarifies that at the time of true-up, the effective tax rate for grossing up the RoE shall be considered as per the provisions of the MYT Regulations, 2019.

19 Other apparent errors identified by the Commission during present review proceeding:

Apart from the errors pointed out by TPC-G, two apparent errors on the face of record have been observed by the Commission in the impugned Order. These errors are explained in following para.

20 Error I: Incorrect sharing of gains/losses on Auxiliary Consumption for Unit 5 to 7 and Hydro for FY 2017-18

- 20.1 In the impugned Order, the Commission has approved the sharing of gains /losses on Auxiliary consumption for Unit 5 to 7 and Hydro for FY 2017-18, as under:

Table 1 Gain/(loss) due variation in Auxiliary Consumption FY 2017-18 as approved by the Commission

Sl. No.	Particulars	Unit 5	Unit 6	Unit 7	Hydro	Total
1	Gross Generation (MU)	3204.15	-	1353.67	1,524.92	
2	Actual Aux. Consumption (%)	5.53%	20.07 MU	2.90%	2.06%	
3	Normative Aux. Consumption (%)	6.00%	-	3.00%	1.55%	
4	Difference in Net Generation (MU)	15.01	(20.07)	1.40	(7.79)	(11.45)
5	Approved Energy Charge (Rs./kWh)	3.47	5.76	1.61	1.42	
6	Gain/(loss) (Rs. Crore)	5.21	(11.56)	0.23	(1.10)	(7.22)
7	Passed on to Distribution Licensee (Rs. Crore)					(2.41)

- 20.2 Thus, out of total loss of Rs. 7.22 Crore on account of actual auxiliary consumption in excess of normative auxiliary consumption in FY 2017-18 for Unit 5 to 7 and Hydro, Rs. 2.41 Cr. (1/3rd) was to be shared by the beneficiaries and rest amount of Rs. 4.81 Crore (2/3rd) was to be shared by TPC-G.
- 20.3 However, while approving the revenue gap/surplus for Unit 5 to 7 and Hydro for FY 2017-18, instead of Rs. 4.81 Crore, only Rs. 2.41 Crore has been incorrectly deducted

from the ARR of TPC-G, which means that only 1/3rd of the loss is shared by TPC-G. Same is evident from the following table of the impugned Order:

Table 2 Revenue Gap/(surplus) for Unit 5 to 7 & Hydro for FY 2017-18 as approved by the Commission (Rs. Crore)

Sl. No.	Particulars	Unit 5 to 7 & Hydro		
		MTR Order	TPC-G Petition	Approved in this Order
A	Annual Fixed Charges			
1	O&M Expenses	525.73	517.48	517.22
2	Depreciation	150.84	152.39	152.25
3	Interest on Loan Capital	50.84	52.97	52.71
4	Interest on Working Capital	35.85	42.15	42.03
5	Other Finance Charges	-	2.81	3.09
6	Income Tax	103.34	136.11	122.50
7	Return on Equity	243.80	244.99	244.80
8	Hydro Incentive	-	54.11	50.17
9	Sharing of Efficiency (Gains) and Losses-O&M	-	(41.58)	(45.42)
10	Sharing of Efficiency (Gains) and Losses -IoWC		(23.08)	(23.01)
11	Less: Non-tariff Income	25.62	20.98	20.98
12	Less: Unallocated fixed cost portion of Unit-4	12.17	4.12	12.26
13	Add/(Less): Allocation for Shared Capacity to Unit 8	(12.50)	(11.76)	(11.76)
14	Sub-total	1,060.08	1,101.48	1,071.34
B	Fuel Cost			
14	Fuel Cost (Normative)	1,245.34	1,278.54	1,278.54
15	PLF Incentive	-	0.32	0.32
16	Sharing of Efficiency (Gains) and Losses for Fuel Cost	-	(4.52)	(4.52)
17	Auxiliary Benefit		1.41	(2.41)
18	Sub-total	1,245.34	1,275.75	1,271.93
C	Net ARR	2,305.42	2,377.23	2,343.27
D	Revenue	2,371.24	2,419.13	2,419.13
E	Revenue Gap/(Surplus)	(65.82)	(41.91)	(75.86)

20.4 In light of the above, the above error needs to be corrected with reduction in ARR of TPC-G by Rs. 2.40 Crore (Rs. 4.81 Crore -2.41 Crore). This impact would be considered at the time of Mid Term Review Petition along with all associated impact in other components of ARR and applicable carrying/(holding) cost.

21 Error II: Incorrect allocation of shared capacity to Unit 8 for FY 2018-19

21.1 Unit 8, commissioned in 2008, is a new Unit as compared to rest of the Thermal Generating Units of TPC-G. Since, Unit 8 shares some common facilities of Unit 5 to 7 in Trombay Generating Station, an amount of Rs. 12.35 Crore towards AFC for these facilities is reduced from ARR of Unit 5 to 7 and Hydro and identical amount is added in the ARR of Unit 8.

- 21.2 Unit 8 was tied up for 222 MW only, instead of entire 250 MW during FY 2018-19 with TPC-D and BEST. All the direct costs of Unit 8 have been considered correctly in the impugned Order, in proportion to the contracted capacity of 222 MW, rather than the nameplate capacity of 250 MW. However, while computing the share of Unit 8 in the AFC of the common facilities shared by Unit 8 with Units 5 to 7 in Trombay Generating Station, the share of Unit 8 has been considered corresponding to name plate capacity of 250 MW. This should have been reduced corresponding to the contracted capacity of 222 MW, leading to TPC-G being allowed a higher amount in the impugned Order.
- 21.3 As mentioned above, Fixed cost component for shared capacity of Unit 8 is Rs. 12.35 Crore which is for 250 MW. For 222 MW, it works out to Rs. 10.97 Crore. Hence, while adding the shared capacity in Unit 8 ARR computation, Rs. 10.97 Crore ought to have been considered since Unit 8 was tied up for 222 MW capacity only, during FY 2018-19. Rs. 12.35 Crore corresponding to entire 250 MW capacity has been added in the Unit 8 ARR for FY 2018-19. Same is evident from the extract of the impugned Order given below:

Table 3 Revenue Gap/(surplus) for FY 2018-19 for Unit 8 as approved by the Commission (Rs. Crore)

Sl. No.	Particulars	Unit 8			
		MTR Order	TPC-G Petition (250 MW)	TPC-G Petition (222 MW)	Approved in this Order
A	Annual Fixed Charges				
1	O&M Expenses	65.60	65.60	58.26	58.27
2	Depreciation	61.29	62.16	55.22	54.71
3	Interest on Loan Capital	34.14	31.41	27.90	27.90
4	Interest on Working Capital	10.12	12.00	10.66	10.72
5	Other Expenses	-	0.02	0.02	0.02
6	Income Tax	20.13	27.15	27.15	17.88
7	Return on Equity	55.71	56.27	49.98	49.41
8	Sharing of Efficiency (Gains) and Losses-O&M	-	(6.13)	(5.21)	(5.45)
9	Sharing of Efficiency (Gains) and Losses -IoWC		(1.81)	(1.81)	(0.95)
10	Less: Non-Tariff Income	0.48	0.09	0.08	0.09
11	Less : Unallocated fixed cost portion of Unit-4	-	-		-
12	Add/(Less) : Allocation for Shared Capacity to Unit 8	12.50	12.35	10.97	12.35
13	Sub-total	259.02	258.94	233.06	224.79
B	Fuel Cost				
14	Fuel Cost (Normative)	-	655.99	655.99	655.99
15	PLF Incentive	-	2.99	2.99	2.99
16	Sharing of Efficiency (Gains) and Losses	-	(24.04)	(24.04)	(24.04)

Sl. No.	Particulars	Unit 8			
		MTR Order	TPC-G Petition (250 MW)	TPC-G Petition (222 MW)	Approved in this Order
17	Sub-total	-	634.94	634.94	634.94
C	Net ARR	259.02	893.88	868.00	859.73
D	Revenue from Sale of Power	-	910.32	910.32	910.32
E	Revenue Gap/(Surplus)	-	(16.44)	(42.32)	(50.59)

21.4 In light of the above, the above error needs to be corrected with reduction in ARR of Unit 8 for FY 2018-19 by Rs. 1.38 Crore (Rs. 12.35 Crore – Rs.10.97 Crore). This impact would be considered at the time of MTR Petition along with all associated impact in other components of ARR and applicable carrying/(holding) cost.

22. As recorded in earlier part of the Order, the Office of Commission has not been able to identify some of the Excel linkage/computational errors in Financial Model on which present review has been filed by TPC-G and some of these errors are being considered for acceptance under present Review Order. The Commission acknowledges the fact that TPC-G's Tariff Petition consists of computation of two separate ARRs i.e. computation of ARR and review of performance for Unit 5 to 7 and Hydro and also computation of ARR and review of performance of Unit 8. Thus, approval of ARR components, fuel costs, gains/losses, incentive, gap/surplus computation is undertaken twice (for Unit 5 to 7 and Hydro and for Unit 8) for each of the truing up year. Further, TPC-G's generating Units are multi-fuel fired Units consisting of coal, oil, gas (APM/RLNG)-based units. Each fuel has different GCV, prices, consumption, costs etc. Also, TPC-G Generating Units have different performance norms such as Heat Rate, auxiliary consumption. TPC-G does have Hydro Generating Units as well. Further, there are other complexities such as economic shutdown of Unit 6, additional Auxiliary consumption norms for Hydro Generating Units, allocation of shared capacity of Unit 8, unallocated fixed cost portion of Unit 4, different PPA structure for FY 2017-18 and FY 2018-19 etc. Hence, there are few complexities in the computation of ARR of TPC-G. Notwithstanding above, due diligence is expected in these computations since there is financial impact on the consumers on account of incorrect computation. The Utility may choose to approach the Commission seeking review of the Tariff Order for its convenient review points i.e. review points where recovery would increase and errors which might have led to additional recovery may not be highlighted by the Utility under review. Hence, Office of the Commission should be extra vigilant while scrutiny of Tariff Petitions. It is necessary to ensure that such mistakes are not repeated in future and extra efforts should be taken by the office of the Commission in this regard.

23. Hence, the following Order.


ORDER

Review is partly allowed on the issues raised by Tata Power Company Ltd. Generation-Business (TPC-G) as under:

- 1. The prayer for revision in Interest on Working capital for FY 2017-18 and FY 2018-19 is partly allowed. The net impact on ARR is allowed as Rs. 0.04 Crore for FY 2017-18. This impact of the same will be considered during MTR proceedings. However, the associated Carrying/(Holding) cost shall not be allowed as TPC-G has made incorrect submission in its MYT Petition and revised the computations for Unit 5 in the present Petition, in response to the Commission's query under review Petition.**
- 2. The prayer for consideration of portion of Common assets of Unit 6 while removing GFA for Unit 6 from Unit 5 to 7 and Hydro stations is dismissed as being without merit and not admissible for review on this issue.**
- 3. The prayer for consideration of revised Hydro Incentives for FY 2017-18 and FY 2018-19 is allowed. The net impact on ARR allowed is Rs. 3.96 Crore for FY 2017-18 and Rs. 4.52 Crore for FY 2018-19. This impact along with carrying cost will be considered at time of MTR proceedings.**
- 4. The prayer for removal of depreciation of Unit 4 for FY 2017-18 is dismissed as not admissible for review on this issue. However, considering the additional replies of TPC-G relating to Income Tax, which were not considered earlier, the ARR allowed for FY 2018-19 for Unit 5 to 7 and Hydro Stations has been reduced by Rs. 13.24 Crore. This impact along with holding cost will be considered at time of MTR proceedings.**
- 5. The prayer to consider actual expenses of Unit 6 for computation of base O&M Expenses for MYT Control is dismissed as not admissible for review on this issue.**
- 6. There are two errors identified by the Commission in the present review proceeding due to incorrect sharing of gains/losses on Auxiliary Consumption for Unit 5 to 7 and Hydro for FY 2017-18 and incorrect allocation of shared capacity to Unit 8 for FY 2018-19. These errors have an impact of total reduction in ARR by Rs. 3.78 Crore (Rs 2.40 Crore on account of incorrect sharing of gains/losses and Rs 1.38 Crore on account of incorrect allocation of Unit-8 shared capacity). This impact along with associated impact on other components of ARR and applicable holding cost will be considered at time of MTR proceedings.**

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I.M. Bohari)
Member**


(Abhijit Deshpande)
Secretary

