1 BACKGROUND AND BRIEF HISTORY

1.1 INTRODUCTION

1.1.1 The Tata Power Company Limited (TPC) is an integrated Utility engaged in Generation, Transmission and Distribution of electricity. TPC-G's installed generation capacity is 1377 MW as on 1 April, 2019, comprising 447 MW of Hydro Generation and 930 MW of Coal/Gas/Oil-fired Thermal Generation, which supplies power to BEST and TPC's own Distribution Business. The supply of power from TPC's 1377 MW is governed under Power Purchase Agreement/Arrangement (PPA) approved by the Commission upto FY 2023-24.

1.2 MYT REGULATIONS

1.2.1 The Commission notified the MYT Regulations, 2015 on 8 December, 2015 and notified the first amendment on 29 November, 2017. These Regulations are applicable for the 3rd Control Period from FY 2016-17 to FY 2019-20.

1.2.2 Subsequently, the Commission notified the MYT Regulations, 2019 on 1 August, 2019, which are applicable for the 4th Control Period from FY 2020-21 to FY 2024-25.

1.3 MYT ORDER FOR 4TH CONTROL PERIOD

1.3.1 Vide its Order dated 30 March, 2020 in Case No. 300 of 2019, the Commission approved the Tariff for the 4th MYT Control Period from FY 2020-21 to FY 2024-25. In the said Order, the Commission had also approved the final true-up for FY 2017-18, FY 2018-19 and provisional true-up for FY 2019-20.

1.4 REVIEW ORDER ON MYT ORDER FOR 4TH CONTROL PERIOD

1.4.1 TPC-G filed a Petition for review of the Commission's MYT Order in Case No. 300 of 2019. Vide its Order dated 27 June, 2020 in Case No. 94 of 2020, the Commission disposed of the Review Petition partly allowing review and with certain directions to TPC-G.

1.4.2 Adani Electricity Mumbai Limited-Distribution (AEML-D) filed the Petition in Case No. 163 of 2020 seeking reconciliation of the issue of standby charges payable by the Mumbai Distribution Licensees to TPC (towards TPC's cost of service for providing standby capacity to the Mumbai Distribution Licensees such as AEML, which inter alia includes the charges towards the then standby arrangement between MSEDCL and TPC), for the period from FY 1999-2000 to FY 2003-04, decided by the Commission in the MYT Order dated 30 March, 2020 in Case No. 300 of 2020 with Clarificatory Order dated 20

August, 2019 passed by the Hon'ble Supreme Court in MA No. 1404 of 2019 in Civil Appeal No. 415 of 2007. The Commission disposed of the Petition allowing the same with certain directions to TPC-G.

1.5 MID TERM REVIEW FOR 4TH CONTROL PERIOD

1.5.1 In accordance with Regulation 5.1(b) of the MYT Regulations, 2019, the Mid Term Review (MTR) Petition for 4th MYT Control Period was to be filed by 1 November, 2022 comprising:

(i) Final true-up for FY 2019-20 to be carried out in accordance with the MYT Regulations, 2015;

(ii) Final true-up for FY 2020-21 and FY 2021-22 to be carried out in accordance with the MYT Regulations, 2019;

(iii) Provisional true-up for FY 2022-23 to be carried out in accordance with the MYT Regulations, 2019;

(iv) Revised ARR and Tariff for FY 2023-24 and FY 2024-25.

1.5.2 TPC-G filed its MTR Petition for the 4th MYT Control Period on 1 November, 2022.

1.5.3 The Office of the Commission issued the data gaps to the Petitioner on 15 November, 2022. TPC-G submitted the replies to first set of data gaps on 30 November, 2022, on 6, 9 and 12 December, 2022. The Technical Validation Session (TVS) was held on 13 December, 2022. The list of persons who attended the TVS is at Appendix-I.

1.5.4 During the TVS, TPC-G was directed to provide additional information and clarifications on the issues raised, and to submit a revised Petition after incorporating all the necessary data and changes. TPC-G submitted its replies to the data gaps and filed its revised Petition on 26 December, 2022 with the following prayers:

"

- *Accept the Truing Up of FY 2019-20 as worked out in this Petition in accordance with the guidelines & principles outlined in MYT Regulations, 2015 and its First Amendment dated 29th November 2017;*
- *Accept the Truing Up of FY 2020-21 and FY 2021-22 as worked out in this Petition in accordance with the guidelines & principles outlined in MYT Regulations, 2019;*
- *Accept the Provisional Truing-up of FY 2022-23 as worked out in this Petition in accordance with the guidelines & principles outlined in MYT Regulations, 2019;*
- *Allow part of Unit - 6 assets to continue as common assets from the year FY 2018-19;*

- *Allow the transfer of assets pertaining to Transmission from the Generation Business of Tata Power to the Transmission Business of Tata Power;*
- *Accept the ARR projections of Annual Revenue Requirement for year FY 2023-24 and FY 2024-25 as worked out in this Petition in accordance with the guidelines & principles outlined in MYT Regulations, 2019;*
- *Determine the tariff of Thermal and Hydro Generating Stations for FY 2023-24 and FY 2024-25 as worked out in this Petition in accordance with the guidelines & principles outlined in MYT Regulations, 2019;*

………"

1.6 ADMISSION OF PETITION AND PUBLIC CONSULTATION PROCESS

1.6.1 The Commission admitted the revised MYT Petition on 26 December, 2022. In accordance with Section 64 of the Act., the Commission directed TPC-G to publish its Petition in the prescribed abridged form and manner to ensure adequate public participation, and to reply expeditiously to the suggestions and objections received.

TPC-G issued a Public Notice inviting suggestions and objections from the public. The Public Notice was published in the daily newspapers Indian Express (English), Financial Express (English), Loksatta (Marathi) and Saamana (Marathi) on 29 December, 2022. The copies of the Petition and its summary were made available for inspection/purchase at TPC-G's offices and on its website (ww.tatapower.com). The Public Notice and Executive Summary of the Petition were also made available on the websites of the Commission (www.merc.gov.in) in downloadable format. The Public Notice specified that the suggestions and objections, in English or Marathi, be filed with proof of service on TPC-G.

1.6.2 The e-Public Hearing was held on 31 January, 2023 at 10.30 hrs through video conference. The list of persons who attended the e-Public Hearing is at Appendix-II.

1.6.3 The Commission has ensured that the due process contemplated under law to ensure transparency and public participation was followed at every stage and adequate opportunity was given to all concerned to express their views.

1.6.4 The suggestions and objections received in writing /through online filing on the Commission's website as well as during the e-Public Hearing, along with

TPC-G's responses and the Commission's rulings have been summarised in Chapter 2 of this Order.

1.7 ORGANISATION OF THE ORDER

1.7.1 This Order is organised in the following eleven (11) chapters:

- **Chapter 1** provides a brief history of the regulatory process undertaken by the Commission.
- **Chapter 2** sets out the suggestions and objections received in writing /through online filing on the Commission's website as well as during the e-Public Hearing. These have been summarized issue-wise, followed by the response of TPC-G and the rulings of the Commission.
- **Chapter 3** deals with the impact of other Orders.
- **Chapter 4** deals with the approval of final true-up of FY 2019-20.
- **Chapter 5** deals with the approval of final true-up of FY 2020-21 and FY 2021-22.
- **Chapter 6** deals with the provisional true-up of FY 2022-23.
- **Chapter 7** deals with the cumulative Revenue Gap till FY 2022-23.
- **Chapter 8** deals with the approval of revised Tariff for FY 2023-24 and FY 2024-25.
- **Chapter 9** deals with summary of approved tariff for FY 2023-24 and FY 2024-25
- **Chapter 10** summarises the Commission directives.
- **Chapter 11** covers the applicability of the Order.

2 SUGGESTIONS/OBJECTIONS RECEIVED, RESPONSE OF TPC-G AND COMMISSION'S VIEWS

2.1 GENERATION ESTIMATES FOR H2 OF FY 2022-23

Suggestions/Objections

2.1.1 Adani Electricity Mumbai Limited (AEML) submitted that TPC-G has projected the Plant Load Factor (PLF) of 50.54% and 55.79% for H2 of FY 2022-23 whereas the actual PLF for H1 of FY 2022-23 was 69.84% and 73.21% for Units 5 and 8 respectively. The lower generation estimates for H2 of FY 2022-23 is to subdue the fuel cost estimates. The generation estimates from Units 5 and 8 has to be considered at realistic levels in light of the limitations on the import of power from outside Mumbai due to transmission constraints.

TPC-G's Response

2.1.2 The generation estimates for H2 of FY 2022-23 are based on the demand of the contracted distribution licensees in the recent past and availability of the Units considering planned outages. TPC-G will generate as per its projected availability, demand of the distribution licensees and in adherence to the Regulations and directives of the appropriate authorities under the prevailing laws and regulations. The issue of transmission constraint is not in the scope of the present Petition.

Commission's View

2.1.3 The Commission has carried out the provisional true-up of FY 2022-23 in this Order. For the purpose of provisional true-up, the Commission has considered the generation projections as submitted by TPC-G, which shall be subject to final true-up.

2.2 IMPORTED COAL PRICE FOR FY 2023-24 AND FY 2024-25

Suggestions/Objections

2.2.1 AEML submitted that, in the MYT Petition, TPC-G has proposed to consider the weighted average of actual coal prices for the period July-September 2019 for the purpose of tariff determination for the 4th Control Period. In the present MTR Petition, TPC-G has proposed to consider the lower coal price than the actual for the period from July-September 2022 stating the actual prices for the said period to be an aberration. TPC-G has considered the coal price of Rs. 10938/MT and Rs. 8700/MT for FY 2023-24 and FY 2024-25 respectively whereas, the actual coal price for the period from July-September 2022 was Rs. 17560/MT. The proposal of TPC-G results in subdued energy charges.

TPC-G has submitted that the current high prices of coal are not likely to sustain in future and therefore it has proposed significant reduction in coal price from April 2023 onwards. However, various reports and news articles predict that coal prices are going to remain at significant higher levels in the year 2023. From the month wise Harga Batubara Acuan (HBA) index for the period from February 2022-January 2023, it can be observed that the index, after witnessing reduction in November and December 2022 has increased in January 2023 (@ USD 305.21/MT).

2.2.2 The comparison of HBA, Indonesian Coal Index (ICI)-3 and ICI-4 indices submitted by TPC-G is incorrect. Mere comparison of HBA with ICI-3 (5000 GAR) and ICI-4 (4200 GAR) is inappropriate. The comparison should be for the corresponding grade/GCV of coal. From the comparison of indices namely HPB 4500, ICI-3 (prorated to 4850), HPB 4200 and ICI-4200 GAR, it can be observed that ICI-3 and ICI-4 have also been fluctuating significantly. While in the recent months, ICI-3 and ICI-4 prices have been lower than corresponding HPB prices, in the past they have been higher also. Hence, the movement of the prices in future is uncertain. Further, while the current geopolitical situation will continue to put pressure on high calorific value Australian coal, it would naturally reflect in lower rank Indonesian coal, as well such as ICI-3, 4 and 5.

2.2.3 TPC-G has not submitted documentary evidence to substantiate that it has entered to long term contract based on ICI-3 or ICI-4 index. Further, given the relative variability of the indices, TPC-G has not clarified if it would shift to HBA linked procurement if ICI rose above HBA. Hence, it would be realistic to consider the latest 3 months' coal prices for approving the energy charges for FY 2023-24 and FY 2024-25. As per Regulation 50.6 of the MYT Regulations, 2019 the energy charge is to be computed considering the landed cost of fuel for the preceding three (3) months.

TPC-G's Response

2.2.4 At the time of filing of MYT Petition, the coal prices were stable and therefore, it was prudent to consider the then latest available prices. However, situations have changed subsequently due to which TPC-G has taken certain corrective actions by changing the coal procurement strategy and the realistic impact has been factored in the MTR Petition for projections of the ensuing years. TPC-G has made detailed submission on the projected coal price for FY 2023-24 and FY 2024-25 citing the abnormality of the coal prices and steps taken for optimisation of fuel cost.

2.2.5 The procurement of coal in H1 of FY 2022-23 was based on HBA linked price. TPC-G has changed the procurement reference index from HBA to ICI-3 and ICI-4 as currently, there is large gap between HBA index and ICI-3 and ICI-4. Coal procurement has already been initiated on ICI-3 and ICI-4 indices and therefore, considering the coal price for ensuing years based on HBA indices is incorrect. TPC-G has submitted the contracts placed till date, to the Commission. By shifting coal procurement to the combination of ICI-3 and ICI-4 indices, reduction in coal price can be achieved by almost 35%.

2.2.6 Further, TPC-G has planned to procure coal at lowest index/competitive price to optimize the cost of generation. TPC-G has been closely monitoring the indices on day-to-day basis and would maintain the flexibility in the contracts to factor in favourable trends while executing the contracts.

Commission's View

2.2.7 The Commission has analysed the actual coal prices and accordingly approved the tariff for FY 2023-24 and FY 2024-25 as detailed in Chapter 8 of the Order.

2.3 GENERATION FROM HYDEL STATIONS

Suggestions/Objections

2.3.1 AEML submitted that the Commission, in its Order dated 3 November, 2022 in Case No. 29 of 2022, directed Maharashtra State Load Despatch Centre (MSLDC) to frame a draft procedure for operation of Bhira Pumped Storage Unit stipulating the roles and responsibilities of different entities, timeframe of submission of schedules and other information exchange among the parties, energy accounting, treatment under the DSM Regulations etc. based on principles laid down in the Order and the other applicable Regulations. Maharashtra State Power Generation Company Limited (MSPGCL)'s Rawalje power plant (2x40 MW) is in the downstream of this Bhira Pumped Storage Unit. There may be various situations whereby, the MSPGCL's hydro plant may not get sufficient water due to operation of Bhira Pumped Storage Unit.

TPC-G's Response

2.3.2 TPC-G's Petition in Case No. 29 of 2022 was filed for operationalisation of Bhira Pumped Storage Unit wherein the procedures and operational modalities were part of the Petition. The Commission directed MSLDC to come up with a detailed procedure and by the time, the project gets operationalised, MSLDC, in compliance to the directions of the Commission, would have finalised the procedure. Further, with respect to the operations of Rawalje plant, the plant modifications have been planned after due consultation with MSPGCL and the construction activities were taken up after obtaining MSPGCL's concurrence.

Commission's View

2.3.3 The Commission has taken note of the suggestions/objections and TPC-G's response thereof.

2.4 GENERATION FLEXIBILITY THROUGH BUNDLING OF POWER

Suggestions/Objections

2.4.1 AEML submitted that the Commission, in its Order dated 5 November, 2019 in Case No. 121 of 2019 directed MSLDC to prepare appropriate procedures for the required changes in the Deviation Settlement Mechanism (DSM) framework. Till the time, same are notified by the Commission, TPC-G's proposal for reduction in cost of generation will not pan out.

TPC-G's Response

2.4.2 The generation flexibility is under active consideration by TPC-G as one of the initiatives to optimize its cost of thermal generation. The impact of the same has not been factored in the tariff proposals in the Petition. TPC-G will approach the Commission at an appropriate time after the finalisation of procedures and will adhere to the directions of the Commission/appropriate authority.

Commission's View

2.4.3 The Commission has taken note of the suggestions/objections and TPC-G's response thereof.

2.5 REFUND OF STANDBY CHARGES

Suggestions/Objections

2.5.1 AEML-D submitted that in accordance with the Commission's direction, TPC-G has submitted the impact due to refund of Standby Charges in its Petition. TPC-G may be directed to refund the same to the distribution licensees. Further, by virtue of tariffs for FY 2020-21 for AEML-D determined by considering the full Standby Charges viz., Rs. 35.53 Crore, the actual revenue for FY 2020-21 includes the same. The ARR claimed by AEML-D for FY 2020-21 in its MTR Petition does not include the said amount, thereby, the said amount of Rs. 35.53 Crore has been proposed to be refunded to its consumers along with holding cost. Therefore, the refund of Standby Charges along with holding cost, as approved by the Commission in the MTR Order of TPC-G, shall be retained by AEML-D.

TPC-G's Response

2.5.2 TPC-G has submitted the computations of the refund of the Standby Charges received, in its Petition. TPC-G shall comply with the Commission's directions in this regard. The treatment of the same for AEML-D is not within the purview of the present Petition.

Commission's View

2.5.3 The Commission has approved the Standby Charges to be refunded along with holding cost by TPC-G in this Order. The treatment of the same in the Aggregate Revenue Requirement (ARR)s of the respective distribution licensee shall be detailed in the respective MTR Orders.

3 IMPACT OF OTHER ORDERS

3.1 ORDER IN CASE NO. 94 OF 2020

Background

3.1.1 TPC-G had filed the Review Petition in Case No. 94 of 2020 against the Commission's MYT Order dated 30 March, 2020 in Case No. 300 of 2019 seeking review on certain aspects. The Commission, vide its Review Order dated 27 June, 2020 partly allowed the review on the issues raised by TPC-G and ruled 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.*”**

TPC-G's Submission

3.1.2 Accordingly, TPC-G has claimed the impact of Review Order as under:

Table 3.1: Impact of Review Order for FY 2017-18 (Rs. Crore)

Particulars	Units 5,7 & Hydro	Unit 8
IoWC for FY 2017-18	0.04	0.00
Sharing of gains/losses on Auxiliary Consumption	-2.41	-1.38
Hydro Incentives for FY 2017-18	3.97	0.00
Total Impact without carrying cost	**1.60**	**-1.38**

Table 3.2: Impact of Review Order for FY 2018-19 (Rs. Crore)

Particulars	Units 5,7 & Hydro
Hydro Incentives for FY 2018-19	4.52
Revised Income Tax	-13.24
Total Impact without carrying cost	**-8.72**

3.1.3 TPC-G submitted that it has preferred an Appeal before the Hon'ble ATE on some of the above issues in Appeal No. 144 of 2021. TPC-G submitted that the above claims are subject to the outcome of the Appeal No. 144 of 2021.

3.1.4 TPC-G has considered the above claimed amounts in its claim of total gap/(surplus) upto FY 2022-23. TPC-G has claimed the carrying cost on the said amounts from FY 2019-20 onwards.

Commission's Analysis and Ruling

3.1.5 The impact of issues admitted by the Commission in the Review Order are as under:

Table 3.3: Impact of Review Order approved by the Commission for FY 2017-18 (Rs. Crore)

Particulars	Units 5,7 & Hydro
IoWC for FY 2017-18	0.04
Sharing of gains/losses on Auxiliary Consumption	-2.40
Hydro Incentives for FY 2017-18	3.96
Total Impact without carrying cost	**1.60**

Table 3.4: Impact of Review Order approved by the Commission for FY 2018-19 (Rs. Crore)

Particulars	Units 5,7 & Hydro	Unit 8
Hydro Incentives for FY 2018-19	4.52	-
Revised Income Tax	-13.24	-
Allocation of shared capacity	-	-1.38
Total Impact without carrying cost	**-8.72**	**-1.38**

3.1.6 The Commission has considered the above amounts in computing the cumulative revenue gap/(surplus) upto FY 2022-23 as detailed in Chapter 7 of the Order.

3.1.7 TPC-G has claimed carrying/(holding) cost on the said amounts from FY 2019-20 onwards. However, the claim is not in line with the rulings in the Review Order wherein, the Commission had disallowed the carrying cost on the amount of Rs. 0.04 Crore towards IoWC for FY 2017-18 for Units 5,7 & Hydro. Further, TPC-G has not claimed the carrying/(holding) cost from FY 2017-18/FY 2018-19 onwards for the approved amounts for the corresponding years. The Commission has considered the carrying/(holding) cost on the approved amounts, in accordance with the rulings of the Commission in the Review Order, from FY 2017-18/FY 2018-19 as applicable.

3.2 IMPACT OF COMMON ASSETS OF UNIT 6

Background

3.2.1 The Commission, in the MYT Order, in the final true-up of FY 2017-18 and FY 2018-19 ruled as under:

"4.8.4 The Commission notes TPC-G's submission that some of Assets which are booked under Unit 6 are still being used by Other Units. The Commission asked TPC-G to submit the complete details of assets which are being used by other units. TPC-G in response to the Commission's query clarified that certain assets related to Chlorination Plant, Cooling Water Jetty, De-mineralisation Plant, 220 kV Switchyard, Condensate Polishing Unit, SCADA System are going to continue to be in service irrespective of Unit 6.

4.8.5 As per the present methodology, the cost of Common assets is allocated to each Unit and recovery of such assets is allowed through Annual Fixed Charges of such Unit. If the Unit is retired or not tied up, having considered the same principle adopted in the previous Orders, cost allocated to such Units is also not to be considered for recovery. But after perusal of list of assets given by TPC-G, it is noted that some of assets which are commonly used e.g., 220 kV Switchyard, *SCADA, etc. are entirely booked under Unit 6. These assets are required to be considered for computation of fixed costs for Other units. However, there is no clarity on use of assets by other Units by perusing list provided as to whether all the assets proposed to be allocated to other Units and there is no duplicity of the Assets.*

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."

"4.11.5 Regarding the Unit 6, as discussed in earlier section of this Chapter, the Commission at this stage has decided to remove entire asset of Unit 6, including the common assets submitted by TPC-G. Accordingly, the Commission has reduced GFA amount of Rs. 571.28 Crore (Rs. 545.25 Crore + Rs. 26.03) for Unit 6 from Closing GFA of FY 2017-18." (emphasis provided)

3.2.2 TPC-G, in its Review Petition, claimed that out of the asset value of Rs. 26.03 Crore, the assets amounting to Rs. 7 Crore pertain to Unit 8. TPC-G submitted that, in addition to deduction of the amount of Rs. 26.03 Crore from GFA of Units 5,7 & Hydro, the amount of Rs. 7 Crore has been deducted from GFA of Unit 8 amounting to double deduction. In this regard, the Commission, in the Review Order, ruled as under:

"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."

TPC-G's Submission

3.2.3 TPC-G submitted that it had made a submission regarding the same vide its letter dated 27 October, 2022. TPC-G has claimed the additional depreciation, RoE and O&M expenses of Rs. 0.88 Crore, Rs. 1.21 Crore and Rs. 4.42 Crore respectively for Units 5,7 & Hydro for FY 2018-19.

Commission's Analysis and Ruling

3.2.4 TPC-G, in the Review Petition, submitted that out of the total assets amounting to Rs. 26.03 Crore, the assets amounting to Rs. 7 Crore have to be allocated to Unit 8 whereas, in the present Petition, it has considered entire assets addition for Units 5,7. The Commission takes a serious note of the inconsistent submissions of TPC-G.

3.2.5 The third-party verification of the common assets amounting to Rs. 26.03 Crore is yet to be undertaken. The Commission, for the purpose of this Order has provisionally considered the assets of Rs. 26.03 Crore in the GFA of Units 5,7 & Hydro from FY 2019-20 onwards.

3.2.6 The Commission has perused TPC-G's claim of additional depreciation, RoE and O&M expenses of Rs. 0.88 Crore, Rs. 1.21 Crore and Rs. 4.42 Crore respectively for Units 5,7 & Hydro for FY 2018-19 and finds the same to be in Order. The Commission has considered the said amounts in computing the cumulative revenue gap/(surplus) upto FY 2022-23 as detailed in Chapter 7 of the Order.

3.3 ORDER IN CASE NO. 163 OF 2020

Background

3.3.1 AEML-D has filed the Petition in Case No. 163 of 2020 seeking reconciliation of the issue of Standby Charges decided in the Order dated 30 March 2020 in Case No. 300 of 2020 with the Clarificatory Order dated 20 August 2019 passed by the Hon'ble Supreme Court in MA No. 1404 of 2019 in Civil Appeal No. 415 of 2007. The Commission, vide its Order dated 21 December, 2020 in the said case ruled as under:

"***ORDER***

…

2. In light of the Clarificatory Order dated 20 August 2019 by the Hon'ble Supreme Court and discussions made at Para. 10 to Para. 21 of this Order, the Commission revises its decision of allowing Tata Power Company Ltd.-Generation to recover the amount determined towards Standby Charges in its Multi Year Tariff Order dated 30 March 2020 in Case No. 300 of 2019 from BEST Undertaking, Adani Electricity Mumbai Ltd.- Distribution and Tata Power Company Ltd.-Distribution.

3. Tata Power Company Ltd.-Generation is directed not to recover the component of Standby Charges in the balance instalments from the above Distribution Licensees. Also, the amount refundable to BEST Undertaking, Adani Electricity Mumbai Ltd.- Distribution and Tata Power Company Ltd.-Distribution by Tata Power Company Ltd.-Generation on account of component of Standby Charges already paid in the past instalments by them, may be claimed, alongwith the associated holding cost in the respective forthcoming Mid-Term Review Petitions by these Distribution Licensees which would be adjusted in the respective MidTerm Review Orders of these utilities.

4. Tata Power Company Ltd.-Generation is directed to submit the computation of impact on account of this Order (refund of already recovered Standby Charges to the Distribution Licensees, alongwith the holding cost) in its forthcoming Mid Term Review Petition which would be considered by the Commission while approving its Annual Revenue Requirement under the Mid Term Review Petition."

TPC-G's Submission

3.3.2 In compliance to the above directive, TPC-G submitted the amount received through instalments as under:

Table 3.5: Amount received from distribution licensees as submitted by TPC-G (Rs. Crore)

Instalment Month	AEML	BEST	TPC-D	Total
April 2020	2.96	3.72	2.21	**8.89**
May 2020	2.96	3.72	2.21	**8.89**
June 2020	2.96	3.72	2.21	**8.89**
July 2020	2.96	3.72	2.21	**8.89**
August 2020	2.96	3.72	2.21	**8.89**
September 2020	2.96	3.72	2.21	**8.89**
October 2020	2.96	3.72	2.21	**8.89**
November 2020	2.96	3.72	2.21	**8.89**
Total	**23.69**	**29.72**	**17.67**	**71.08**

3.3.3 In accordance with the Commission's directive, the impact on this account is as under:

Table 3.6: Total impact as submitted by TPC-G (Rs. Crore)

Particulars	Units	AEML	BEST	TPC-D	Total
Principal amount	**Rs. Crore**	**23.69**	**29.72**	**17.67**	**71.08**
Rate of interest					
FY 2019-20	%	9.66%	9.66%	9.66%	
FY 2020-21	%	8.57%	8.57%	8.57%	
FY 2021-22	%	8.50%	8.50%	8.50%	
FY 2022-23	%	8.50%	8.50%	8.50%	
Holding cost					
FY 2019-20	Rs. Crore	1.14	1.44	0.85	**3.43**
FY 2020-21	Rs. Crore	2.03	2.55	1.51	**6.09**
FY 2021-22	Rs. Crore	2.01	2.53	1.50	**6.04**
FY 2022-23	Rs. Crore	2.01	2.53	1.50	**6.04**
Total	**Rs. Crore**	**7.20**	**9.03**	**5.37**	**21.61**
Total amount	**Rs. Crore**	**30.89**	**38.75**	**23.04**	**92.69**

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3.3.4 The Commission has gone through the submissions of TPC-G. As against the total approved amount of Rs. 106.61 Crore, TPC-G has recovered the amount of Rs. 71.08 Crore upto November, 2020 in monthly instalments from April-November, 2020. However, TPC-G has claimed the holding cost on the total recovered amount, during the period from April-November 2020, from FY 2019-20 onwards. The Commission does not find the holding cost claim of TPC-G to be in order as the same has been computed from mid-year of FY 2019-20 (half year) onwards on the entire recovered amount from the respective distribution licensee.

3.3.5 The Commission approves the principal amount of Rs. 71.08 Crore as claimed by TPC-G. As regards holding cost, the Commission has considered the holding cost from the actual date of receipt of each instalment from the respective distribution licensee upto March, 2023. Accordingly, the Commission approves the total amount to be refunded by TPC-G is as shown in the Table below:

Table 3.7: Standby Charges to be refunded by TPC-G (Rs. Crore)

Distribution Licensee	Claimed			Approved		
	Principal amount	Holding cost	Total amount	Principal amount	Holding cost	Total amount
AEML	23.69	7.20	**30.89**	23.69	5.53	**29.21**
BEST	29.72	9.03	**38.75**	29.72	6.92	**36.64**
TPC-D	17.67	5.37	**23.04**	17.67	4.11	**21.78**
Total	**71.08**	**21.61**	**92.69**	**71.08**	**16.55**	**87.63**

3.3.6 The Commission directs TPC-G to refund the above approved amount for each distribution licensee in the month of April 2023.