

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**

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Case No. 8 of 2010

In the matter of

**Petition of The Tata Power Company Ltd. for review of Order dated January 19, 2010
in Case No. 35 of 2009 in the matter of Approval of the Capital Cost and
Determination of Tariff of 250 MW Unit No. 8**

Shri V.P. Raja, Chairman

Shri V.L. Sonavane, Member

ORDER

**The Tata Power Company Ltd
Bombay House
24, Homi Mody Street
Mumbai – 400001**

..... Petitioner

Dated: August 03, 2010

The Tata Power Company Ltd. (“TPC”) submitted a Review Petition under affidavit before the Commission on March 3, 2010 under Regulation 85(a) of the MERC (Conduct of Business) Regulation, 2004 seeking review of Order dated January 19, 2010 passed in Case No. 35 of 2009 in the matter of approval of the Capital Cost and Determination of Tariff of TPC’s 250 MW Trombay Unit No. 8.



2. The prayers as stated in the Petition are as follows:

“(i) Revise the under recovery of fuel expenses upwards by Rs. 5.66 Crores i.e. from Rs. 19.28 Crores to Rs. 24.94 Crores and permit this additional recovery from the two distribution licensees viz. BEST and Tata Power – D in the proportion to the signed PPA quantum in six equal monthly instalments.

(ii) Revise the Approved Capital Cost downwards from Rs. 1047 Crores to Rs. 1041 Crores.

(iii) Appropriate directions from the Hon'ble Commission it deems fit.”

3. In the said review petition, with reference to the directives in the order of Case 35 of 2009, TPC has submitted that, the Commission, in the Order in Case no. 35 of 2009 had approved the Capital Cost of Rs 1047 Crores for the 250 MW Unit No 8 at Trombay as under:

Table: 1 Approved Cost (in Rs Crore)

S No	Description	As Submitted by TPC	As approved by the Commission
1	Capital Cost till COD	970	918
2	Additional capitalisation till cut-off date	163	129
3	Total Capital Cost	1133	1047

4. **Submissions of TPC in Point No. 1 of the petition:**

With reference to the above directive, Under Point No. 1 in the petition, TPC has submitted as follows:

TPC has stated from the table of Approved Capital Cost as follows:

“.....As can be seen from the above table, the capital cost of the plant upto the Commercial Operation Date (COD) as submitted by Tata Power was Rs 970 Crores while that approved by the Commission was Rs 918 Crores. One of the reasons for the difference in two costs was the treatment to the recovery of cost of fuel for infirm power generation”.



TPC has further submitted as follows:

“..... as regards the cost of Rs 24.94 Crores the Hon’ble Commission has not disallowed the same. The Hon’ble Commission has only changed the mode of recovery of this cost by (i) removing from the capital cost and (ii) billing the Distribution Licensees vis. BEST and TPC-D directly. However while advising the recovery of the cost from the distribution licensees, the Hon’ble Commission has deducted the revenue of Rs 5.66 Crores received for such sale of infirm power.

It is further submitted that the recovery of Rs 5.66 Crores has already been deducted from the Capital Cost by the Hon’ble Commission in arriving at the approved capital cost of Rs 1047 Crores. This is evidenced by the table (Item 9) extracted from the Order and presented below (the tabulation “Approved Capital Cost” under Item 30 of the said Order which is presented below):

Table 2: Approved Capital Cost

S. No	Particular	As submitted by TPC (Rs Crore)	As approved by the Commission (Rs Crore)
1.0	Cost of land and site development	0.027	0.027
2.0	Plant & Equipment		
2.1	Steam Generator island	205.931	205.931
2.2	Turbine Generator island	203.607	203.607
2.3	BOP Mechanical	71.343	71.343
2.4	BOP Electrical	77.298	77.298
2.5	Control Instrumentation (C&I) package	13.735	13.735
	Total excluding Taxes and Duties	571.941	571.941
2.6	Octroi charges	27.021	0
3.0	Initial spares	1.978	1.978
4.0	Civil works	165.808	165.808
5.0	Construction & Pre-commissioning expenses	106.353	81.413
6.0	Overheads	19.468	19.468
7.0	Capital cost excluding IDC & FC	892.569	840.608
7.1	Interest during construction	83.37	82.98



S. No	Particular	As submitted by TPC (Rs Crore)	As approved by the Commission (Rs Crore)
	<i>(IDC)</i>		
8.0	<i>Capital cost including IDC & FC</i>	975.937	923.588
9.0	<i>Revenue from infirm power</i>	-5.61	-5.66
10.0	Total Capitalised cost upto COD	970.327	917.928

In our humble submission if such revenue of Rs. 5.66 crores is deducted from the capital cost, the same cannot be deducted while recovery of the fuel cost of Rs. 24.94 Crores from the Distribution Licensees. Similarly, if the revenue of Rs 5.66 Crores is deducted in recovery from the distribution licensees, it cannot be deducted from the Capital Cost.

In case this revenue of Rs. 5.66 Crores is deducted from both i.e. the (i) Capital cost as well as from (ii) Recovery of fuel cost from BEST and TPC-D, then it would amount to double deduction of the same amount.

It is therefore necessary that this amount of Rs 5.66 Crores needs to be restored back to Tata Power by revising upwards the amount of recovery from the Distribution Licensees from Rs 19.28 Crores to Rs 24.94 Crores (i.e. by Rs 5.66 Crores)."

TPC has further requested the Commission to review the order on account of the above and issue necessary directions to Tata Power to recover an amount of Rs 24.94 Crores from BEST and TPC-D in the proportion to the signed PPA quantum in six equal monthly instalments in proportion. TPC has further requested the Commission to issue suitable directions to BEST and TPC-D to pay the above amount.

5. Submissions of TPC in Point No. 2 of the petition:

Under Point No. 2 of its petition, TPC has submitted as follows:



“Tata Power in reply to a data gap query (Query No. 4) through letter No. REG/MERC/09/265 of November 20, 2009, had presented the following: (Breakup of the cost of Rs. 8.15 crores incurred under the expenditure head “Switchyard Package”)

<i>S. no</i>	<i>Overheads</i>	<i>Total Cost (Rs Crores)</i>
<i>1</i>	<i>Switchyard Package (other orders/expenses)</i>	<i>8.15</i>
<i>1.1</i>	<i>Transmission line shifting</i>	<i>6.40</i>
<i>1.2</i>	<i>Miscellaneous orders</i>	<i>1.75</i>

TPC has further submitted that it has found out from its own records that, although the expenditure of Rs. 6.40 crores towards “Transmission line Shifting” has taken place under the Unit-8 project, the capitalization under this head has been done under Tata Power – T in the year FY 2006-07 and has been submitted in the APR FY 2007-08 petition in Form 4.3. TPC has further submitted that, as the Hon’ble Commission has approved this expenditure under this project under the true up of FY 2006-07, considering the same under this petition would be double counting. Hence, TPC has submitted that the same may kindly be excluded from the capitalization achieved as on March 31, 2009. TPC has submitted that the revised figure of Capitalisation, after these corrections, may be considered as Rs. 963.5 crores (Rs. 970 crores less Rs. 6.5 crores). These were the submissions of TPC in reply to a data gap query (Query No. 4) through letter no. REG/MERC/09/265 dated November 20, 2009.

TPC has therefore requested that the approved capital cost of Trombay Unit 8 may be revised downwards to extent of Rs. 6.5 Crores, after which the approved capital cost would stand at Rs. 1041 Crores on account of this adjustment.

6. TPC has submitted that Regulation 85 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 provide for review of the Order issued by the Commission, which is extracted as under:

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.

7. The Commission vide Notice dated May 13, 2010 fixed the matter for hearing on June 24, 2010, which had got re-fixed for hearing on July 1, 2010 vide Notice dated June 3, 2010.

8. A hearing was held on July 1, 2010 wherein Tata Power enumerated the details of the two issues raised in the petition.

9. **Review and analysis by the Commission**

1. Start-up fuel cost :

The Commission, in order to verify the claims made by TPC, has reviewed again the data submitted by TPC under its petition for approval of Capital cost and tariff determination for Trombay Unit 8, (Case 35 of 2009). In the said petition, on page 71 of 119, TPC has tabulated at Table-8: “Summary of Capitalised cost as on COD”.

The Commission observes that TPC has claimed Rs 43.8 crores as construction and pre-commissioning expenses, further TPC vide its letter no. REG/MERC/09/246 dt. 4th November 2009 had at reply no. 1 (ii) submitted the following break-up of activities under the head ‘construction and pre-commissioning expenses’:

Table 4: Details of construction and pre-commissioning expenses

Item No	Cost Head	Cost (Rs crores)
1	Site supervision	8.4
1.1	Employee expenses	8.25
1.2	Travelling expenses	0.10
1.3	Miscellaneous expenses	0.05
2	Construction insurance	3.68



3	Start up fuel	30.80
3.1	Fuel used in construction and commissioning	24.90
3.2	Steam supplied from other units	1.69
3.3	Auxiliary consumption from unit no.6&7 for FY 08 as per TPC-G tariff order dt. 28 th May 09	1.56
3.4	Auxiliary consumption from unit no.6&7 for FY 09 as per TPC-G tariff order dt. 28 th May 09	2.65
4	Other Expenses	0.89
4.1	BPT (leave way)	0.37
4.2	Property tax	0.24
4.3	Raw water	0.20
4.4	Miscellaneous	0.08
	Total	43.77

The Commission observes that out of the expenditure of Rs 30.80 crore (sum of items no. 3 above), Rs 5.9 crore have been used for fuel required for the Commissioning activities, and Rs 24.9 crore (Item vi above) has been attributed to “Fuel cost incurred for generation of infirm power”.

The impugned Order in Case no. 35 of 2009 provides as under:

“The Commission observes that since fuel cost is revenue expenditure in nature, whether incurred during infirm generation or firm generation, the Commission while allowing the actual expense incurred on this account (Rs. 24.94 Crore), directs that the same be recovered from BEST and TPC – D in proportion to the signed PPA quantum and hence, these costs will not be allowed as part of capital expenditure of Trombay Unit No. 8. TPC in their reply on data gap query have submitted to the Commission that Rs. 5.66 Crore of revenue has already been recovered through sale of infirm power, the Commission hereby allows TPC to recover the under-recovered fuel cost, i.e., Rs. 19.28 Crore (Rs. 24.94 Crore – Rs. 5.66 Crore) from BEST and TPC – D in six equal monthly instalments in proportion to the signed PPA quantum, after the issue of this Order.



The Commission has allowed the costs under items 3.2, 3.3 & 3.4, of above Table-4, amounting to Rs 5.9 crore to be included in the capital cost of Trombay Unit-8. The Commission has disallowed inclusion of Rs 24.9 crore (Cost of fuel for infirm power generation) under Capital cost, and directed TPC to include these under revenue expenses, and allowed TPC to recover the same from the distribution utilities.

In the summary table, on page 37/38 of the said Order, in the Tabulation under S. No. 5 of Para 30 providing information on “Approval of Capital cost”, (also reproduced above in this order as “Table-2: Approved Capital cost”), against an amount of Rs 106.353 crore claimed by TPC towards “Construction and pre-commissioning expenses”, the Commission had approved Rs.81.413 crore towards the same, after excluding the amount of Rs 24.94 crore expenditure incurred on fuel for “generation of infirm power”.

In continuation of the principle adopted above for removal of all the “Fuel related expenditure” from the Capital costs, the earlier deducted amount of Rs 5.66 crore appearing at item 9 of the above “Table-2: Approved Capital cost” representing the cost of fuel recovered by TPC-G from the consumers, shall be added to the total Capital cost of Trombay Unit-8.

2. Cost towards Transmission line shifting:

In the summary table, on page 36-37 of the said Order (Case 35 of 2009), in the Tabulation under item 30 “Approval of Capital cost”, (also reproduced above in this order as “Table-2: Approved capital cost”), under item 2.4 of the Table, TPC-G has claimed Rs 77.298 crore as “BOP Electrical”. The break-up of the said cost as provided at Form 3.1 of the Tariff petition is as under:

Table 5: Break-up of BoP Electrical package

2.4	BOP Electrical	Cost (Rs. Crore)
2.4.1	Switch Yard Package	19.942
2.4.2	Transformers Package	20.983
2.4.3	Switch gear Package	12.753
2.4.4	Cables, Cable facilities & grounding	16.400
2.4.5	Lighting	6.000



2.4	BOP Electrical	Cost (Rs. Crore)
2.4.6	Emergency D.G. set	1.220
	Total BOP Electrical	77.298

As petitioned by TPC-G, the cost of Rs 6.4 crores out of that claimed under item 2.4.1 “Switchyard package” of the above table, has already been capitalized by TPC-G. Hence the same cannot be allowed to appear in the above Capital costs of Trombay Unit 8 and hence, the same now stands deleted.

Net Effect on Approved Capital cost:

With the changes as above, the Capital cost tabulation of TPC-G’s Trombay Unit 8 stands revised as given below:

Table-6: Revised Approved Capital Cost

S. No	Item Head	As submitted by TPC (Rs Crore)	As approved by the Commission in Order Case 35 of 2009 (Rs Crore)	Revised Approval of capital cost (Rs. Crore)
1.0	Cost of land and site development	0.027	0.027	0.027
2.0	Plant & Equipment			
2.1	Steam Generator island	205.931	205.931	205.931
2.2	Turbine Generator island	203.607	203.607	203.607
2.3	BOP Mechanical	71.343	71.343	71.343
2.4	BOP Electrical	77.298	77.298	70.898
2.5	Control Instrumentation (C&I) package	13.735	13.735	13.735



S. No	Item Head	As submitted by TPC (Rs Crore)	As approved by the Commission in Order Case 35 of 2009 (Rs Crore)	Revised Approval of capital cost (Rs. Crore)
	Total excluding Taxes and Duties	571.941	571.941	565.541
2.6	Octroi charges	27.021	0	0
3.0	Initial spares	1.978	1.978	1.978
4.0	Civil works	165.808	165.808	165.808
5.0	Construction & Pre-commissioning expenses	106.353	81.413	87.073
6.0	Overheads	19.468	19.468	19.468
7.0	Capital cost excluding IDC & FC	892.569	840.608	839.868
7.1	Interest during construction (IDC)	83.37	82.98	82.97
8.0	Capital cost including IDC & FC	975.937	923.588	922.839
9.0	Revenue from infirm power	-5.61	-5.66	-5.66
10.0	Total Capitalised cost upto COD	970.327	917.928	917.179
11.0	Additional capitalization till cut-off date	162.760	128.866	128.866
	Total Capital Cost	1133.089	1046.794	1046.045

As a result of the change in approved Capital cost as above, from Rs 1046.794 Crores to Rs 1046.045 cores, the Annual Fixed charges for the unit as approved under Para 64 of the Order in the matter of Case no 35 of 2009 stands revised as follows:

S. No	Description	Approved fixed charges vide Order Dated January 19, .2010 (Case no. 35 of 2009)		Revised approved fixed charges (Rs Crore)	
		For 250 MW	For 150 MW	For 250 MW	For 150 MW



S. No	Description	Approved fixed charges vide Order Dated January 19, 2010 (Case no. 35 of 2009)		Revised approved fixed charges (Rs Crore)	
		For 250 MW	For 150 MW	For 250 MW	For 150 MW
1	Annual Fixed Charges	203.13	121.88	203.06	121.80

Any changes arising out of the above revision of approved Capital costs and approved fixed charges will be addressed during the true-up exercise of the next Tariff petition of TPC-G.

With this order, the Commission disposes of TPC's petition in the matter of Case no. 8 of 2010

Sd/-
(V. L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC

