

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 29 of 2012

In the matter of
“Petition of The Tata Power Co. Ltd. – Distribution for approval to levy an additional FAC
for 9 months in FY 2012-13”

Shri V.P. Raja, Chairman
Shri Vijay L. Sonavane, Member

The Tata Power Co. Ltd. (TPC) (Distribution)

..... Petitioner

Present during the hearings

For the Petitioner:-

Shri .V.H.Wagle, TPC

Shri R.M.Ranade, TPC

ORDER

Dated: 17th May 2012

The Tata Power Co. Ltd. (Distribution) (hereafter referred as TPC-D) filed a
Petition for approval to levy an additional FAC for 9 months in FY 2012-13

1. Submission of the Petitioner:

The Petitioner submitted that it is levying the Tariff to its consumers as per the Tariff Order issued by the Commission dated 12th September 2010. In the said order, the Commission had allowed to levy FAC upto an average of 49.95 Paise per kWh, over and above the approved Tariff, which amounts to about 10 % of the average variable charge.

The Petitioner submitted that in the recent period (FY 2011-12) the average power purchase rate of Tata Power-D has increased significantly, in comparison with the approved rate of power purchase which has led to an under recovery of FAC and the said under recovery has had an adverse impact on the cash flows of the company.

The Petitioner submitted that, it is, through this petition, seeking an approval to levy an additional FAC for a period of 9 months to recover the under recovery.

The prayers in the Petition are as follows:

- “ 1. Tata Power-D requests the Hon’ble Commission to allow to levy additional Average FAC of 60 paise/kWh and recover this rate from each tariff category in the manner specified under the amendment to the Tariff Regulations dated 28th January 2011 i.e. on the basis of the ratio of the Average Billing Rate (ABR). ”*
- 2. Condone any inadvertent omissions/ errors/shortcomings and permit Tata Power-D to add /change / modify / alter /this filing and make further submissions as may be required at a future date. ”*

1.1 Background

The Petitioner submitted that it had filed a tariff petition in accordance with the MERC Tariff Regulations, 2005 for trueing up for FY 2008-09, Annual Performance for FY 2009-10 and Tariff determination for FY 2010-11. The tariff Order on the same was issued by the Commission on 12th September 2010 approving the tariff for TPC-D consumers which was applicable from 1st September 2010. The average tariff approved by the Commission was about Rs 5.20 per kWh for TPC-D. The Petitioner submitted that in the above average tariff, an average variable cost of power purchase at a rate of Rs 3.38 per kWh for FY 2010-11 was embedded. The Petitioner submitted the breakup of the variable cost of power purchase approved by the Commission in the Tariff Order is tabulated below.

Table 1: Average variable cost of power Purchase

Source	Power Purch For TPC-D (MUs)	Cost (Rs Cr)	Rate(Rs/Kwh)
TPC-G			
Unit 4- Oil	47.12	32.64	6.93
Unit 5	1185.01	301.67	2.55
Unit 6	1210.06	650.01	5.37
Unit 7 -Gas	440.28	56.39	1.28
Unit 8- Coal	317.00	65.09	2.05
Hydro -Peak	258.22	51.64	2.00
Hydro -Off Peak	258.22	42.61	1.65
RPO	257.00	101.10	3.93
Interse Sales	306.72	145.95	4.76
Total TPC-D	4279.64	1447.10	3.38

The Petitioner submitted that the prices of fuel and other sources have changed significantly in comparison with that considered in the said Tariff Order. The Petitioner submitted that, this has led to an increase in average power purchase cost for Tata Power-D and consequently an under recovery of FAC. The Petitioner submitted that as per MERC Tariff Regulations 2005, there is a ceiling on FAC to be levied on to the consumers @ 10% of average energy charge. Accordingly the maximum average FAC allowed to be levied by TPC-D on to its consumers is at present, 49.95 paise/kWh. TPC-D produced the relevant extract of the said Tariff order as given below, and stated that TPC-D is at present levying FAC on its consumers as per the said directive. :

“The existing Fuel Adjustment Cost (FAC) Charge has been equated to zero, on account of the adoption of the existing fuel costs for projection of the fuel expenses. In case of any variation in the fuel prices with respect to these levels, TPC-D will be able to pass on the corresponding increase to the consumers through the existing FAC mechanism, subject to the stipulated ceiling of 10% of average energy charges, which works out to 49.95 paise/kWh. The FAC will be charged on a monthly basis, and the details of the computation and recovery from the same will have to be submitted to the Commission for post-facto approval, on a quarterly basis”

1.2 Average cost of power purchase of Tata power-D till February 2012.

The Petitioner submitted that TPC-D is sourcing the power through various sources to meet its requirement. The Petitioner submitted detailed comparison of cost of power purchase between the approved and actual values and submitted that, the widening difference has resulted into under recovery as submitted below:

Table 2: Rise in fuel prices for last 11 months of FY 2011-12

	Actual Fuel Prices (Rs/MT)				% increase in the fuel prices in comparison with approved in T.O.			
	Gas	RLNG	Coal	Oil	Gas	RLNG	Coal	Oil
Aprooved price (Rs/Tonne)--->	11,008	18,555	4,144	28,909	11008	18555	4144	28909
Apr-11	10,575	21,450	5,074	33,813	-4%	13%	18%	15%
May-11	10,884	22,523	5,008	37,962	-1%	18%	17%	24%
Jun-11	10,571	22,635	5,952	40,729	-4%	18%	30%	29%
Jul-11	10,747	23,678	5,571	41,197	-2%	22%	26%	30%
Aug-11	10,741	12,638	5,742	42,995	-2%	-47%	28%	33%
Sep-11	10,764	27,752	6,059	45,137	-2%	33%	32%	36%
Oct-11	11,601	28,024	5,975	43,669	5%	34%	31%	34%
Nov-11	11,506	28,375	6,495	45,967	4%	35%	36%	37%
Dec-11	20,539	29,947	7,008	50,101	46%	38%	41%	42%
Jan-12	12,795	29,845	7,316	47,485	14%	38%	43%	39%
Feb-12	11,761	33,996	7,129	50,748	6%	45%	42%	43%
Mar-12	-	-	-	-				
Wt Average	11,918	26,104	6,000	43,869	8%	29%	31%	34%

The Petitioner submitted that as seen from the above table, there is a significant price rise in the fuel cost, in comparison with the approved prices. The Petitioner submitted that considering the above actual fuel prices, the Average cost of power purchase from Tata Power – G has risen substantially to Rs 4.13 per kWh (as worked out in the table below) as compared to Rs 3.23 per kWh specified in its Tariff Order.

Table 3: Computation of Actual Power Purchase Cost of TPC-D from TPC -G

Source	MUs	Rs/kWh	Rs Cr
TPC-G			
Unit 4- Oil	-1.05	5.12	
Unit 5	1475.8	3.53	521.47
Unit 6	1018.6	8.06	820.84
Unit 7 -Gas	685.3	2.12	145.19
Unit 8- Coal	636.0	3.72	236.44
Hydro -Peak	316.4	2.00	63.28
Hydro -Off Peak	360.8	1.65	59.53
Short term OA charges for TPC-G	0	0	7.54
Total TPC-D	4491.8	4.13	1853.7

1.3 Renewable power Purchase:

The Petitioner submitted that the Commission had approved Rs 3.93 per kWh as a rate of power purchase from the Renewable sources in the tariff order. However, the average cost of power purchase from renewable sources for the last 11 months was Rs 6.60 per kWh as explained below by the Petitioner-

- **Reasons for increase in RE power purchase cost**

The Petitioner submitted that in the recent months, due to increase in sales of the Petitioner, the Renewable energy requirement (RE requirement), has also increased significantly. Hence, wind energy from Tata Power's own wind farms is not sufficient to meet its Renewable Power purchase Obligation (RPO). The Petitioner submitted that in view of this, in order to meet the RPO which is 7 % for FY 2011-12 as per the "MERC RPO-REC" Regulations 2010, the Petitioner has been purchasing RE power through REC mechanism. The Petitioner submitted that since REC purchase does not result into any actual energy flow, the same has to be compensated by procurement of energy from other sources and total energy rate for the Renewable Energy also works out to be on higher side. The Petitioner has furnished the breakup of RE purchase from different sources as given in the table below-

1.4 Power purchase from other sources

The Petitioner submitted that TPC-D is sourcing additional power to meet its requirement through bilateral sources and from Unscheduled Interchange. The Petitioner submitted that the average cost of power purchase done by Tata power-D for last 11 months is Rs 4.82 per kWh in comparison with the approved cost by the Commission of Rs 4.76 per kWh. The Petitioner submitted that the detailed break up of cost of UI and Bilateral power purchase for past 11 months in FY 2011-12 is as given in the table below:

Table 4: Break up of Power Purchase through bilateral purchase and UI by TPC -D

Month	Bilateral Power Purchase			Unscheduled Interchange			Total		
	MU	Rs.Cr.	Rs/kWh	MU	Rs.Cr.	Rs/kWh	MU	Rs.Cr.	Rs/kWh
Apr-11	49.73	23.98	4.82	23.40	13.93	5.95	73.13	37.91	5.18
May-11	36.86	18.86	5.12	40.91	37.65	9.2	77.77	56.51	7.27
Jun-11	33.45	17.41	5.2	37.7	32.52	8.63	71.15	49.93	7.02
Jul-11	36.32	14.49	3.99	51.58	46.14	8.95	87.89	60.63	6.9
Aug-11	27.69	11.05	3.99	71.79	21.15	2.95	99.48	32.19	3.24
Sep-11	27.41	14.83	5.41	81.4	27.93	3.43	108.8	42.77	3.93
Oct-11	27.25	15.47	5.68	29.72	14.46	4.86	56.97	29.92	5.25
Nov-11	18.92	9.07	4.79	67.94	15.30	2.25	86.86	24.37	2.81
Dec-11	0.97	0.3	3.15	60.45	25.16	4.16	61.41	25.46	4.15
Jan-12	41.54	16.83	4.05	48.54	21.20	4.37	90.09	38.04	4.22
Feb-12	24.19	10.18	4.21	76.52	32.41	4.24	100.71	42.59	4.23
Mar-12									
Total	324	152	4.7	590	287.85	4.88	914.26	440.32	4.82

1.5 Summary of Power Purchase cost of TPC-D upto February 2012

The Petitioner submitted that based on the above submissions, TPC-D's power purchase cost upto February 2012 works out to Rs 2437 Crores at an average rate of power purchase of around Rs 4.33 per kWh which is tabulated as below.

Table 5: Power purchase by TPC-D

Source	MU	Rs/kWh	Rs Cr
Unit 4- Oil	-1.1	5.12	-0.54
Unit 5	1475.8	3.53	521.47
Unit 6	1018.6	8.06	820.84
Unit 7 -Gas	685.3	2.12	145.19
Unit 8- Coal	636	3.72	236.44
Hydro -Peak	316.4	2	63.28
Hydro -Off	360.8	1.65	59.53

Peak			
RPO	216.7	6.6	143.09
Interst sales	914.3	4.82	440.32
ST OA charge for TPC-G			7.54
Total	5622.8	4.33	2437

1.6 Variance Analysis

The above variation in the power purchase rate as well as the mix of power purchase leads to change in variable cost to the extent of Rs 528 Crores (excluding short term OA charges of Rs 7.54 Crores) as shown below:.

Table 6: Change in variable cost of power purchase of TPC-D

Actual sale upto Jan 2012	Approved variable cost of power purchase	Actual cost of power purchase	Change in variable cost
MU	Rs/kWh	Rs/kWh	Rs.Cr
5622.78	3.38	4.33	528

Table 7: Variance Analysis of TPC –D Power Purchase

Source	T.O.		Actual		Price variance	Prop. of T.O	Mix Variance	Total variance
	MUs	Rs/kWh	MUs	Rs/kWh				
TPC-G	MUs	Rs/kWh	MUs	Rs/kWh	Rs Cr	MU	Rs Cr	Rs Cr
Unit 4- Oil	47	6.93	-1.1	5.1168	0.2	62	-44	-43
Unit 5	1185	2.55	1475.8	3.5334	145.8	1557	-21	125
Unit 6	1210	5.37	1018.6	8.0584	273.7	1590	-307	-33
Unit 7 -Gas	440	1.28	685.3	2.1185	57.4	578	14	71
Unit 8- Coal	317	2.05	636.0	3.7177	105.9	416	45	151
Hydro -Peak	258	2.00	316.4	2.0000	0.0	339	-5	-5
Hydro -Off Peak	258	1.65	360.8	1.6500	0.0	339	4	4
RPO	257	3.93	217	6.6032	57.8	338	-48	10
Interse Sales	307	4.76	914	4.8162	5.3	403	243	249
Total TPC-G	4280	3.38	5623	4.32	646	5622.8	-118	528

The Petitioner submitted that as seen from the above table the price variance which reflects the change in prices is substantial to negate the favourable mix variance. The total variance is Rs 528 Crores over the 11 months of FY 2011-12.

1.7 FAC Under Recovered for FY 2010-11

The Petitioner submitted that, this increase in variable cost over the Tariff Order had led to an under recovery of Rs 296.41 Crores in the first eleven months itself as shown in the table below

Table 8: FAC Under recovery from April 2011 - February 2012

Particulars		Rs Cr
Change in variable cost of power purchase incl AO charges Rs 7 Cr	a	535.88
Interest on WC	b	13.39
Total recovery from consumers based on 10% cap	c	252.87
FAC under-recovery	d=a+b-c	296.41

The Petitioner submitted that in addition to the FAC under recovery for FY 2011-12, Tata Power-D has not been able to recover FAC to extent of Rs 54.59 Crores for FY 2010-11. The Petitioner submitted that the detailed computation of Power Purchase cost variation has been presented in the APR petition for FY 2010-11. Hence the total Under recovery upto February 2012 is as below:

Table 9: Total FAC Under recovery for TPC-D

Particulars	Rs Cr
FAC under-recovery for 2010-11	54.59
Carrying cost for 2010-11 (for one year average)	7.86
FAC under-recovery for 2011-12	296.41
Carrying cost for 2011-12 (for half year at average SBI AR for 2011-12)	21.3
Total	380.20

The Petitioner submitted that TPC-D has filed its MYT petition, proposing the tariff for the year FY 2012-13 onwards. The Petitioner submitted that in light of the above, and the fact that the new tariff will take some time (till October to November 2012) to become applicable, it requests permission to recover the said under recovered FAC in next three Quarters of financial period of FY 2012-13, i.e from April 2012 to December 2012.

1.8 Proposed Recovery

The Petitioner submitted that it requests the permission of the Commission to recover the said amount on the estimated sale of FY 2012-13 as follows.

Table 10: Average Rate of FAC for Tata Power-D

Under recovery	Estimated sale in first 3 quarter of FY 2012-13	Additional FAC to recover the amount
Rs Cr	MU	Rs/kWh
380.2	5025.88	0.76

The Petitioner submitted that, this additional FAC will lead to increase the tariff of Tata Power-D by average Rs 0.76 (0.76+ existing 0.4995) per kWh over and above the average tariff.

The Petitioner submitted that, in order to reduce imposing such heavy burden on consumers, it has proposed to restrict the additional FAC to Rs. 0.60 /kWh instead of Rs.0.76/kWh, over and above the approved FAC i.e 0.4995 Rs/kWh. This will be around 22% of the approved variable component of Tariff. The Petitioner submitted that, even after additional FAC to be levied as above, an amount of Rs 79 Crores will remain unrecovered for the past period. The Petitioner submitted that the above levy will be recovered in proportionate manner, with 10% cap, as specified by the Commission.

The Petitioner requested the Commission to approve its prayer as above. The Petitioner estimated that the recovery as above is estimated to be around Rs. 302/- Crores in the said 9 months period.

2. Hearing in the case was scheduled by the Commission on 11th April 2012 and notice was accordingly sent to the Petitioner as well as to the consumer representatives authorized by the Commission under Section 94(3) of the Act.

At the said hearing held at the Commission's office as above on 11 April 2012, the Petitioner was represented by Shri V.H.Wagle and Shri R. M. Ranade of TPC. None of the consumer representatives were present.

At the hearing, through a presentation, the Petitioner reiterated its submission as above and requested the Commission's approval for an additional FAC, over and above the normal FAC, at an average rate of Rs.60/kWh to be collected from its consumers in the first 3 quarters of FY 2012-13, in conformity with Regulation 82.10 of Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2011.

3. Ruling

3.1 The previous tariff order for TPC-D for Truing Up for FY 2008-09, Annual Performance Review for FY 2009-10 and Tariff Determination for FY 2010-11 was issued on 12th September, 2010

TPC-D has submitted a Petition under affidavit before the Commission on 1 December 2011, under Sections 61, 62 & 64 of E.A. 2003, for the approval of Tariff for the Second Control Period from FY 2011-12 to FY 2015-16 under the MERC (MYT) Regulations, 2011 for its Distribution Business numbered as case no. 179 of 2011).

The Commission observes that as per the said tariff order dated September 12, 2010, the approved Annual Revenue Requirement of TPC-D for FY10-11 was Rs. 2107.50 Crores with approved sales of 4053 MU. The Commission observes that, there has been substantial migration of consumers to TPC-D over the last two years and as a result of the same, the sales of the Petitioner in FY 2011-12, upto January 2012, as submitted by the Petitioner, have reached 5623 MUs and the Petitioner has, in the above mentioned MYT petition, projected total sales of 5793 MU in 2011-12 and 6577 MU in 2012-13.

3.2 The Commission observes that in FY 2012 (upto January 2012), the Petitioner has procured 80% of its energy requirement from TPC-G and remaining 20% from Renewables, decrements from the state pool and Interstate purchases.

The power generation cost charged by TPC-G over the last two years(approx.), in excess of the approved cost, has been recovered by TPC-D to some extent through the FAC mechanism after receiving approval of the Commissions to its FAC submissions. The 10% cap on FAC recovery on periodic basis is for the protection of consumers from tariff shocks. The Commission notes that the last tariff order for the Petitioner was issued in September 2010 and there has been no tariff revision to date. The Petitioner is in the process of submitting its

Business plan to the Commission in support of its MYT Petition for the second Control period. Scrutiny of the said Business plan and the MYT petition will take some time. The unrecovered FAC, as above, will have to remain so for a long time, in case the same is to be addressed at the time of the Performance Review and unless some relief is granted to the Petitioner the said unrecovered FAC will increase further, substantially.

3.3 Therefore, the Commission allows the Petitioner to recover an accumulated amount of around Rs. 300/- Crores as requested by the Petitioner, from its consumers through the bills during the months of June 2012 to February 2013. The average amount in such case will be Rs. 0.60/kWh, over and above the FAC allowed upto 10% cap. The additional amount of Rs. 0.60/kWh, average, will be recovered proportionate to the tariff charged to the consumers as per their respective category and slab, in conformity with the principles specified in Regulation 82.10 of Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2011.

With the above, the present petition stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V.P. Raja)
Chairman