



TELANGANA ELECTRICITY REGULATORY COMMISSION

'Vidyut Niyamtran Bhavan', G.T.S. Colony, Kalyan Nagar, Hyderabad 500 045

R. P. No. 01 of 2026 in O.P. No. 78 of 2025

Dated: 10.07.2026

Present

Dr. Justice Devaraju Nagarjun, Chairman

Sri. Raghu Kancharla, Member (Technical)

Sri. Cherukuri Srinivasa Rao, Member (Finance)

Telangana Power Generation Corporation Limited

... Review Petitioner

AND

1. Southern Power Distribution Company of Telangana Limited,

2. Northern Power Distribution Company of Telangana Limited

... Respondents

This review petition has come up for hearing on 26.05.2026 and 10.06.2026. Sri. M. Sridhar, Advocate represented the Review Petitioner. Sri. Bande Ali, Law attaché appeared on behalf of the Respondents. The review petition having stood over for consideration to this day, the Commission has passed the following:

ORDER

1. This review petition is filed by the Telangana Power Generation Corporation Limited (TGGenco) under Section 94(1)(f) of the Electricity Act, 2003 read with Clause 32 of the TGERC Conduct of Business Regulations, 2015, seeking to review the order passed by this Commission in O.P. No. 78 of 2025 dated 10.03.2026.

Background

2. The petitioner, TGGENCO earlier have filed an application on 01.04.2023 for approving the additional capital expenditure for civil works of KTPS-VII Stage in the Business Plan, Capital Investment Plan, MYT for 5th control period of FY 2024-25 to FY 2028-29 as per the 1 of 2019 Regulations. This Commission, by Order dated 29.12.2023 has declined the said request of the Review Petitioner for additional capitalization in respect of civil works on the ground that Review Petitioner has not submitted documents to the said effect.
3. Subsequently the Review Petitioner, TGGENCO, had filed O.P. No. 78 of 2025 under clause 22.2 and 23 of Regulation 2 of 2023 along with documentary evidence seeking approval of additional capital expenditure of Rs.495 Crores towards construction of 724 residential quarters as part of the township and supporting infrastructure envisaged for KTPS-VII Stage (1x800 MW), which according to the petitioner form part of the original project scope and approved project cost.
4. This Commission, after considering the submissions of the parties, passed its Order dated 10.03.2026 in O.P. No.78 of 2025 declining the approval to the proposed additional capital expenditure, mainly on two grounds. The commission has observed in the said orders that the petitioner has not made out any grounds to consider additional capitalisation on any of the counts of Clause 22.2 of Regulation No.2 of 2023. This Commission has also observed in the said orders that the petitioner has invoked the clause 23 of regulation 2 of 2023, which is precisely applicable only in respect of additional capital expenditure on account of revised emission standards.
5. Aggrieved by the said Order, TGGENCO has filed the present Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Clause 32 of the TGERC Conduct of Business Regulations, 2015, seeking to review the order passed in O.P. No. 78 of 2025 dated 10.03.2026.

Submissions of Review petitioner

6. The Review Petitioner has submitted that in the pleadings of O.P. No. 78 of 2025 the petitioner due to typographical error inadvertently mentioned clause 23 of Regulation No.2 of 2023 and submitted that the Commission has powers to grant the relief irrespective of the provision of law mentioned. It also further submitted that the petitioner has submitted material to show that the additional capitalisation is for the works within the scope of work.
7. It is submitted by the petitioner that the Commission while approving the capital cost of Rs. 831.45 Crores under the civil works of TGGENCO for the 4th control period has specifically ordered that “For new plants, the commission has approved proposed additional capitalization which is within the original scope of the project incurred on a later date to save IDC”. Hence submitted that this Commission ought to have allowed the proposed additional cost towards construction of Quarters at KTPS-VII stage as it would not burden the consumers, and that the TGGENCO would undertake not to claim IDC on the proposed expenditure towards construction of the quarters.
8. The petitioner submitted that COD of KTPS-VII Stage Unit is completed on 26.12.2018 and thereby the cut-off date is 31.03.2021. The proposed work could not be taken up within the period of cut-off date due to the adverse circumstances on account of Covid-19 pandemic which were beyond the control of the review petitioner. Hon'ble Supreme Court has issued directions to exclude the period from 15.03.2020 to 28.02.2022 while calculating the Limitation Period. Accordingly, the petition for approval of additional capital expenditure of civil works of KTPS-VII Stage was filed on 01.04.2023 within the cut-off period, after excluding the period of 2 years due to Covid-19 pandemic, which is up to 28.02.2024.
9. With regard to justification, the petitioner submitted that TGGENCO has taken up expansion by addition of 1 x 800 MW Super Critical Coal Based Kothagudem Thermal Power Station (Stage VII) at Paloncha in the existing available lands of KTPS-Complex (KTPS Old Plant - I to IV Stages (720 MW) and KTPS - V & VI - 1000 MW).TGGENCO has applied for grant of Environmental Clearance (EC)

for the project with MOEF and CC. While appraising the proposal, MOEF and CC has stated that the units of KTPS Old Plant (I to IV Stages) of 4 x 60MW and 4 x 120 MW were commissioned during 1966-67 and 1974-78 respectively.

10. It is further submitted by petitioner that the MOEF has recommended that all the old units of KTPS plant (I to IV stages) shall be phased out by 2018-19 and sought commitment of TGGENCO to that effect. For which TGGENCO had submitted commitment letter to MOEF and CC that all the units of KTPS Old plant shall be phased out by the end of 2019. Environmental Clearance for the project was granted on 16.07.2015 with the condition to phase out all the units of KTPS Old Plant by 2019. Subsequently amendment in EC has been granted that all the units of KTPS Old Plant shall be phased out by 31.03.2020.
11. The petitioner submitted that 1 x 800 MW unit is a replacement of KTPS old plant 720 MW capacity established in the existing lands and also proposed the construction of township under KTPS Stage-VII. As per the conditions of Environmental Clearance, all the units of KTPS old Plant were phased out by March 2020. As per Section 2 (30) of the Electricity Act, 2003, the generating station is including of Buildings used for housing the operating staff of generating station.
12. It is further submitted by the petitioner that the original project includes civil buildings for value of Rs. 856.45 crores and out of it, Rs.350 crores are incurred before COD of the Project. Remaining civil works for office and residential purposes which were part of the original scope of project are deferred due to temporarily using the old station buildings. As the old power station is dismantled, balance civil works such as residential buildings in place of old dilapidated units which were constructed 50-60 years ago, are to be constructed.
13. The Petitioner also submitted that KTPS Stage VII has been constructed by demolishing the old residential buildings in the existing D-Colony of KTPS Complex, Paloncha. Many of the existing residential buildings in A-Colony, B-Colony and IM Colony of KTPS Complex were constructed with AC sheet roofing during 1960-70 for the employees of A, B, C Stations of KTPS old plant which was phased out in March 2020.

14. It is further submitted that the total number of residential building units required for the employees working at KTPS VII Stage and CETD (Center for Excellence for Training & Development) is 1216 Nos. But the total number of various types of residential building units which are fit for dwelling and available in A-Colony, B-Colony, C-Colony and IM Colony at KTPS Complex for providing accommodation to employees is 236 Nos. only. Hence the balance number of residential building units required to be constructed are 980 Nos. [i.e. 1216 Nos. (-) 236 Nos.]. However, to minimize the budget, it is proposed to construct 724 Residential building units of different types under KTPS Stage VII.
15. The petitioner further submitted that the TGGENCO has established the 1st super critical unit of 1 x 800 MW at KTPS Complex. Since technology of the super critical unit is new to TGGENCO, priority was given for construction of the same for commissioning the unit within the schedule time and concentrated on the stabilization of the unit. The unit is commissioned on 26.12.2018.
16. It is further submitted that the proposed residential building units are replacing assets of old buildings that have completed their useful life, which have been dismantled, with the resulting scrap disposed of through auction conducted by MSTC. This amount was taken as non-tariff income in FY 2023-24 for Rs. 130 crores and passed on to TSDISCOMs.
17. It is further submitted that TGGENCO has now proposed to construct new residential buildings for KTPS Stage VII in the existing KTPS Complex with an estimated cost of Rs. 495 crores which is within the original civil buildings in DPR cost of Rs. 6405.35 crores. The construction will be implemented in phased manner and the expenditure will be incurred in 5th Control Period during FY 2026-27 and FY 2027-28 for completion of project as envisaged in DPR.
18. In respect of the works proposed to be undertaken, the petitioner submitted the Brief description of work: Soil investigation, Engineering, Design, Construction of A-Type, 1 No. (1 Block), B-Type 6 Nos. (6 Blocks), C-Type - 24 Nos. (1 Block with stilt + 4 floors), D-Type 72 Nos. (1 Block with Stilt + 8 Floors), E-Type 171 Nos. (1 Block of 90 units with Stilt + 10 Floors and 1 Block of 81 units with Stilt + 9 floors) and F-Type - 450 Nos. (5 Blocks of 90 units each with Stilt + 10

Floors), Multi storied residential buildings including electrical and fire-fighting system works in full shape at Kothagudem Thermal Power Station Complex, Paloncha, Bhadrachal Kothagudem Dist. It is proposed to construct new residential buildings of 724 units at KTPS-VII Stage, Paloncha by dismantling certain existing old residential buildings.

19. The petitioner further submitted that the Hon'ble Appellate Tribunal for Electricity (APTEL), in an identical case of Central Electricity Regulatory Commission in Appeal No. 25 of 2017 and batch, by order dated 1.12.2022 has remanded the matter to relook at the delay in completing the works beyond the cutoff date based on documentary evidence provided by the petitioner in that case by holding that the Commission has the power to relax the norms and allow the additional capital cost, provided the petitioner provides robust justification as to why the work was delayed due to the factors beyond their control.

Commission's Analysis and Ruling

20. Mr Sridhar learned counsel for the petitioner, apart from submitting the grounds seeking for review of the order dated 10.03.2026, has submitted that taking into consideration of the necessity of construction of residential quarters at KTPS-VII Stage, prayed the Commission to allow the petition either under the clause 22.2 or any other relevant provisions of Regulation 2 of 2023. Mr Bande Ali Law Attache, representing the respondent has submitted that the respondent has no objection to allow the review petition. The respondent has also not filed any counter affidavit.

Findings of Commission

21. Considering the pleadings, and submissions of the petitioner and on perusal of the record placed before the commission the issue that required to be determined is ***whether there are grounds for review of the orders passed in OP No.78 of 2025 dated 10.03.2026.***

22. This petition is filed under the clause 22.2 of Regulation 2 of 2023, which deals with approval of capital expenditure incurred or projected to be incurred in

respect of a New Projects on certain counts mentioned therein, if they are within the original scope of the work, after cut-off date. As per definition under section 2(48) of the Regulation 2 of 2023, New Project means generating station or unit declared under commercial operation on or after 01-04-2024. The additional capital expenditure is in respect of construction of residential quarters at KTPS-VII Stage that was commissioned on 26.12.2018. Therefore, the proposed capital expenditure is not in respect of new project, thereby clause 22.2 will have no application in respect of relief sought for. Similarly, according to petitioner, the proposed works could not be completed either within date of commercial operations or prior to cut-off date on account of Covid pandemic situation.

23. The petitioner is expected to mention appropriate provisions of law to seek approval of the commission for seeking additional capitalisation in respect of the works covered under original scope of work. This Commission has taken note of the fact even in previous occasion in O.P No-78 of 2025 the petitioner has applied incorrect provision of law. The learned counsel representing the petitioner submitted that the Commission may consider the application either under clause 22.2 or any other provision of Regulation 2 of 2023.
24. It is to be noted that the settled legal position is that mentioning the correct provision of law is not mandatory, however it requires that the facts of the case are properly pleaded. Hon'ble Supreme Court has repeatedly held that citing a wrong provision or failing to mention any provision of law is not fatal to the case. A party must plead all material facts necessary to establish their right to relief. Further, Courts have the discretionary power to mould or grant a relief in the interest of justice, if it is strongly supported by the facts already on record.
25. In a case between *Pruthvirajsinh Nodhubha Jadeja (D) vs. Jayeshkumar Chhakaddas Shah* the bench comprising Justice Deepak Gupta and Justice Anniruddha Bose of Hon'ble Supreme Court has held it is well settled law that mere non-mentioning of an correct provision is not fatal to the application if the power to pass such an order is available with the court.
26. There is no dispute that the proposed capital expenditure for construction of residential quarters is within the original scope of the project of KTPS-VII Stage

and also was approved in civil works component of the DPR. Basing on the pleadings this Commission finds that the claim of petitioner is appropriately covered under Clause 22.1 of Regulation No.2 of 2023 which runs as under,

22.1 The capital expenditure, actually incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date, may be admitted by the Commission subject to prudence check:

- i. Undischarged liabilities recognized to be payable at a future date;*
- ii. Works deferred for execution;*
- iii. Procurement of initial capital spares within the original scope of work, in accordance with the provisions of clause 21.8;*
- iv. Liabilities to meet award of arbitration or for compliance of directions or order of any statutory authority or order or decree of any court of law; and*
- v. Change in law or compliance of any existing law; and*
- vi. Force majeure events:*

Provided that the details of works included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the Petition for determination of final Tariff after the date of commercial operation of the generating Unit/Station or transmission system: Provided further that in case of replacement of assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of decapitalization.

27. Basing on the above-mentioned provision of law it is to be examined whether the petitioner has made out a case that there existed circumstances beyond his control for considering the delay under force majeure clause. It is the submission of the petitioner that the petitioner could not approach this Commission seeking approval for proposed capital expenditure within the cutoff date, due to Covid pandemic.

28. Admittedly COD of KTPS-VII Stage was achieved on 26.12.2018 and thereby the applicable cut-off date was 31.03.2021. The petitioner should have approached this Commission seeking approval of capital cost for construction of quarters on or before the cutoff date. However, Covid pandemic has struck entire

world including India paralysing all the administrative activities. Hon'ble Supreme court of India has taken note of this and passed directions in suo-motu writ petition (Civil) No-3/2020, directing to exclude the entire period from 15.03.2020 to 28.02.2022 while calculating the Limitation Period. Accordingly, the period with effect from 15.03.2020 to 28.02.2022 will have to be excluded while considering the issue as to whether the petitioner has approached this Commission within cutoff date.

29. This Commission observes that 15 months after COD the Covid pandemic has stuck thereby, the cutoff date gets extended by about thirteen months from 28.02.2022. Accordingly, the petitioner should have filed the petition on or before 16.03.2023. However, the petitioner has filed proposed capital expenditure along with the Business plan and capital investment plan on 01.04.2023 with a slight delay.
30. This Commission takes judicial notice of the fact that the COVID-19 pandemic brought about unprecedented restrictions on movement, disruption in availability of labour, impediments in procurement, and serious constraints in the execution of construction activities across the country. The Commission is also conscious of the practical difficulties faced in securing vacation of staff quarters during the said period. The adverse consequences of the pandemic did not cease immediately upon lifting of formal restrictions but continued to affect normal functioning for several months thereafter. Therefore, it would be unrealistic to expect that the petitioner could have immediately approached this Commission for approval soon after the pandemic situation began to ease. Some reasonable time was inevitably required for restoration of normalcy and for the petitioner to place the matter before this Commission.
31. It is submitted by the petitioner that the existing residential quarters in A, B, IM, and C colonies of the KTPS complex, Paloncha, were constructed during 1960-1970 for the employees of A, B, and C stations of the old KTPS plant, which was phased out in March 2020. The employees residing in existing old quarters since long and reluctant to vacate the same, resulting delay in finalization of location for construction of quarters. The employees were also scared to vacate the

quarters due to Covid-19 pandemic thereby delay in taking up the Construction of new quarters.

32. In view of the foregoing, this Commission is of the considered opinion that the deferment of the subject civil works was occasioned by circumstances beyond the control of the Review Petitioner. The Commission is satisfied that the disruption caused by the COVID-19 pandemic, having directly affected movement, labour availability, procurement, construction activity and allied execution requirements, constitutes a force majeure event in the facts and circumstances of the present case.
33. Considering the period affected by the COVID-19 pandemic, which has also been recognized by the Hon'ble Supreme Court for exclusion in computing limitation, and the reluctance of employees to vacate the quarters, the Commission is satisfied that the petitioner had approached the Commission within a reasonable period after COD and thereby the effective cutoff date gets extended until petitioner has filed the application.
34. In so far as powers of this Commission in entertaining the review petition is concerned, Section 94(1)(f) of the Electricity Act, 2003 provides that the appropriate Commission shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of reviewing its decisions, directions and orders. Thus, the Commission possesses a statutory power of review akin to that under Order XLVII Rule 1 CPC. However, review jurisdiction is extremely limited, and principles of Order XLVII Rule 1 CPC apply. Review can be granted, when new evidence has been discovered, which was not within the knowledge of the applicant despite due diligence. Similarly, when errors are apparent on the Face of the Record. The error apparent means, includes a patent and self-evident mistake; An error which does not require lengthy arguments to establish; and an obvious omission or oversight. Examples include Mathematical mistakes; Incorrect citation of a statutory provision; Failure to notice a binding judgment directly governing the issue; and Inadvertent recording of a fact contrary to the record. Review is also permissible for any other sufficient reason like Violation of principles of natural justice; Order passed

under a mistaken assumption of a crucial fact; and Manifest injustice arising from a procedural irregularity.

35. The Commission is satisfied that the proposed additional capital expenditure forms part of the original scope of the project, the proposal was placed before the Commission within the extended cut-off period, with slight delay and the delay has been satisfactorily explained on account of force majeure circumstances arising out of Covid-19 pandemic. The material placed on record further establishes that the proposed works are intended to towards construction of residential quarters at KTPS-VII Stage and are within the original scope of the project. Therefore, considering the above discussions, this Commission holds that this fit case to review.

36. In view of the foregoing discussion and taking into consideration the undertaking furnished by TGGENCO that it shall not claim Interest During Construction (IDC) on the delayed expenditure, the Commission hereby approves the additional capital expenditure of ₹495 crore towards the construction of residential quarters for KTPS Stage-VII, subject to the condition that the expenditure shall be accommodated within the originally approved cost for civil works. Further, no Interest During Construction (IDC) shall be admissible on the said expenditure.

37. Accordingly, the Review Petition is allowed.

This Order is typed to dictation, corrected and signed on this 10th day of July, 2026.

Sd/-

CHERUKURI SRINIVASA RAO
MEMBER (FINANCE)

Sd/-

RAGHU KANCHARLA
MEMBER (TECHNICAL)

Sd/-

Dr. JUSTICE DEVARAJU NAGARJUN
CHAIRMAN

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