



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION HYDERABAD**  
**5th Floor, Singareni Bhavan, Lakdi-ka-pul Hyderabad 500 004**

I.A. (SR) No. 30 of 2020  
in  
O.P. (SR) No.24 of 2020

Dated: 01.09.2020

Present  
Sri T. Sriranga Rao, Chairman  
Sri M. D. Manohar Raju, Member (Technical)  
Sri Bandaru Krishnaiah, Member (Finance)

Between:

M/s.L & T Metro Rail (Hyderabad) Limited,  
Hyderabad Metro Rail Administrative Building,  
Uppal Main Road, Nagole, Hyderabad.

.... Applicant / Petitioner.

AND

Southern Power Distribution Company of Telangana Ltd.,  
Corporate Office, # 6-1-50, Mint Compound,  
Hyderabad – 500 063.

.... Respondent / Respondent.

This application has come up for hearing on 26.08.2020. Sri. Avinash Desai, Advocate for the petitioner and Sri. Anil Kumaru, SE (Commercial) and Sri. K. Sathish Kumar, DE (RAC) TSSPDCL appeared through video conference. This interlocutory application having been heard and having stood over for consideration to this day, the Commission passed the following:

**ORDER**

The applicant / petitioner has filed a petition challenging the actions of the respondent in not acting in accordance with the directions of the Commission providing certain relaxations for mitigating the impact of COVID-19, vide order dated 29.04.2020 in O. P. No 17 of 2020 and order dated 13.05.2020 in R. P. (SR) No.13 of 2020 in O. P. No.17 of 2020, and seeking issuance of direction to the respondent to collect electricity charges with derated contracted maximum demand [CMD(s)] for the lockdown period with effect from 22.03.2020.

2. The applicant / petitioner has also filed an interlocutory application seeking issuance of direction to the respondent not to take any coercive steps including disconnecting the electricity connections of the petitioner company pending disposal of the original petition.

a) It is stated that the applicant / petitioner is a special purpose vehicle (SPV) incorporated for implementation of the Hyderabad metro rail project on design, built finance, operate and transfer (DBFOT) basis. The applicant / petitioner has availed various connections from the respondent, that is for four receiving substations to provide power supply for the Hyderabad metro rail system and four shopping malls, which are an integral part of the Hyderabad metro rail project.

b) It is stated that the Government of Telangana vide G. O. Ms. No. 45 dated 22.03.2020 and G. O. Ms. No. 46 dated 22.03.2020 had notified lockdown in entire state of Telangana till 31.03.2020. It is stated that vide G. O. Ms. No. 57 dated 12.04.2020 and G. O. Ms. No. 64 dated 07.05.2020 the lockdown was extended from time to time till 31.05.2020. It is stated that the state government thereafter issued G. O. Ms. No. 72 dated 31.05.2020 extending the lockdown till 30.06.2020 in containment and issued G. O. Ms. No. 76 of 2020 dated 07.06.2020 wherein malls were permitted to open from 08.06.2020 but the Metro Rail Services operated by the Petitioner remained closed.

c) It is stated that all the commercial establishments remained closed during the lockdown period and are facing a huge financial crunch. It is stated that malls were permitted to open from 08.06.2020 but the Metro Rail services have not yet been permitted to commence in Hyderabad as per the directions of the state government. As a result, it is very hard for the power intensive industries like the applicant / petitioner to maintain their existing CMD. It is stated that maintaining the existing CMDs is economically not viable for such industries.

d) It is stated that the Commission upon representation made by Federation of Telangana Chambers of Commerce and Industry, Hyderabad and All India Induction Furnaces Association (South Central Region), keeping in view the situation of power intensive industries and gravity of hardship caused to them if they had to maintain the existing CMDs, relaxed the provisions of the

general terms and conditions of supply (GTCS) and Schedule I of Regulation No. 5 of 2016 (Licensees Standards of Performance) (SOP Regulations) for the lockdown period vide order dated 29.04.2020 in O.P. No. 17 of 2020 (Suo Moto).

e) It is stated that the relevant clauses of GTCS and SOP Regulations which deal with reduction in load are extracted hereunder:

*Clause 5.9.4.2 of the GTCS:*

“Deration of Termination of Agreement in respect of HT supply: The consumer may seek reduction of Contract Maximum Demand or Termination of HT Agreement after the Expiry of the Minimum Period of the Agreement by giving not less than one month notice in writing expressing his intention to do so. However, if for any reason the consumer chooses to derate the CMD or terminate the agreement, before the expiry of the minimum one year period of the agreement, the CMD will be derated or the agreement will be terminated with effect from the date of expiry of the initial one year period of the agreement or after expiry of one month notice period whichever is later. The Company can also terminate the HT Agreement, at any time giving one month notice if the consumer violates the terms of the HT agreement or GTCS or the provision of any law touching the agreement including the act and rules made thereunder, and A.P Electricity Reforms Act, 1998. On termination of the HT agreement the consumer shall pay all sums due under the agreement as on the date of its termination.”

Clause 7.3 of Schedule I of Regulation No 5 of 2016 (Licensees Standards of Performance) (SOP Regulations)

*“Reduction in Load*

Upon receipt of a request by a consumer for reduction of contract demand / contract load of such consumer after expiry of minimum period of agreement entered by the consumer with the licensee (indicated in GTCS), the distribution licensee shall reduce the contract demand/contract load of such consumer before the expiry of the second billing cycle after the receipt of such request;

Provided that consumer executes fresh agreement for such revised load before the second billing cycle.”

f) It is stated that the Commission by virtue of its order dated 29.04.2020 relaxed the above clauses and granted an opportunity to the consumers to avail deration of CMD by applying to the licensee and permitted consumers to exercise Clause 5.9.4.2 of GTCS to avail deration irrespective of the criteria of completion of the minimum period of agreement as stipulated in GTCS. It is submitted that as per the order dated 29.04.2020 of the Commission, the distribution licensees upon request made by the consumer seeking relaxation, must give effect to the request of such consumer within five days from the date of receipt of the application. Therefore, the requirement stipulated in the SOP Regulations to execute a fresh agreement before deration can be availed, was done away with for the entire period of the lockdown.

g) It is stated that pursuant to the order of the Commission, the petitioner vide its letter dated 01.05.2020 requested the Respondent to derate the CMD for the following connections:

Name of RSS	Connection Number	Tariff Category	Sanctioned CMD (KVA)	Derated CMD during Lockdown (KVA)
Uppal RSS	HBG2851	HT V(B)	5500	2000
Miyapur RSS	MCL2718	HT V(B)	3500	700
MGBS RSS	HDS787	HT V(B)	5000	700
YUF RSS	BJH2090	HT V(B)	4250	500
Name of the Mall	Connection Number	Tariff Category	Sanctioned CMD (KVA)	Derated CMD during Lockdown (KVA)
L&T Mall Punjagutta (Punjagutta Mall)	MCL 2718_1	HT II	4000	500
L&T TOD Panjagutta (Irrummanjil Mall)	HDS787_1	HT II	2000	500
L&T TOD (Moosarambagh Mall)	HDS787_2	HT II	1500	500
L&T Metro Rail (Hyderabad LTD) (Hi-Tec City Mall)	BJH2035	HT II	1400	500

h) It is stated that without considering the request made by the applicant / petitioner, the respondent issued electricity bills to the applicant / petitioner without derating the CMD for the above said connections. It is stated that the applicant / petitioner once again wrote a letter dated 06.05.2020 to the respondent requesting the respondent to accept the request made by the applicant / petitioner for deration of CMD in accordance with the order dated 29.04.2020 passed by the Commission in O. P. No 17 of 2020 and to issue revised electricity bills.

i) It is stated that according to the orders passed by the Commission, the respondent shall accept the request made by the applicant / petitioner seeking deration within five days from the receipt of the application. It is stated that the respondent failed to respond to the application of the applicant / petitioner dated 01.05.2020 and issued electricity bills for all the connections mentioned above.

j) It is stated that the metro rail services and the malls were closed during lockdown without any revenue and the applicant / petitioner was also paying salaries to its employees as per the directions of the state government which had adverse implication on the financial position of the applicant / petitioner.

k) It is stated that as the respondent did not respond to the request, the applicant / petitioner paid the electricity charges with derated CMDs and informed the same to the respondent vide its letter dated 08.05.2020 and once again requested the respondent to issue revised electricity bills with derated CMDs.

l) It is stated that the respondent, challenging the order dated 29.04.2020 passed by the Commission, filed a review petition before the Commission being R. P. (SR) No.13 of 2020 in O.P.No.17 of 2020. It is stated that the Commission vide order dated 13.05.2020 dismissed the review petition holding that the review petition is devoid of merits.

m) It is stated that after dismissal of the review petition, the applicant / petitioner vide its letter dated 18.05.2020 once again requested the respondent to issue revised electricity bills with derated CMDs for the lockdown period. It is stated that after submitting the letter dated 18.05.2020, the applicant / petitioner received various letters for various connections from

the respondent wherein the respondent accorded approval for deration of CMDs but stated that,

“b. Deration shall be effected within (5) five days i.e., with immediate effect OR from the date of revised agreement whichever is later in terms of TSERC orders vide reference (2<sup>nd</sup>) cited and also this relaxation given is applicable only during lockdown period.

c. The concerned ADE/Operation shall reset the MD after entering the revised HT Agreement on required stamp paper and all the readings will be taken before resetting the MD and also collect the revised test report and without changing metering equipment i.e., CTs / PTs.

d. The deration of CMD shall be affected from the date of reset of MD and TSSPDCL is not responsible for the delay in entering revised HT Agreement.”

n) It is stated that in the said letters respondent did not respond to the request of issuance of revised electricity bills with derated CMDs for the lockdown period and instead directed the applicant / petitioner to approach the Superintendent Engineer for execution of amendment agreement with derated CMDs.

o) It is stated that the applicant / petitioner after receiving the letters, had written a letter dated 20.05.2020 to respondent wherein it was requested that the deration of CMDs should be considered for the lockdown period starting from 22.03.2020 and not from date of entering into the agreement. It was also stated in the letter that any deration of CMD's with effect from 16.05.2020 or after 16.05.2020 till completion lockdown technically amounts to no relaxation as the lockdown was likely to end on 31.05.2020, which is not in line with the orders of the Commission. It is stated that a letter was also submitted to this effect to the Commission explaining above stated facts and seeking issuance of necessary directions to the Respondent.

p) It is stated that the applicant / petitioner had addressed another letter dated 20.05.2020 to the respondent seeking to increase their derated CMDs for the above connections as the applicant / petitioner was planning for some preparatory activities.

q) It is stated that the act of respondent in failing to respond to the applicant / petitioner within a period of 5 (five) days from the receipt of its request, and

instead insisting that the applicant / petitioner should enter into another agreement for deration of CMDs is unfair, arbitrary, and contrary to the orders by the Commission in O. P. No 17 of 2020 and the review petition.

r) It is stated that the respondent in its letter dated 16.05.2020 has incorrectly stated that as per directions of the Commission vide order dated 13.05.2020 in the review petition the deration shall be effected within five (5) days that is with immediate effect or from the date of revised agreement whichever is later in terms of Commission orders. It is stated that the Commission vide its orders dated 29.04.2020 and 13.05.2020 clearly held that for a consumer who seeks to avail the deration of CMDs shall submit an application to the licensee and the licensee shall give effect to the request made by such consumer as long as the lockdown is extended (which for metro rail services is still in force up to 31.07.2020 as per MHA order dated 29.06.2020) within five days from receipt of the application. It is stated that although the malls were permitted to open from 08.06.2020, the number of people visiting the malls was very minimal in view of the pandemic, causing continued revenue loss to the applicant / petitioner.

s) It is stated that the Commission issued the order dated 29.04.2020 for deration of CMD's for the entire lockdown period and any extensions thereto. It is stated that the respondent by already issuing the electricity bills without considering the request made by the applicant / petitioner for deration of CMDs and directing the applicant / petitioner to enter into an amendment for availing deration of CMDs by letter dated 16.05.2020 so that it can give effect to such derated CMDs from the date of execution of such agreement is completely incorrect.

t) It is stated that the order of the Commission made it abundantly clear that the opportunity given to consumers to avail deration of CMDs is for the complete period of lockdown that is starting from 22.03.2020, as the entire purpose of the Commission's orders was to alleviate the hardships being faced by electricity consumers. However, the actions of the respondent in issuing letter dated 16.05.2020 granting deration of CMDs only after a revised HT agreement is entered into and resetting of MD is done, is not in line with the orders of the Commission. The respondent has flagrantly violated the orders of the Commission as it is attempting to take away the relaxation of not

being required to enter into a revised agreement which was granted by the Commission. The action of the respondent is contrary to orders passed by the Commission in O. P. No. 17 of 2020 and review petition and defeats the intention of the Commission to give relaxation to the consumers in view of the COVID-19 pandemic.

u) It is stated that while the things stood thus, the respondent threatening to disconnect power had sent its team for disconnection to Yusufguda Metro Station on 29.06.2020 and to Uppal Metro Station on 30.06.2020.

v) It is stated that the said action of the respondent is highly arbitrary, illegal and contrary to the orders of the Commission. It is stated that the balance of convenience lies in favour of applicant / petitioner and applicant / petitioner will be put irreparable loss and hardships if the respondent is not restrained from taking any coercive steps including disconnection of electricity connection of the applicant company pending disposal of the original petition.

3. The applicant / petitioner based on the above submissions has sought the prayer in this application as below.

“To direct the respondent not to take any coercive steps including disconnection of electricity connections of the applicant / petitioner, which are subject matter of the petition, pending disposal of the original petition.”

4. Heard the arguments of both the parties. Considered the submissions and material available on record. Briefly stated the submissions of the parties are summarized hereinafter. The counsel for the petitioner made elaborate submissions on the issue of maintainability of the petition, stating that non-implementation of the order of the Commission constitutes a violation of the Commission's order. He also stated that the present petition is maintainable without reference to the violation of the order as there is an issue of interpretation of the order of the Commission with regard to its implementation. Though it is a consumer company, yet it is required to be decided by the Commission only and not the CGRF concerned as provided in the Electricity Act, 2003 (Act, 2003). It is also relied on clauses 5, 6, 7 and 8 of section 42 of the Act, 2003 as also the judgments rendered by the Hon'ble ATE in the matter of (1) Paschim Gujarat Vij Co Ltd vs Gokul Agro Resources Ltd and ors- Paras 18,



22 and (2) Power Transmission Corporation vs Utharakhand Electricity Regulatory Commission - Paras 30,35,38,39.

5. On the other hand, the representative of the respondent has sought time for filing the counter affidavit stating that the papers have been received only the other day as also the hearing for the day has been scheduled in respect of maintainability of the petition only.

6. From the submissions, the Commission gathers that the applicant / petitioner is under the threat of disconnections of power supply to the various units established by the applicant / petitioner. Though the original petition is with reference to allowing deration of the CMD and such request was not implemented from the date of application, but subsequent date cannot be a subject matter of a petition before the Commission, however, the argument envisaged by the applicant / petitioner would make the present petition as proposing to take action for violation of the Commission's order on deration under section 142 of the Act, 2003.

7. Reliance is placed on the two judgments rendered by the Hon'ble ATE as referred above with regard to the maintainability of the original petition. At this juncture, the Commission do not wish to dwell into the said issue for the present, as the same is required to be examined in the context of present facts and circumstances. At present the Commission is concerned with regard to the interim relief pending disposal of the original petition to safeguard the interest of the original petitioner.

8. The applicant / petitioner is required to pay the regular monthly bills and in doing so it has to pay the entire amount due instead of the reduced amount in the event of accepting its request for deration of the CMD. In the absence of the application for deration, the respondent is insisting on payment of the entire amount as stated by the petitioner. If the applicant / petitioner fails to pay the bills raised by the respondent, it may attract disconnection of power supply being availed by the applicant / petitioner.

9. In order to safeguard the interest of the applicant / petitioner and to avoid unpleasant situation of the disconnection of power supply contrary to the request of

not derating CMD, the Commission is of the view that the respondent should not take any coercive steps pending disposal of this application as also the original petition. This order is passed without reference to the merits of the case, which the Commission would consider while deciding the matter finally. This order is passed as an ad-interim measure only.

10. The respondent shall not take steps against the applicant / petitioner for non-payment of bills or non-payment of part of the bill amount. It shall also file its counter affidavit expeditiously in the original petition as also in this application at any rate by 07.09.2020 duly serving a copy of the same to the counsel for the applicant / petitioner.

11. The original petition and this application stand adjourned to 18.09.2020 for final hearing.

***This order is corrected and signed on this the 1<sup>st</sup> day of September, 2020.***

Sd/-  
(BANDARU KRISHNAIAH)  
MEMBER

Sd/-  
(M.D. MANOHAR RAJU)  
MEMBER

Sd/-  
(T. SRIRANGA RAO)  
CHAIRMAN

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