



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION**  
**5<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004**

**O.P.No.27 of 2020**

**Dated 13.09.2023**

**Present**

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

Between:

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

... Petitioner.

AND

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

... Respondent.

This petition has come up for hearing on 12.01.2023 and 04.04.2023. Sri. M. Nethan Reddy along with Ms. Veena Raju, Advocates representing Sri Khamar Kiran Kantamneni, counsel for petitioner appeared on 12.01.2023. Sri. Avinash Desai, Senior Counsel along with Sri. M. Nethan Reddy, Advocate for petitioner appeared on 04.04.2023. Sri. Mohammad Bande Ali, Law Attaché, for the respondent appeared on 12.01.2023 and 04.04.2023 and having been heard and having stood for consideration to this day, the Commission passed the following:

**ORDER**

1. M/s L&T Metro Rail (Hyderabad) Limited (L&T MRL), the petitioner by filing a Memo dated 22.12.2022 made a request to the Commission to consider the prayers of the petitioner in O. P. No. 27 of 2020 afresh for taking into consideration the conclusions of the Hon'ble Appellate Tribunal for Electricity (APTEL) in Appeal No. 283 of 2022.

2. The submissions made in the Memo are as follows:
- a) It is stated that the present memo is filed seeking to bring on record the order passed by the Hon'ble APTEL dated 15.11.2022 in Appeal No. 238 of 2022 and for issuance of necessary orders in accordance with the same.
  - b) It is stated that the Commission Suo Moto passed orders dated 29.04.2020 in O. P. No. 17 of 2020 to mitigate the impact of COVID-19. In the said order, the Commission relaxed the Clause 5.9.4.2 of General Terms and Conditions of Supply (GTCS) and Clause 7.3 of Schedule I of Regulation No. 5 of 2016 and allowed the reduction of the load on temporary basis.
  - c) It is stated that by virtue of the said order, the Commission granted the opportunity to the consumers to avail deration of Contracted Maximum Demand (CMD) by applying to the distribution 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 order dated 29.04.2020 of the Commission, the distribution licensee 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.
  - d) It is stated that the petitioner made an application to the respondent for CMD to be derated for certain connections. The respondent did not accede to the request of the petitioner and issued electricity bills without derating the CMD.
  - e) It is stated that aggrieved by the said action, the petitioner filed O.P.No.27 of 2020 before the Commission.
  - f) It is stated that the Commission dismissed the said O.P.No.27 of 2020 vide order dated 19.10.2020. The petitioner filed a Review Petition being R.P.No.1 of 2021 seeking the review of the order dated 19.10.2020 in O.P.No.27 of 2020 and the same was dismissed vide order dated 23.08.2021.
  - g) It is stated that aggrieved by the orders in O. P. No. 27 of 2020 and R. P. No. 1 of 2021 the petitioner filed an appeal before the Hon'ble APTEL being Appeal No. 238 of 2022. The Hon'ble APTEL vide order dated 15.11.2022 allowed the appeal and directed the Commission to consider the prayers of the petitioner in the petition (O. P. No. 27 of 2020) afresh taking into consideration the conclusions of the Hon'ble APTEL. The operative portion of the order of Hon'ble APTEL is extracted hereunder:

- "9. Having heard the learned counsel or both parties we find the Commission to be in error. By the suo motu order dated 29.04.2020 the rigor and requirements both of GTCS and SOP Regulations had been relaxed. The distribution licensee is obliged under the relaxed norms to grant the request for reduction of the CMD "on receipt of the application" from the consumer within five days of its submission, there being no requirement added for any fresh agreement to be executed. In the circumstances for dealing with which the norms were relaxed as above, the formal execution of the agreement could not even otherwise have been a requirement added. The period for which such situation were to prevail was uncertain. The order relaxing the norms was thus virtually open ended, though formally amended from time to time. Since the social and economic activity was adversely affected, this necessarily having impacted the use of the Metro Rail services, the appellant could not have specified the period for which such relaxation would be necessary to save unnecessary expenditure.
10. For above reasons, we find the view taken by the State Commission in the impugned order dated 19.10.2020 incorrect, not in sync with the letter and spirit of the suo motu order dated 29.04.2020, the requirement of execution of fresh agreement in terms of clause 7.3 of SOP Regulations also being part of the norms which had been thereby relaxed.
11. In above view, the impugned order is set aside. The State Commission is directed to consider the prayers presented by the appellant in its petition, on which the impugned order was passed, afresh bearing in mind the above conclusions and issue consequential directions thereupon.
12. The appeal is disposed of in above terms."
3. The petitioner has sought the following prayer in the Memo dated 22.12.2022:
- "In view of the foregoing facts and circumstances and the grounds pleaded by the Petitioner it is most respectfully prayed that this Commission may be pleased to consider the prayers of the Petitioner in O.P.No.27 of 2020 afresh taking into consideration the conclusions of the Hon'ble APTEL in Appeal No.238 of 2022 and pass any such other order(s) as this Commission may deem fit in the interest of justice and equity."*
4. The Commission heard the arguments of both the parties and also considered the material available on record. The submissions made by the parties on respective dates are extracted below for ready reference:

Record of Proceedings dated 12.01.2023

*The advocate representing the counsel for petitioner stated that the matter has been remanded back to the Commission for a fresh disposal based on the observations made by the Hon'ble ATE. The counsel for petitioner will be able to make submissions only after two weeks, as the matter is required to be examined again. The representative of the respondent stated that the Hon'ble ATE did not specify any time limit for disposal on remand. Therefore, the*

Commission may schedule the matter at any point of time. Considering the request of the parties, the matter is adjourned.

Record of Proceedings dated 04.04.2023

The counsel for petitioner stated that the original petition was earlier disposed of by the Commission by order dated 19.10.2020. The petitioner had approached the Hon'ble ATE questioning the order passed by the Commission in Appeal No.238 of 2022. The Hon'ble ATE disposed of the matter on 15.11.2022 duly remanding the matter back to the Commission for reconsidering the prayer of the petitioner in terms of the observations made therein.

The counsel for the petitioner stated and explained the prayer in the original petition, which was not acceded to by the Commission in terms of its subsequent order dated 29.04.2020 regarding deration of the load of the petitioner. He stated that the Commission did not consider the entire lockdown period starting from 22.03.2020 upto its removal for effecting deration. Instead the period considered is posterior to the Commission's order dated 29.04.2020 and further the condition stipulated therein that it should be considered on application and after entering into fresh agreement for supply. He stated that the petitioner had originally sought to give effect to the order of the Commission dated 29.04.2020 from 22.03.2020 to that time period upto which lockdown was imposed. Also, the licensee had misinterpreted the directions of the Commission and insisted on entering into fresh agreement which was not required as per the observations of the Hon'ble ATE while interpreting the order of the Commission dated 29.04.2020.

The counsel for petitioner stated that the Commission by its order dated 29.04.2020 had sought to mitigate the difficulty in availing the total demand contracted for as the petitioner and all other consumers were required to shutdown the operations or functions except emergency services during the lockdown imposed by the government in the year 2020. The petitioner also approached the licensee to derate the demand temporarily as it was not permitted to operate its services.

The counsel for petitioner stated that even though, it had approached the licensee for deration of demand, the licensee did not accede to the request and insisted upon the agreement to be entered, which was not the intention of the Commission while safeguarding the interest of consumers in its order dated 29.04.2020. Despite representation to the licensee as no action was coming forth from the licensee, the petitioner had to approach the Commission for appropriate orders. The Commission having considered the request of the petitioner disposed of the original petition on 19.10.2020, but did not consider the relief to be extended from the date of lockdown as sought for.

The counsel for petitioner stated that aggrieved by the order of the Commission, the petitioner approached the Hon'ble ATE. After considering the submissions of the petitioner and the licensee, it was pleased to remand the matter back to the Commission with the observation made therein. The Hon'ble ATE required the Commission to re-examine the prayer of the petitioner in accordance with its suo motu order dated 29.04.2020, wherein the requirement of fresh agreement has been relaxed in terms of SOP regulation.

At present, the Commission is not required to examine the entire case, but it is limited to the prayer extending the facility of deration from the commencement of lockdown period that is 22.03.2020. The Commission in its order dated

*29.04.2020 did not specifically mention that the order is prospective and instead it employed the words for the period of the lockdown. In view of the above, the Commission may consider examining the matter afresh in terms of the observations of the Hon'ble ATE and give relief to the petitioner.*

*The representative of the licensee stated that the Hon'ble ATE did not give any liberty to the Commission to examine the entire case of the petitioner afresh. The observations made therein are specific and require the Commission to examine only the prayer made by the petitioner in the context of the order passed by the Commission suo motu on 29.04.2020. The conditions imposed are compliance of the regulation or terms and conditions of supply are not the ingredients for consideration at this point of time. The Hon'ble ATE did not give liberty to look at the issue in the prism of regulation or terms and conditions of supply. The Commission is required to consider in this remand proceeding only the prayer made by the petitioner and if it could be considered in terms of the order passed by the Hon'ble ATE.*

*The representative of the respondent strenuously pointed out that the Hon'ble ATE merely explained the order of the Commission dated 29.04.2020 as to what are the requirements to be complied with and not complied with. The petitioner cannot now circumvent what has been approved by the ATE that there was no requirement of any agreement, which was not the import of the order of the Commission with regard to the agreement. Therefore, the Commission may examine if the petitioner is entitled to deration as sought by it from the date of lockdown or prospectively from the date of order of the Commission that is 29.04.2020 in terms of the observations of the Hon'ble ATE. The counsel for petitioner clarified that the petition was filed originally in respect of extension of deration from the date of lockdown till it is lifted in respect of the petitioner's services and nothing more, which the Hon'ble ATE required the Commission to examine the prayer in terms of the orders passed by it on 29.04.2020. It is not praying for any additional consideration other than the directions given by the Hon'ble ATE to the Commission.*

5. It is a fact that the Government of Telangana (GoTS) vide G. O. Ms. No. 45, dated 22.03.2020; and G. O. Ms. No. 46, dated 22.03.2020, with a view to preventing and containing the spread of COVID-19 pandemic has imposed lockdown in the entire Telangana State from 22.03.2020 till 31.03.2020. Thereafter the lockdown was further extended from time to time by GoTS vide G. O. Ms. No. 54 dated 28.03.2020; G.O.Ms.No.57 dated 12.04.2020; G. O. Ms. No. 60 dated 19.04.2020, G. O. Ms. No. 64 dated 07.05.2020 and G. O. Ms. No. 72 dated 31.05.2020 till 30.06.2020 and Government of Telangana by G. O. Ms. No. 75 dated 04.06.2020 and G. O. Ms. No. 76 dated 07.06.2020 permitted Malls to open with effect from 08.06.2020. Later on, the Government of Telangana permitted the Metro Rail to operate from 07.09.2020 vide G. O. Ms. No. 120 dated 31.08.2020.

6. The Commission, recognising the gravity of the then unprecedented and dire situations which arose due to lockdown, to address the hardships faced and issues confronted by the electricity consumers (viz., non-availing of entire contracted load and the hardship in payment of demand charges), noticing that the normal period of eligibility to apply deration of contracted load and the time given to the consumer to apply for deration of contracted load under Clause 5.9.4.2 of GTCS was creating oppressive situation, to reduce the procedural rigidity has passed Suo Moto order dated 29.04.2020 in O. P. No. 17 of 2020 by relaxing certain specific conditions in GTCS and SOP, and specified the following criteria for availing the benefit of deration of contracted load by the consumers.

- i) *A consumer, if it so desires to avail deration of the contracted load may apply to the licensee and is permitted to exercise clause 5.9.4.2 of GTCS irrespective of the criteria of completion of minimum period of the agreement as stipulated in GTCS.*
- ii) *The distribution licensee shall upon such request by the consumers, give effect to the request of the consumer, who has exercised clause 5.9.4.2 of GTCS, within five (5) days on receipt of the application from such consumer.*
- iii) *The above relaxations shall be applicable only during the lockdown period.*
- iv) *The above relaxations shall not be applicable for the period after lifting the lockdown and the conditions in the GTCS and SOP would continue to be applicable normally as before.*
- v) *The consumers are at liberty to seek restoration of the load post lifting of the lockdown.*
- vi) *In case the deration of the load happens in between the billing cycle in terms of the request of the consumer as per the relaxation given above, the distribution licensee shall endeavour to bill the consumer duly giving effect to the deration, that is billing as per the tariff order up to the date of deration and post deration of the load on the basis of the de-rated load only. The demand charges shall be levied accordingly on proportionate basis.*

7. The petitioner pursuant to the order of the Commission made an application dated 01.05.2020 and which was received on 02.05.2020 by the respondent for deration of contracted load for the following connections:

<b>Name of RSS</b>	<b>Connection Number</b>	<b>Tariff Category</b>	<b>Sanctioned CMD (kVA)</b>	<b>Derated CMD During Lockdown (kVA)</b>
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 RSS	Connection Number	Tariff Category	Sanctioned CMD (kVA)	Derated CMD During Lockdown (kVA)
L&T Mall Punjagutta (Punjagutta Mall)	MCL2718_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

The respondent did not accede to the request of the petitioner and issued electricity bills without derating the CMD.

8. Aggrieved by the said action, the petitioner filed O. P. No. 27 of 2020 before the Commission under Section 94 of the Electricity Act, 2003 read with Section 86 and sought the following prayer:

*“To direct the respondent to derate the CMDs for the connections given to the petitioner as mentioned above for the entire lockdown period (up to 08.06.2020 for Malls and still continuing for Metro Operations up to 31.07.2020 as per MHA order dated 29.06.2020) starting from 22.03.2020 and subsequently issue revised electricity bills to that effect and pass any such other order(s) as the Commission may deem fit in the interest of justice and equity.”*

The Commission dismissed the O. P. No. 27 of 2020 with the order dated 19.10.2020.

9. The petitioner thereafter has filed a review petition i.e., R. P. No. 1 of 2021 in O. P. No. 27 of 2020 by stating that the dismissal of the petition is at odds with the holding of the Commission in its order that the licensee contravened the Suo Moto order dated 29.04.2020 in O. P. No. 17 of 2020 by refusing to enter into agreement within 5 days from the request made by the consumer i.e., petitioner and that the licensee is required to effect duration within the timeline stipulated by the Commission in its Suo Moto order dated 29.04.2020 in O. P. No. 17 of 2020 and there appears to be a typographical error as the petition was dismissed instead of being disposed of in accordance with the Commission’s observations.

10. The Commission has admitted and disposed R. P. No. 1 of 2021 in O. P. No. 27 of 2020 on 23.08.2021 to the limited extent of replacing the word ‘dismissed’ occurring in the paragraph 19 of the order with the word ‘disposed of’.

11. It is clear that the petitioner has sought deration of the load after passing of the Sua Moto order dated 29.04.2020 in O.P.No.17 of 2020 and whereas the respondent did not affect the deration within the time stipulated by the Commission in the Sua Moto order dated 29.04.2020 in O .P. No. 17 of 2020 on the premise that the petitioner did not enter into an agreement as required in the order passed by the Commission. The Hon'ble APTEL in its order dated 15.11.2022 in Appeal No. 238 of 2002 concluded that "*the requirement of execution of fresh agreement in terms of clause 7.3 of SOP Regulation also being part of the norms which had been thereby relaxed*". Therefore, insistence by the respondent for entering into agreement with the petitioner who desired to avail deration of the CMD was uncalled for as there is no condition put by the Commission for entering into an agreement on deration of the load. Further, the period of relaxation was open ended since there was no certainty of prevalence of COVID-19 situation, and the petitioner could not have mentioned the period for which such relaxation would be required in the agreement. What all required was that the consumer on application should avail the deration within five (5) days from the date of application which the respondent shall give effect to such relaxation within such five days timeline, without waiting for the expiry of the statutory period of agreement as prescribed in clause 5.9.4.2 of General Terms and Conditions of Supply (GTCS). The Sua Moto order dated 29.04.2020 in O.P.No.17 of 2020 was intended to give quick relief to the HT consumers immediately within five days of such application vis-à-vis the notice period and timeline for deration under provisions of GTCS and SOP regulation. The requirement of entering into an agreement is not a condition for granting deration.

12. The excuse for non-implementation of the Sua Moto order dated 29.04.2020 in O. P. No. 17 of 2020 given by the respondent is that it has filed a review petition to review the Sua Moto order and only when the review petition has been dismissed, the Sua Moto order has been implemented. This excuse advanced is specious, has no substance and totally untenable. If there was urgency, the respondent ought to have pressed for the stay of the Sua Moto order, which it did not. Merely because a review petition is filed, the respondent is not empowered to ignore the binding order and water down its effect.

13. It is the say of the petitioner that the word 'lockdown' to be understood on the date on which it was imposed until it is lifted and the Suo Moto order of the Commission should have retrospective application i.e., from 22.03.2020 onwards till it is lifted totally. Whereas, from the criteria specified by the Commission in its Suo Moto order dated 29.04.2020 in O. P. No. 17 of 2020 it is clear that for availing the benefit of temporary deration during lockdown period, the consumer has to apply to the licensee (herein respondent) and upon such request by the consumer the licensee shall give effect to the request of the consumer within 5 days of receipt of the application from such consumer. Therefore, the deration of contracted load cannot be affected from 22.03.2020 i.e., the day on which lockdown was declared, as requested by the petitioner, but within 5 days from receipt of application for deration of loads from the consumer.

14. However, in the pleadings of O. P. No. 27 of 2020 the petitioner stated that the application for deration was submitted on 01.05.2020, which was received on 02.05.2020 by the respondent as stated in the letters dated 16.05.2020 addressed to the petitioner, as such, as per Suo Moto order dated 29.04.2020 in O. P. No. 17 of 2020, the respondent was supposed to give effect of deration to the petitioner as sought for within 5 days from the date of application i.e., from 07.05.2020 and upto extended period of lockdown i.e., till the dates on which the Government of Telangana issued orders of lifting of lockdown and permitting the Malls to functions and to resume the Metro Operations.

15. Accordingly, the respondent is hereby directed to give effect for –

- i) Deration of contracted loads of Malls of the petitioner from 07.05.2020 till 07.06.2020 as per G. O. Ms. No.75 dated 04.06.2020 and G. O. Ms. No. 76 dated 07.06.2020 issued by the GoTS, by which Malls were permitted to open and functions from 08.06.2020; and
- ii) Deration of contracted loads of Metro Rail Services of the petitioner from 07.05.2020 till 05.09.2020 as per petitioner letter dated 01.09.2020 addressed to the respondent requested to consider their derated contracted load period till 05.09.2020 stating that Metro Rail operations have been permitted by Government of Telangana from 07.09.2020 vide G. O. Ms. No. 120 dated 31.08.2020 and as such they should start trial

operations from 06.09.2020 for checking of all safety requirements as per Government norms to be able to resume passenger services from 07.09.2020.

Needless to add that in this particular case, since the respondent has not affected derations of contracted loads for the services as applied by the petitioner, there would not be an application from the petitioner for restoration of original contracted maximum demand (CMDs) for the respective services. Therefore, it shall be deemed that original CMD stands restored for the Malls of the petitioner from 08.06.2020 and for the Metro operations of the petitioner from 06.09.2020 as per petitioner letter dated 01.09.2020 addressed to the respondent in pursuant to G. O. Ms. No. 120 dated 31.08.2020 issued by the GoTS.

16. For the foregoing reasons, observations and discussion, the petition is disposed of in the above terms, without any costs.

17. The respondent is directed to issue revised electricity bills to that effect accordingly.

18. Since either of the parties agitated anything with regard to I. A. No. 14 2020, which has been filed along with the original petition seeking issuance of direction to the respondent not to take any coercive steps including disconnection of the electricity connections of the petitioner pending disposal of the original petition, read with the Commission order dated 01.09.2020 passed earlier in SR stage i.e., in I. A. (SR) No. 30 of 2020 in O. P. (SR) No. 24 of 2020, the same is closed.

**This order is corrected and signed on this the 13<sup>th</sup> day of September, 2023.**

<b>Sd/-</b> (BANDARU KRISHNAIAH) MEMBER	<b>Sd/-</b> (M. D. MANOHAR RAJU) MEMBER	<b>Sd/-</b> (T. SRIRANGA RAO) CHAIRMAN
---	---	--

**//CERTIFIED COPY//**