



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

O. P. (SR) No. 26 of 2020

Dated 09.03.2021

Present

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

Between:

M/s Sri Sai Ram Ice Factory,
Plot No.27 (P), Pasumamula, Hayatnagar,
RR District – 501 503.

... Petitioner.

AND

1. Southern Power Distribution Company of Telangana Limited,
Corporate Office, # 6-1-50, Mint Compound,
Hyderabad – 500 063.
2. Assistant Accounts Officer, Operation, ERO,
Hayatnagar, TSSPDCL, Shantinagar,
RR District – 501 505.
3. Assistant Divisional Engineer, Operation,
Shantinagar, TSSPDCL, Hayatnagar,
RR District – 501 505.
4. Assistant Engineer, Operation,
Pedda Amberpet, TSSPDCL,
RR District – 501 505.

... Respondents.

This petition has come up for hearing on 19.11.2020, 17.12.2020 and 07.01.2021. Ms. Nishtha, representative of the petitioner and Sri Mohammad Bande Ali, Law Attaché of TSSPDCL along with Sri K.Satish Kumar, DE of TSSPDCL for the respondents appeared through virtual hearing on the said dates. This petition having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

M/s Sai Ram Ice Factory (petitioner) has filed the petition under Section 142 of the Electricity Act, 2003 read with clause 26(1) of Regulation No.2 of 2015 seeking penal action against Southern Power Distribution Company of Telangana Limited and its officers (respondents) for the alleged violation of the tariff for 2018-19 as extended to 2020-21 by raising incorrect bills.

2. The petitioner stated that the petitioner is a firm under the name and style of M/s Sri Sai Ram Ice Factory having LT connection bearing No.5625-00810 of LT-III category with contracted load of 99 HP for supply of energy and demand from the respondents. The facts of the case as submitted by the Petitioner is as under:

- a. The Electricity Act, 2003 (Act, 2003) is enacted and conferred with the power to this Commission to discharge function as prescribed u/s 86 of the Electricity Act, 2003 (Act, 2003).
- b. The Commission passed the tariff order dated 27.03.2018 for the FY 2018-19, which is continued for further period.
- c. The Regulation No.5 of 2016 (Standards of Performance) dated 13.07.2016 is notified by this Commission.
- d. The respondent No.2 vide its bill No.574 dated 07.05.2020 raised the C.C. charges bill under category LT-III A for the period from April to May, 2020 billing months. In the said bill the respondent No.2 claimed the energy charges on 7727 kVAh @ Rs.6.65 per kVAh and on 7727 @ Rs.7.65 per kVAh. Whereas as per tariff order the LT-III category the energy charges are Rs.6.70 per kVAh as prescribed in the tariff order dated 27.03.2018 of FY 2018-19, which is continued for further period and is in force in FY 2020-21. The respondent No.2 claimed demand charges on 75.25 kVA @ Rs.780 per kVA and on 0.79 kVA @ Rs.1,560 per kVA instead of Rs.60 per kW.
- e. In the billing month of June, 2020 the respondent No.2 has claimed energy charges on 23336 kVAh @ Rs.6.70 per kVAh and demand charges on 74.25 kVA @ Rs.60 per kW which is as prescribed in the tariff order.
- f. It is stated that in the billing month of July, 2020 the respondent No.2 again has claimed energy charges on 13681 kVAh @ Rs.6.65 per kVA and on 13681 kVAh @ Rs.7.65 per kVAh instead of Rs.6.70 per kVAh. The demand charges

on 74.25 kVA @ Rs.390 per kVA and on 4.43 kVA @ 780 kVA instead of Rs.60 per kW as prescribed in tariff order.

- g. The petitioner aggrieved by the said discrepancies approached before the respondent No.2 vide representation bearing letter No.SSRIF/ F.ELEC/BILLS dated 16.07.2020 under clause VII 7.1 (i) and (ii) of the Regulation No.5 of 2016 with a request to resolve the said discrepancies. The respondent No.2 ought to have resolve the discrepancy within 24 working hours of its receipt if no additional information is required to be collected and within (7) working days of receipt of the complaint, if any additional information is required. In this regard, it is to be noted that even after lapse of 13 working days as on 29.07.2020, the respondent No.2 did not resolve the complaint.
- h. In view of the above said facts, the respondent No.2 has contravened the direction issued by the Commission in the tariff order dated 27.03.2018 and in clause VII 7.1 (i) and (ii) of the Regulation No.5 of 2016, hence, liable for punishment for non-compliance of directions by the Appropriate Commission.
- i. The petitioner has sought the following prayer in the petition:
- a. *To implement the LT-III category tariff in April, May and July, 2020 bills of the petitioner.*
 - b. *To pay penalty as prescribed under section 142 of the Act, 2003."*

3. The respondent (TSSPDCL) has filed counter affidavit praying to dismiss the petition as not maintainable in terms of section 94 (2) and 64 (6) and the averments of the respondent as stated in the counter affidavit are briefly stated hereunder.

- a) That petitioner filed complaint before the CGRF-II vide CG No.21/7/2020 on 12.08.2020, complaining that the category of the service connection of the petitioner is LT-III industry and whereas the respondent applied the tariff applicable to HT service connection. The Forum by order dated 30.09.2020 rejected the complaint after hearing to both the parties. The relevant portion of the order is extracted below:

"Therefore in view of the foregoing discussion, the Forum of the view that the respondent have rightly issued the bill on the service connection of the consumer for the months of April, May, July and August 2020 under HT-Cat-I tariff. Hence there is no substance in the complaint to be admitted. Hence these issues are decided against the complainant and in favour of licensee through the respondents.

In the result the grievance complaint dt: 21.07.2020 &12.08.2020 filed by the consumer company is hereby rejected."

- b) Aggrieved by the order dated 30.09.2020 of CGRF rejecting the complaint, the petitioner filed appeal before the Vidyut Ombudsman for the State of Telangana on 19.10.2020 and obtained an interim order directing the respondents not to take any coercive action. The interim order passed by the Vidyut Ombudsman for the State of Telangana dated 19.10.2020 is extracted below:

"Heard. The Appellant apprehends action if full payment is not made disrupting his unit. The Appeal is pending hearing. If relief is not given, it may cause hardship to the Appellant. Hence there shall be a direction to the Respondents not to take any coercive action until disposal of Appeal only on payment of 50% of the demanded amount."

The respondents attended Vidyut Ombudsman on 03.11.2020 made submissions. The petitioner having filed appeal before the Hon'ble Vidyut Ombudsman hurriedly filed the present petition during the pendency of the said appeal. The petition is therefore liable to be dismissed at this stage only.

- c) The petitioner is a LT consumer having SCNo.5625 00810 availing supply under LT-III category service with contracted load of 99 HP.
- d) The Contracted load of the petitioner exceeded in the months of April 2020, May 2020 and July 2020. As per meter reading the recorded maximum demand (RMD) was 100.05 HP during the month of April 2020 and May 2020 and 104.91 HP during the month of July 2020.
- e) In the month of April 2020 and May 2020, the RMD recorded is 75.04 kW that is 100.05 HP. As the consumer crossed the connected Load of 99 HP, the service is liable to be billed applying HT Tariff rates as per Part I A of tariff order. Accordingly the service of the petitioner is billed under the tariff rates applicable to HT-I category as detailed below for total units from 06.03.2020 to 07.05.2020 for two months as per the guidelines issued by Commission during COVID-19 lockdown period. The Units recorded for 2 months are kVAh 15454 kWh 15364 RMD: 75.04 kVA that is 100.05 HP.

Energy Charges for Two months

7727 x 6.65 (normal tariff) = 51384.55

7727 x 7.65 (TOD peak tariff) = 59111.55

Total units - 15454 Rs.110496.10

Demand Charges.

Up to 99 HP x 0.75 = 74.25; 74.25 x 390 = 28957.5;

28957.5 x 2 months = 57915.00

(100.05 HP – 99 HP = 1.05 HP) x 0.75 = 0.79; 0.79 x 780 = 616.2;

616.2 x 2 months = 1232.40

Total = Rs.59147.40

- f) The demand charges were billed twice the normal charge as per clause 7.124 of the tariff order. For convenience clause 7.124 is extracted below:

"In case, in any month the Recorded Maximum Demand (RMD) of the consumer exceeds his Contracted Demand with the Licensee, the consumer shall pay the following charges on excess demand recorded and on the entire energy consumed".

RMD over CMD	Demand charges on excess demand	Energy charges on full energy
100 to 120%	2 times of normal charge	Normal
Above 120% and up to 200%	2 times of normal charge	1.15 times of normal charge
More than 200%	2 times of normal charge	1.20 times of normal charge

As the consumer exceeded the load that is RMD recorded more than 100 HP, the consumer was flagged under HT-I tariff rates as per clause 7.53 (iv) Part-A of tariff orders. For convenience clause 7.53 (iv) is extracted below:

"Where the recorded demand of any service connection under this category exceeds the 75 kVA (1 kVA 1 kW), such excess demand shall be billed at the demand charge prescribed under HT-I (11 kV supply)."

- g) In the month of May 2020, ADE/OP/Hayathnagar has requested for removal of HT flag vide Letter No.ADEOp/HYNG/F.No.D.No.189/20-21, dated 22.05.2020. A letter has been addressed to the SE/OP/SRNR for removal of HT flag. As per the instruction the HT flag has been removed. Consequently, bill for the month of June-2020 is issued under the applicable LT Tariff since the RMD recorded was 97.52 HP, with in the contracted load of 99 HP.

- h) Again in the month of July 2020 the RMD recorded is 104.91 HP exceeding the contracted load of 99 HP. In view of clause 12.3.3.3 of General Terms and Conditions of Supply (GTCS) the bills are being issued under HT-I tariff since the detected additional load is not removed. clause 12.3.3.3 of GTCS is extracted below:

"Cases where the total Connected Load is above 75 HP/56 kW or Cases where the total connected load is above 150 HP under LT category III (B). These services will be billed at the HT category I tariff rates from the consumption month in which the un-authorized additional load is detected till such additional load is removed and got inspected by the designated officer of the Company."

The corporate office EBS team has developed software which automatically flags the services to HT for billing in HT category I in case the consumer exceeds the LT load. Accordingly, from July-2020 onwards the service of the petitioner is billed in HT Cat-I, as per the above clause. The calculation for the July-2020 is detailed below.

Energy Charges

(normal tariff) $6.65 \times 13681 = 90,978.65$

(TOD peak tariff) $7.65 \times 13681 = 104659.65$

Total units - 27362 = Rs.195638.30

Demand charges:

Upto (99 HP $\times 0.75 = 74.25$ kVA) = $74.25 \times 390 = 28957.50$

(104.9 HP – 99 HP = 5.91) $\times 0.75 \times 780 = 3455.40$

Rs.32412.90

4. The petitioner has filed a rejoinder to the above said counter affidavit and stated as below.

- a) The reply filed by the respondent No.2 is not relevant for the present petition hence, this petitioner requests this Hon'ble Commission to ignore the same.
- b) The respondent No.2 admitted that the petitioner service connection is of category LT III with 99 HP contracted load. As the statement is true, this petitioner requests the Commission to take the same on record.
- c) The statement of the respondent No.2 to para No.4 is not correct and not based on the facts, hence, this petitioner denies the same.
- d) The present petition filed is pertaining to the period from 06.03.2020 to 07.05.2020. For this period the respondent No.2 raised the bill No.574 dated 07.05.2020 in which the respondent No.2 mentioned the RMD of 75.04 kVA equivalent to 100.05 HP whereas the actual RMD was 73.49 kVA as per record maintain by the respondent No.2. Hence, the statement of the respondent No.1 is not correct.
- e) The reply of the respondent No.2 to para No.8-9 is not correct hence, the same is denied. The actual RMD was 73.49 kVA whereas the respondent No.2 stated as 75.04 kVA. The evidence of actual RMD of 73.49 kVA is shown in the record maintain by the respondent No.2, same to be considered here.
- f) In respect of Part 'A' LT-Tariffs of tariff order that the *"contracted Load up to 75 kW/100 HP will be treated as LT, for LT-III Industrial category"*. This clause did not empower the respondent No.2 to bill HT category rate without any prior notice to the petitioner more specifically when the connected load of the petitioner is 99 HP only as per record and even as per admission of the respondent No.2.
- g) In respect of clause 7.124 of tariff order is not applicable to the LT-III category. In respect of clause 7.53 (iv) of Part A of tariff order, the clause say that *"Where the recorded demand of any service connection under this category exceeds the 75 kVA (1 kVA = 1 kW), such excess demand shall be billed at the demand*

charges prescribed under HT-I (11 kV Supply)". Even as per this clause the respondent No.2 is entitled to claim demand charges of HT-I only on the exceeded demand, not on the entire RMD. However, the RMD of the petitioner is not exceeded the prescribed quantity of demand in the said period.

- h) The respondent No.2 admitted that June, 2020 he has claimed the LT III category rates. The respondent No.2 is not empowered by any provision of the GTCS, regulation and tariff order to claim the HT tariff rate on the entire RMD without any prior notice to the petitioner when the RMD cross the contracted quantity. The action of the respondent No.2 is in violation of clause 7.53 (iv) Part A or tariff order of financial year 2018-19.
- i) In respect of clause 12.3.3.3, this clause says that where the unauthorised connected load above the prescribed contracted quantity is deducted in any consumption month then only the service will be billed at the HT-I category tariff rates till such time the additional load is removed. Whereas in the present case no additional load is detected. It is stated that from 08.07.2020 to 07.08.2020 the RMD was 71.14 kVA equivalent to 94.85 HP as per Bill No.85 dated 07.08.2020, RMD for 07.08.2020 to 04.09.2020 was 69.29 HP equivalent to 92.39 HP as per bill No.27 dated 04.09.2020, RMD for 04.09.2020 to 05.10.2020 is 71.79 kVA equivalent to 95.72 HP as per bill No.796 dated 05.10.2020 even though the respondent No.2 has claimed HT tariff rates which is a violation of provision of tariff order.
- j) The action of the corporate office to develop software to flag the service connection of LT-III category automatically when exceeds the LT load without prior notice to the consumer is illegal, in violation of provisions of GTCS, regulation and tariff order. In view of the above stated facts, the petitioner prays the Commission to allow the petition as prayed for.

5. The respondents have further filed a further counter affidavit in response to the rejoinder filed by the petitioner. The additional submissions are stated here under.

- a) The request of the petitioner to ignore paras 1 and 2 of the counter filed by this respondent No.2 since the same are not relevant is baseless and misconceived for the reason that the matter in issue before the Hon'ble CGRF and before the Commission is one and the same that is the dispute regarding the bills for the months of April, May, July and August-2020.

- b) The petitioner in the complaints filed before the CGRF straight away prayed the CGRF to set aside the claim of Rs.63,844/-for the months of April, May 2020 and Rs.40,565/- for the month of July 2020; Rs.36,651/- the month of August 2020 on the ground that the AAO/ERO/Hayatnagar raised the bill for the said months under category-III A-I instead of LT-III category. Whereas, the petitioner having lost the cases before the CGRF and having filed appeal before the Vidyut Ombudsman, raised the contention that AAO/ERO/Hayatnagar (respondent No.2 herein) did not resolve the complaint filed by it before him and hence contravened the direction issued by the Commission in clause VII 7.1 (i) & (ii) of Regulation 5 of 2016 and Tariff Order dated 27.03.2018.
- c) The RMD of 73.49 kVA was billed in the month of April-2020 which was issued based on the consumption of April-2019 as per the guidelines issued by the Commission during Covid-19 lockdown. The RMD of 75.04 kVA was recorded in the meter, when the actual reading were taken in the month of May 2020 that is the period 06.03.2020 to 07.05.2020 as per the guidelines issued by the Commission for billing the actual consumption.
- d) As per the tariff order PART - A, LT tariffs 7.3.

"These tariffs are applicable for supply of Electricity to LT consumers with a contracted load of 56 kW/75 HP and below. (However, contracted load up to 75 kW/100 HP will be treated as LT, for LT-III Industrial category)."

The LT- III tariffs are applicable only up to 100 HP or 75 kW. The consumer has crossed the connected loads of 99 HP recorded the RMD of 100.05 HP during the period 06.03.2020 to 07.05.2020 and 104.91 HP during the period 15.06.2020 to 08.07.2020. As the RMD recorded is not in the limits of LT-III category, hence the service is billed in applicable HT tariff as per the tariff order clause 7.53 and 7.124 and GTCS clause 12.3.3.2, which were reproduced below:

Clause 7.53(iv) of tariff order 2018-19:

"Where the recorded demand of any service connection under this category exceeds the 75 kVA (1 kVA = 1 kW), such excess demand shall be billed at the demand charge prescribed under HT-I (11 kV supply)"

clause 7.124 of tariff order 2018-19:

"In case, in any month the Recorded Maximum Demand (RMD) of the consumer exceeds his Contracted Demand with the Licensee, the consumer shall pay the following charges on excess demand recorded and on the entire energy consumed".

RMD over CMD	Demand charges on excess demand	Energy charges on full energy
100 to 120%	2 times of normal charge	Normal
Above 120% and up to 200%	2 times of normal charge	1.15 times of normal charge
More than 200%	2 times of normal charge	1.20 times of normal charge

Clause No.12.3.3.2. of GTCS:

"Cases where the total Connected Load is above 75 HP/56 kW:

- i) These services shall be billed at the respective HT tariff rates from consumption month in which the un-authorized additional load is detected. For this purpose, 80% of Connected Load shall be taken as billing demand. The quantity of electricity consumed in any Month shall be computed by adding 3% extra on account of transformation losses to the energy recorded in LT Meter."
- e) It is stated that the designated officer that is ADE/Operation/Hayathnagar has submitted the inspection report requesting for removal of HT flag vide letter No.ADE/OP/HYNG/F.No. D.No189/20-21, dated 22.05.2020 for billing in LT stating that the service was inspected on 13.05.2020 and observed the connected load of 94.91 HP. The petitioner is also relied upon clause 12.3.3.3. of the GTCS, as per the said clause, the service was billed in LT tariffs for the month of June 2020 as per the inspection report submitted by the ADE/Operation/Hayathnagar. It is stated that the consumer after converting to LT billing in June-2020, again crossed the connected load 99 HP that is RMD 104.91 HP during the period 15.6.2020 to 8.7.2020. Hence the service is billed in HT tariff as per the above clauses.
- f) Further it is stated that connected loads is to be within the limits of contracted loads as per the agreement concluded with the TSSPDCL. The bill issued is the bill cum notice providing the information of contracted load, connected load and recorded maximum demand, units consumed. Hence, the point of serving a prior notice is not all relevant as the TSSPDCL issued the bills to the consumers as per the clauses in tariff order and GTCS.

6. The Commission had heard the representative of the petitioner and representative of the respondent along with the officers. The short point that arises for consideration of the Commission is whether the officers of the licensee are liable to be punished as sought by the petitioner. Briefly the arguments of the parties are stated as below:

“Ms. Nishtha, representative of the petitioner stated that the issue is with regard to violation of the GTCS and more particularly clause 12.3.3 of the GTCS relating to change of category in the case of LT-III to HT-I Industry. She also explained the reasons and grievance on the issue in detail.

Sri Mohammad Bande Ali, Law Attaché of TSSPDCL for the respondents stated that the consumer has invoked the jurisdiction of the CGRF and having failed to secure an order in its favour, approached the Ombudsman, where the proceedings are pending disposal. This resulted in invoking plural remedies on the same issue and there is likelihood of passing two different and contradictory orders by the two authorities. He sought to explain the provisions of GTCS as also the tariff order of the Commission, as the petitioner is involved in exceeding the contracted load.

The representative of the petitioner emphasized on her submissions earlier while stating that the proceedings before the Ombudsman are not akin to this proceeding as also it has nothing to do with the billing aspect, as the present petition before the Commission is in respect of violation and seeking penal action against the DISCOM under the Act, 2003.”

7. Before advertent to the contentions raised in the petition it is appropriate to notice the relevant provisions of GTCS as also the tariff conditions applicable to the case of the petitioner. The provisions in the terms and conditions of supply are as extracted below:

Clauses 3.4.1, 3.4.2 and 12.3 of GTCS

“3.4 Reclassification of consumer category:

3.4.1 Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/purpose of usage of the premises without prior intimation to the Designated Officer of the Company), The consumer will be informed through a notice, of the proposed reclassification, duly giving him and opportunity to file any objection within a period of 15 days. The company after due consideration of the consumer's reply if any, may alter the classification and suitably revise the bills if necessary even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed, however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

3.4.2 If a consumer makes a written request for reclassification of his service connection (change of category) the company shall comply with the request within the time frame specified in the Licensee' Standards of Performance Regulation.”

12.3.3.3 Cases where the total connected load is above 75 HP/56 kW or cases where the total connected load is above 150 HP under LT category III (B). These services will be billed at the HT category I tariff rates from the consumption month in which the unauthorised load is detected till such additional load is removed and got inspected by the designated officer of the Company.”

8. Likewise it is also necessary to advert to the tariff conditions mentioned in the tariff order applicable to the FY 2018–19 which has been continued for the year 2020–21 by order of the Commission.

Observations of the Commission in the tariff order for the year 2018–19. *Clause 7.3 at page 116 and 7.16 to 7.18 at pages 119 and 120.*

“7.3. These tariffs are applicable for supply of Electricity to L.T consumers with a contracted load of 56 kW / 75 HP and below. (However, contracted load up to 75 kW / 100 HP will be treated as LT, for LT- III Industrial category).

7.16. The tariff is applicable for supply of electricity to Low Tension Industrial consumer with a Contracted load of 75 kW/ 100 HP and below. Industrial purpose shall mean, supply for purpose of manufacturing, processing and/or preserving goods for sale, but shall not include shops, business houses, offices, public buildings, hospitals, hotels, hostels, choultries, restaurants, clubs, theaters, cinemas, bus stations, railway stations and other similar premises, notwithstanding any manufacturing, processing or preserving goods for sale.

7.17. This tariff shall also apply to: i. Water Works & Sewerage Pumping Stations operated by the Government Departments or Co-operative Societies and pump sets of Railways, pumping of water by industries as subsidiary function and sewerage pumping stations operated by local bodies and Drinking Water filtering plants using only Reverse Osmosis (R.O.) process. ii. Workshops (involving activity of manufacturing), bus depots of TSRTC, servicing and repairing centres of TSRTC, flour mills, oil mills, saw mills, coffee grinders and wet grinders, Ice candy units with or without sale outlets, Goshalas, grass cutting and fodder cutting units. iii. The Information Technology (IT) units identified and approved by the Consultative Committee on IT Industry (CCITI) constituted by the Government of Telangana State. iv. Newspaper printing unit. v. Poultry Farming Units. vi. Pisciculture and Prawn culture units. vii. Mushroom production units, Rabbit Farms, Sheep Farms and Goat Farms other than those coming under LT-IV with load exceeding 10 HP. viii. Sugar cane crushing.

7.18. The tariff rates for LT-III: Industry are shown below”

7.18 The Tariff rates for LT-III: Industry

Category	Fixed Charge (Rs./month)		Energy Charge
	Unit	Rate	Rs./kWh or (Rs./kVAh)
LT-III: Industry			
Industries	kW	60	6.70
Pisciculture/Prawn Culture	kW	21	5.20
Sugarcane crushing	kW	21	5.20
Poultry farms	kW	50	6.00
Mushroom, Rabbit, Sheep and Goat farm	kW	60	6.30
1 hp = 0.75 kW For the purpose of billing, 1 kVA shall be treated as being equal to 1 kW.			

- Where the metering is on HT side, 1% of total energy consumed shall be deducted from recorded energy for the purpose of billing.
- No manufacturing/ production certification shall be required, if the poultry farm has no in-house manufacturing activity such as feed mills. Poultry

farms are exempted from general condition of 3 HP minimum load for releasing the service.

- No manufacturing/ production certification shall be required for drinking water filtering plants using Reverse Osmosis (R.O.) process.”

7.51. The connected load shall not exceed the contracted load specified in the agreement as per sanction accorded for the service. The fixed charges shall be computed based on the contracted Load or actual Recorded Demand whichever is higher. For the purpose of billing, 1 kVA shall be treated as being equal to 1 kW.”

7.53(iv) Where the recorded demand of any service connection under this category exceeds the 75 kVA (1 kVA = 1 kW), such excess demand shall be billed at the demand charge prescribed under HT-I (11 kV supply).”

9. The main grievance of the petitioner is non-compliance of the orders of the Commission as also the GTCS with regard to levy of tariff for the specific months of April, May and July’ 2020. It is also noticed that the petitioner had already approached the grievance redressal forum for mitigation of its grievance and did not succeed there. The petitioner also filed an appeal before the Ombudsman as noticed from the documents filed by the respondents. The petitioner also obtained interim orders from the Ombudsman regarding connection of power supply. The pleadings do not indicate the status of appeal before the Ombudsman.

10. The respondents and other hand contented that demand charges are to be billed at twice the normal charge as provided in the tariff order at paragraph No.7.124 the same is reproduced below. However, the respondents have failed to the notice that the said provision is in context of HT supply.

“7.123. Additional charges for maximum demand exceeding the contracted demand.

7.124. In case, in any month the Recorded Maximum Demand (RMD) of the consumer exceeds his Contracted Demand with the Licensee, the consumer shall pay the following charges on excess demand recorded and on the entire energy consumed.

RMD over CMD	Demand charges on excess demand	Energy charges on full energy
100 to 120%	2 times of normal charge	Normal
Above 120% and up to 200%	2 times of normal charge	1.15 times of normal charge
More than 200%	2 times of normal charge	1.20 times of normal charge

In case of HT-V (A) & HT-V (B): Railway Traction and Hyderabad Metro Rail, the energy charges shall be computed at 1.05 times of normal charges on the entire consumption, if RMD exceeds 120% of Contracted Demand.”

This provision has no application to facts and circumstances of the case.

11. One other issue that has been raised by the petitioner is non-compliance of regulation No.5 of 2016 is relating to Standards of Performance by the licensee. Specific provision is relied upon by the petitioner in support of its case of non-redressing of the grievance by the licensee, which gave rise to the present proceedings. The said provision is as below.

“VII Complaints about consumer’s bills

7.1 (i) The licensee shall acknowledge a consumer’s complaint about an electricity bill immediately, if received in person and within 24 working hours, if received by post. The licensee shall resolve the complaint regarding the electricity bills within 24 working hours of its receipt, if no additional information is required to be collected and within seven (7) working days of receipt of complaint, if any additional information is required.

(ii) Where the complaint of a consumer is genuine and revision of a bill already issued becomes necessary, the due date for payment of bill shall be reckoned from the date of revised bill for the purpose of disconnection of supply or for levy of additional charges for belated payment.”

12. Compliance of regulations as notified by the Commission is primary responsibility of the licensee and more particularly the above stated regulation. From the submissions made by the officers of the licensee nothing is stated about the action taken in terms of the above stated regulation. The Commission notices from the material available on record that the third respondent in this petition had in fact issued a letter on 22.05.2020 reporting the matter to the Senior Accounts Officer about the connected load available in the premises of the petitioner and it is stated that

“With reference to the cited above, a representation received from consumer of LT-III category service vide Sc.No.5625 00810 of M/s Sai Ram Ice Factory at Plot No.22, Pasumamula, Pedda Amberpet requesting for removal of HT flag and revision of bill for May, 2020.

Based on the consumer representation, the above mentioned service was inspected on 13.05.2020 and observed the following connected load.

- 1) Load particulars are:
- | | | |
|------------------------------|----------|-----------------|
| 1) Motor 1 x 60 HP | = | 60 HP |
| 2) Motor 3 x 5 HP | = | 15 HP |
| 3) Motor 1 x 7.5 | = | 7.5 HP |
| 4) Motor 1 x 3 HP | = | 3 HP |
| 5) Motor 1 x 0.5 HP | = | 0.5 HP |
| 6) Motor 1 x 7.5 HP | = | 7.5 HP |
| 7) Lighting load 1 x 1.41 HP | = | 1.41 HP |
| Total | = | 94.91 HP |
- 2) Activity – Ice Factory
3) No theft cases booked.

13. It is also noticed from the material placed by the parties that the petitioner had represented the matter and sought revision of bills by letter dated 16.07.2020 to the

second respondent herein. By that time the third respondent herein had sent the above extracted letter giving details of the connected load. In the face of above letter the respondents ought to have disposed of the representation giving suitable relief/reply to the consumer. However, it appears the consumer was forced to approach the grievance redressal mechanism to mitigate its grievance.

14. From the discussions above it can safely be deciphered that the respondents have acted not in consonance with the regulations and orders of the Commission. Nothing stopped them from acting in accordance with the regulations and tariff order. Moreover, a statement is made that software has been developed so that a consumer in LT-III category who has exceeded the connected load over and above which is sanctioned would automatically be billed under HT category. As noticed above the respondent ought to have given effect to relevant clauses viz., clause 3.4.1 informing consumer through a notice of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days; and/or clause 12.3.3.2(iii) giving One (1) month notice to the consumer to regularize the additional connected load or part of additional load as per the requirement of the consumer or to remove the additional connect load, which is not done so. This itself constitutes violation of the tariff order of the Commission as also GTCS.

15. Inasmuch as the respondents have not given effect to the regulation on Standards of Performance in the case of the petitioner with regard to resolving the billing dispute. Under the provision of the Act, 2003, the petitioner is entitled to relief sought for in this petition.

16. However, the Commission is reminded of the fact that the petitioner is already approached the grievance redressal mechanism, having failed to get relief approached the appellate authority being the Ombudsman. In such circumstances it is not appropriate for this Commission to dwell into an issue which has been seized up by a subordinate authority where effective redressal is likely to take place. It is also appropriate to state that passing any order in this petition at this point of time would not only amount to entertaining plural remedies and also result in dichotomy in the orders passed by this Commission as also the Ombudsman.

17. Having regard to the above position, though the petitioner has made out sufficient case for initiating action against the respondents for violating the regulations and order of the Commission, the Commission refrains from passing any order on the issue. As it is made clear that the observations and findings arrived at herein above need consideration by the respondents in the context of whatever order is passed by the Ombudsman and in future the respondents are directed to give effect to the regulations and orders passed or notified by the Commission in their true spirit. At the same time Commission expects compliance of the above a report to that effect in this matter.

18. With these observations the petition stands dismissed and in the circumstances without cost.

This order is corrected and signed on this the 9th day of March, 2021.

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