MERC
OMBUDSMAN

BEFORE THE OMBUDSMAN

(Appointed by the Maharashtra Electricity Regulatory Commission under Section 42(6) of the Electricity Act, 2003)

Representation No. 3 of 2005.
Order dated 16 March 2005

Shri Vasantrai J. Kanani
8, Rani Apt., S.V. Road,
Dahisar (E), Mumbai 400 068 …… Appellant

Versus

Reliance Energy Limited ……. Respondents

Present:
1. Shri W.G. Gorde, Ombudsman,
2. Shri S.N. Yadwad, Secretary

On behalf of the Appellant:
Shri Vasantrai J. Kanani

On behalf of the Respondents:
1. Mrs. Anuradha Shetye, Dy. Manager (Legal), REL

The appellant owns a residential flat No. 8 at Rani Apartments Cooperative Housing Society, Dahisar (E), Mumbai and had applied for supply of electricity in this premises for residential purposes. The licensee, Reliance Energy Limited (hereafter called Respondents) granted the application and supplied electricity for residential purposes under the tariff category LF1. The Respondents billed the appellant at the residential tariff upto October 2001 and at commercial LF2 tariff thereafter. The appellant noticed this change from the bill dated 17 July 2004 that he has been billed at the commercial tariff LF2 and lodged the complaint by his letter dated 21 August 2004 seeking correction in the bill. The appellant followed up his request for correcting the bill by another letter dated 25 September 2004 on the ground that he is liable to be billed at LF1 tariff rates and not LF2 tariff. Moreover, appellant has mentioned that the change in tariff category was made wrongfully without any notice or intimation to him from October 2001 onwards. It is alleged that there was no response from the respondent and therefore the appellant approached the Consumer Grievance Redressal Forum (hereafter called as Forum). The Forum heard the matter on 30 November 2004 and disposed off by its Order directing the respondent to change the tariff category from LF2 to LF1 from 1 July 2004 onwards.

2. The appellant being aggrieved with the decision of the Forum filed the present representation before this office on 28 January 2005. The appellant has represented that the cause of action arose in October 2001 and therefore the relief should have been granted from that month instead of from July 2004. The appellant further states that the respondent has changed his tariff category without any notice and no opportunity was

given to him in this respect. The appellant has sought further relief in the form of compensation from the respondent on the ground of failure to meet the standard of performance and injustice and loss caused to him.

3. The respondent submitted his reply to the points in the representation of the appellant and defended that the cause of action arose only in July 2004 and not in October 2001. The respondent further mentioned that the cause of action has been removed by the order of the Forum to change the category of tariff from LF2 to LF1 from July 2004 onwards.

4. The appellant during the hearing confessed that although the tariff category was changed from LF1 to LF2 from October 2001, he did not represent to the respondent until August 2004. He further agreed that this change came to his notice only in July 2004 due to increase in the amount of the bill and not before. He sought redress thereafter in August 2004 requesting for correction in the bill.

5. The respondent during the hearing agreed that it does not have any evidence to show that any written notice was issued to the appellant in 2001 while changing the tariff category from LF1 to LF2 but it based the decision to change the category of tariff on the information gathered by its inspector. The respondents also agreed that in case of combination use like residential and lawyer's office, LF1 tariff is applicable.

6. The Forum has considered the matter and has concluded that the appropriate tariff category in this case would be LF1 and not LF2. The order, however, mentions that the appellant wants the change to be made with effect from 1 July 2004 and therefore it should be changed to LF1 with effect from 1 July 2004 onwards. However, the appellant during the hearing reiterated that he has been asking the relief right from October 2001 onwards when the category was wrongfully changed to LF2 without his notice.

7. On going through the application submitted by the appellant to the Forum in 'Schedule A', it is clearly seen that the appellant has requested to return undue charges paid to the respondent under the tariff category LF2 from October 2001 onwards. Representation of the respondents agreed that such a request is made by the appellant in his application to the Forum. Based on the submissions and the documents on record, it can be concluded that the appellant had indeed sought the relief from October 2001 and not July 2004 by changing his tariff category retrospectively.

8. The appellant has further sought compensation for loss of conveyance charges and manpower spent for approaching various offices for seeking relief. However, sequence of events indicate that the appellant did not bring the change of tariff category to the notice of the respondent for nearly 3 years despite the fact that the changed tariff category was printed on every bill issued by the respondent and no follow up action was seen on his part until August 2004. As regards to the claim of the appellant that there is failure to meet the standard of performance on the part of the respondent, there is nothing on record to suggest the failure in standard of performance nor any specific standards were laid down under Section 57 of the Electricity Act 2003 on the day of appellant's complaint to the Forum.

9. On going through the bills issued to the appellant for the month of July to September 2004, it is seen that the appellant was informed to take notice under Section56 (1) of the Electricity Act 2003 for non-payment of arrears during the period. It is, however, seen that the appellant paid part amount although 'on account basis' for July and August before due dates prescribed for making payment. However, the appellant thereafter did not pay even the part amount for September 2004 bill before the due date

i.e. 2 November 2004. The respondent thereafter issued the intimation on 9 November 2004 for disconnection of power supply. Accordingly, the power supply was disconnected on 15 November 2004. The appellant paid the bill for September 2004 on 22 November 2004 and made the application to the respondent on 23 November 2004 for restoration of power supply. The respondent restored the supply on 23 November 2004 i.e. on the same day. There was no delay in restoration of power supply after payment of bill and as such, there is no ground for seeking compensation in respect of disconnection.

ORDER

It is clear from the submission of the appellants that he has sought change of tariff category from LF2 to LF1 after it came to his notice sometime in July 2004. However, it is not seen anywhere in the submission that he sought the said relief only with prospective effect after July 2004. On the contrary, his application before the Forum, clearly mentions that such a relief was requested from October 2001, the month from which the respondent changed his tariff category to LF2. As such, he is entitled to get relief in the charges paid equal to the difference between the payment made as LF2 consumer and the charges leviable as LF1 consumer. The respondent therefore, should work out the difference and refund him the excess amount paid or adjust such an amount in his subsequent bills. Compliance should be reported within a period of two months from now. There is no evidence of any direct loss to the appellant after the relief mentioned above is granted. Appellant's request for grant of compensation does not hold any merit and is therefore rejected.

Sd/
(W. G. GORDE)
Ombudsman

Mumbai
16 March 2005

(S.N.YADWAD)
Secretary