



BEFORE THE OMBUDSMAN

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

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051
Tel. / Telefax: 022-2659 2965

REPRESENTATION NO. 17 OF 2005

In the matter of New Service Connection Charges

Shri Dashrath Shankar Sapte..... Appellant

Versus

Reliance Energy Limited..... Respondent

Present:

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

On behalf of the Appellant:

1. Shri Dashrath Shankar Sapte through his representative, Shri Gopichand Kundanmal Chandak

On behalf of the Respondent:

1. Smt. Anuradha Shetye, Additional Manager (Legal), Nodal Officer

Date: 7th October, 2005

1. Shri Dashrath Shankar Sapte filed the representation on 12th June, 2005 against the order of Consumer Grievance Redressal Forum (Minutes of the meeting dated 27.05.2005) in respect of his grievance against the Distribution Licensee, Reliance Energy Limited for not sanctioning electric connection to his premises. Shri Dashrath Shankar Sapte resides at G1 Misquitta Chawl, C.S. No. 1414-A, Navapada near Talao Marol Naka, Sir M.V. Road, Andheri (E), Mumbai – 400 059 (hereinafter referred to as Appellant). The representation is registered at Serial No. 17 of 2005. Details of the representation are given below:

The Appellant had filed his application with the Licensee for a new electricity connection and meter for residential purpose at the above address, on 25th December, 2004. Reliance Energy Limited (hereinafter referred to as Respondent) issued an estimate of charges to be paid by the Appellant, as bifurcated below:

a)	Service line contribution	Rs. 1450/-
b)	Security Deposit	Rs. 120/-
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	Total	Rs. 1570/-
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2. The Appellant says that the Respondent has not as yet obtained any approval as required under the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 from the State Commission authorising them to recover the cost incurred in providing electric line and/or plant for the purpose of giving supply to consumers. Therefore, it is bound to provide electric line or plant to consumers free of charge following the provisions of Section 42(1) read with Section 2(19) of the Electricity Act, 2003.

3. The Appellant further says that, despite follow up with the Respondent's officials, the matter could not be sorted out. He, therefore, took up the matter with the Consumer Grievance Redressal Forum of Reliance Energy Limited. The Forum heard the matter and disposed off the same vide minutes of the meeting dated 27.5.2005. The Forum concluded that the applicant is not a 'consumer' within the meaning of the definition of 'consumer' as provided in the Electricity Act, 2003. The case was not examined by the Forum on merit. The Appellant, being aggrieved by the decision of the Forum, filed this representation.

4. Notice was issued to the Respondent to file its say on the points raised by the Appellant. The Respondent was also called upon to consider whether it is willing to facilitate a settlement through conciliation or mediation. The Respondent filed its reply on 16th July, 2005. It states that it has raised a preliminary issue that the Appellant is not covered within the definition of 'Consumer' under the Electricity Act, 2003 and as such, the applicant has no locus standi to file any grievance. The remedy of filing grievance under the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 is available only to the consumers and not to any person other than the Consumer. The Respondent insisted that this preliminary issue of maintainability of grievance filed by the applicant should be decided first before entertaining the grievance and prayed that the present representation is untenable and unsustainable under the provisions of the Act and should be summarily rejected.

5. By his letter dated 25th July, 2005, the Appellant suggested to promote a settlement of the representation and volunteered to deposit Rs. 1570/- demanded by the Respondent towards the cost of service line charges but under protest. The Respondent, however, did not submit its response to these suggestions either in its reply or subsequently during the hearing.

6. The Appellant submitted his further say on 16th August, 26th September and 3rd October, 2005 explaining his stand in details that he should be covered as a 'consumer' under the provisions of the Electricity Act, 2003. He extensively quoted and relied on various provisions of the Electricity Act, 2003 and the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2003. He sought interim orders to the Respondent to accept Rs. 1570 as connection charges under protest and connect supply of electricity to the premises of the Appellant as early as possible.

7. The Respondent made further submissions on 26th September, 2005 and 4th October, 2005 to reiterate its stand on the issue of maintainability of the representation as well as on the estimated average cost to be recovered from the consumers. It says that M/s. Reliance Energy Limited has to incur cost for laying down the new service network and therefore cost is got to be recovered on average basis from all the applicants fed from the network. The Respondent agreed that previously, any person applying for a new electricity connection was required to bear expenses incurred for extension of electricity network from M/s. Reliance Energy Limited's nearest main cable to his premises. The first applicant used to pay for these expenses which could be as high as Rs. 50,000/- and all subsequent applicants fed from the same cable from that area were charged a connection fee of Rs. 6/-. However, since October 2004, M/s. Reliance Energy Limited has been rightly and fairly recovering the estimated average cost from each applicant from a particular pocket for new connections.

8. The matter was heard on 26th September, 2005. The Appellant during the hearing reiterated his submission made in the written statements from time to time and pleaded that he should be covered under the definition of consumer and that no charges should be levied for new connection until the Commission approves the schedule of charges. Mrs. Shetye, on behalf of the Respondent, maintained her earlier stand that the present applicant is not covered in the definition of a consumer. She submitted broad details of cost incurred in providing the network in the pocket and the number of consumers to be catered from the network. She insisted that the Respondent is entitled to recover the cost of extension of network and providing electricity connection to the applicants.

9. After hearing both the parties and perusal of the documents on record, it is evident that the issues raised by the Appellant in the present case are exactly the same as were considered in the case of representation no. 11 of 2005 of Shri R. G. Sankpal and Shri S.G. Galande versus M/s. Reliance Energy Limited, Mumbai. Definition of 'Consumer', maintainability of the representation and charges for granting new electricity connection were examined at great length in that case and the matter was disposed off vide this office order dated 6th October, 2005. It was clearly concluded that the Appellant is covered within the meaning of definition of 'Consumer' under the Electricity Act, 2003. It was also held that reasonableness or otherwise of the charges for providing electricity service is not a subject matter to be deliberated before the Forum and the Ombudsman since the schedule of charges has not been statutorily fixed under the Act or the Regulations. Also, there is no 'schedule of charges' existing at present. The licensee has been levying the service connection charges based on the cost incurred in laying down the service network in the area from October, 2004. It is, therefore, not necessary to repeat the deliberations on these issues again. In view of this, the matter is disposed off with the following order.

ORDER

1. The Appellant is a consumer within the meaning of the Electricity Act, 2003. Order of the Consumer Grievance Redressal Forum to this extent is set aside.

2. Reasonableness or otherwise of charges for providing electricity services is not a subject matter to be deliberated before the Forum and / or the Ombudsman until the charges have been statutorily fixed under appropriate Act or Regulation.

Sd/
(W.G. GORDE)
Ombudsman

Sd/
(S.N.YADWAD)
Secretary