



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
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REPRESENTATION NO. 24 OF 2005

In the matter of Levy of Load Management Charges

Present:

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

On behalf of the Appellant:

1. Shri Vishwas Dubey

On behalf of the Respondent:

1. Smt. Anuradha Shetye, Nodal Officer

Date: 13th September, 2005

Bhaktivedanta Hospital, a project of Shri Chaitanya Seva Trust, Mira Road (E) has filed a representation against the order of the Consumer Grievance Redressal Forum at Reliance Energy Limited, issued on 28th June, 2005. Bhaktivedanta Hospital (hereinafter called as Appellant) submitted this representation requesting to quash and set aside the bill issued by the Respondent claiming Load Management Charges levied in accordance with the Maharashtra Electricity Regulatory Commission's Order dated 4th May, 2005, in case no. 4 of 2005.

Brief details of the case are as follows:

2. The Appellant is a hospital at Mira Road run by Shri Chaitanya Seva Trust, registered at Delhi. It is a consumer of electricity supplied by Reliance Energy Limited (hereinafter called as Respondent). The Respondent levied Load Management Charge as a part of the bill for energy charges in accordance with the Maharashtra Electricity Regulatory Commission's order dated 4th May, 2005. The said order directs the Distribution Licensee to levy Load Management Charge at the rate of Rs. 1 per unit extra on the energy units consumed in excess of 80% of the consumption, recorded in the month of May and June, 2004 when compared for the purpose of billing the consumption in the corresponding months of the year, 2005.
3. The Appellant says that their hospital was closed due to labour problem during the months of May and June, 2004. The Appellant had submitted the necessary information to the State Government as required under the Industrial Dispute Act,

1947, in this behalf. Due to closure, most hospital activities were stopped and therefore, very low consumption of electrical energy was recorded during the month of May and June, 2004. The Respondent pleads that in the light of these circumstances, comparison of energy units between May and June, 2004 with those consumed in May and June 2005 should not be made. Instead, energy units consumed by the hospital during the corresponding months in the year, 2003 should be considered for this purpose.

4. The Respondent submitted written statement on 30th August, 2005. It is claimed that the representation is not maintainable since the Appellant is seeking relief of modification of the order dated 4th May, 2005 passed by the Commission and that it will be out of the jurisdiction of the Ombudsman to entertain such representation. The Respondent adopted the contents of its reply filed before the Forum in this case.
5. The matter was heard on 9th September, 2005. The representative of the Appellant, Shri Dubey submitted that it is unjust and unfair to levy load management charge by comparing energy units consumed by the hospital in May – June, 2004 with those consumed in the corresponding months during the current year. He explained the circumstances under which the hospital was not functional during May – June, 2004 which resulted in recording very low consumption. In view of this, he requested the Ombudsman to use discretion and compare the energy units consumed by the hospital in the month of May and June, 2003 instead of May and June, 2004. He conceded that the Respondent, the Distribution Licensee acted strictly in accordance with the order of the Commission and therefore the grievance is mainly against the order of the Commission and not against the action of the Distribution Licensee.
6. Having heard both the parties, it becomes clear that the Respondent levied load management charge strictly in accordance with the order of the Commission. Relevant portion of the said order reads as under:

5(a) "A load management charge shall be levied on all the electricity consumers in Maharashtra (including Mumbai) whose consumption exceeds 500 units per month in the billing months of May and June, 2005 (billing months of June and July in the case of B.E.S. & T). This charge will be levied at the rate of Re. 1 per unit for the electricity consumed in excess of 80% of the consumption recorded in the corresponding billing months of 2004. Similarly, those whose consumption is less than 80% as compared to the corresponding period in 2004 will be given a 'Load Management Rebate' of 50 paise per unit. This Charge and Rebate will be applicable to all metered consumers."
7. It is seen from the order that there is no discretion either to change the basis of levying the charges or to reduce it. Therefore, the Respondent could not change the basis of comparison of energy units consumed by the hospital. Action of the Respondent in this regard, therefore, cannot be faulted.

8. It is also seen that the Forum has gone through the issue and observed that the grievance is not against the Licensee but mainly against the order issued by Maharashtra Electricity Regulatory Commission directing the Licensees to recover load management charge. The explanation put forth by the Appellant for recording low consumption during the month of May and June, 2004 appears to be genuine. However, there is no flexibility or discretion to the Distribution Licensee to change the basis for comparison of consumption or to reduce the load management charges. The Forum has appreciated the case of the Appellant but passed the order which is in the consonance with the Maharashtra Electricity Regulatory Commission's order in this behalf.
9. On the plea of the Appellant to relax or modify the Commission's order, it should be clearly understood that such request is untenable on the simple logic that the grievance redressal mechanism in the form of the Forums and the Ombudsman are established to redress grievance of the consumers raised against the Distribution Licensees and no one else. To make the point further clear, the definition of 'Grievance' under Regulation 2.1 (3) of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 is reproduced below:
"Grievance means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to performance standards of licensees, as may be specified."
10. The Forum and the Ombudsman provide a mechanism mainly to consider and redress the grievance of the consumer due to any fault, imperfection, shortcomings or inadequacy in quality, nature and manner of performance of the Distribution Licensee. Admittedly, the Appellant has no grievance against the licensee but seeks modifications / relaxation in the order passed by the Commission. This is beyond the ambit of the definition of 'grievance' and therefore beyond the jurisdiction of the Ombudsman.
11. In view of above, the Forum has rightly rejected the application of the Appellant. I do not find any reason to interfere with the said order. The representation is accordingly disposed off.

Sd/
(W. G. GORDE)
Ombudsman

Sd/
(S. N. YADWAD)
Secretary