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AMENDMENTS TO THE RULES OF PROCEDURE GOVERNING COMPLAINTS FILED BEFORE THE CONSUMER AFFAIRS SERVICE, ENERGY REGULATORY COMMISSION

ERC, March 02, 2005

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Pursuant to the provisions of Section 41 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act, the Energy Regulatory Commission hereby promulgates these amendments to the Rules of Procedure Governing Complaints Filed Before the Consumer Affairs Service, Energy Regulatory Commission.

Article 1. Title - This document shall be known as the amendments to the Rules of Procedure Governing Complaints Filed Before the Consumer Affairs Service, Energy Regulatory Commission.

Article 2. Rule II, Section 3 is hereby amended to read as follows:

> "Section 3. Nature of Proceedings - The proceedings before the Consumer Affairs Service (CAS) shall be non-litigious and conciliatory in nature until the case is submitted for formal hearing."

Article 3. Rule IV, Section 10 is hereby amended to read as follows:

> "Section 10. Termination of Pre-Hearing Conferences. - x x x
>
> However, when it becomes apparent that no amicable settlement can be reached, the CAS Hearing Officer shall terminate the proceedings. A report shall be prepared for submission to the Commission setting forth what transpired during the proceedings, all pleadings and all other evidences submitted therein. Subject to Section 2, Rule VI, an Order shall then be issued setting the case for Hearing, stating therein whether or not the rules on summary procedure shall apply, and the issues needed to be resolved.

Article 4. Rule V, Section 3 is hereby amended to read as follows:

> "Section 3. Violation of Terms and Conditions of Amicable Settlement - Whenever a party fails to observe the terms and conditions of amicable settlement, the aggrieved party may file a complaint for violation thereof before the ERC"

Article 5. New Rules VI and VII are hereby inserted to read as follows:

> "RULE VI. SUMMARY PROCEDURE

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SECTION 1. Coverage - This Rule may, upon the discretion of the Commission, apply to hearings of consumer complaints involving the following:

a. The amount involved is not more than two hundred thousand pesos (P200,000.00);

b. The only issue involved is incapable of pecuniary estimation, or is a violation of certain provisions of the Magna Carta for Residential Consumers on proper notices, meter testing and sealing, announcement of scheduled power interruptions, installation and relocation of meters, investigation by utilities of consumer complaints, and reconnections of electric service; or

c. Other cases as may be determined by the Commission.

However, nothing shall preclude the Commission from conducting a formal hearing on complaints previously declared as subject to summary procedure.

SECTION 2. Duty of the Commission - After the Commission determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such evidence as may be attached thereto, dismiss the case outright on the grounds apparent therefrom for the dismissal of administrative action.

If no ground for dismissal is found, it shall forthwith issue an Order stating that the summary procedure under this Rule shall apply, the issues to be resolved and directing the parties to submit their respective affidavits, affidavits of their witnesses, position papers and other evidences on the factual issues.

SECTION 3. Submission of affidavits and position papers - Within ten (10) working days from receipt of the order mentioned in the preceding section, the parties shall simultaneously submit affidavits of their witnesses and other evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them.

SECTION 4. Prohibited Pleadings and Motions - The following pleadings, motions and orders shall not be allowed in the cases covered by this Rule:

a. Motion for extension to file affidavits or any other evidence on the factual issues unless there is compelling reason to warrant an extension;

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b. Memoranda;

c. Dilatory motions for postponements;

SECTION 5. Rendition of Judgment - Within a forty-five (45) working days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the Commission shall render judgment.

However, should the Commission find it necessary to clarify certain material facts, it may, during the said period issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) working days from receipt of said order. Judgment shall be rendered within thirty (30) working days after the receipt of the last clarificatory affidavits, or the expiration of the original forty-five (45) day period, whichever comes later.

RULE VII. HEARINGS

SECTION 1. Coverage - This Rule shall apply to all hearings of consumer complaints not covered by Rule VI hereof.

SECTION 2. Applicability of the Rules of Practice - The Rules of Practice and Procedure Governing Hearings Before the Energy Regulatory Board shall govern pleadings, practice and procedure in all hearings of consumer complaints not covered by Rule VI hereof.

Article 6. Subsequent Rules of the Rules of Procedure Governing Complaints are hereby renumbered accordingly.

Article 7. Separability Clause - If any provision of these amendments is declared unconstitutional or invalid, the other provisions not affected thereby shall remain in force and effect.

Article 8. Effectivity - These Guidelines shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

SO ORDERED.

Adopted: 02 March 2005

(SGD.) RODOLFO B. ALBANO, JR.
Chairman

(SGD.) JESUS N. ALCORDO
Commissioner

(SGD.) ALEJANDRO Z. BARIN
Commissioner

(SGD.) OLIVER B. BUTALID

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