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RULES OF PRACTICE AND PROCEDURE BEFORE THE ENERGY INDUSTRY ADMINISTRATIVE BUREAU OF THE DEPARTMENT OF ENERGY

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Pursuant to the provisions of Section 5, (K) of R.A. 7638 otherwise known as the Department of Energy Act of 1992, and in compliance with Executive Order No. 26 dated October 7, 1992, the following Rules of Practice and Procedure are hereby adopted and promulgated:

RULE I
Title, Definition, Scope and Construction
SECTION 1. Title of the Rules — These rules shall be known as the Rules of Practice and Procedure of the Energy Industry Administrative Bureau (EIAB) of the Department of Energy.

SECTION 2. Definition — As used herein, the word EIAB or Bureau shall mean the Energy Industry Administrative Bureau of the Department of Energy.

SECTION 3. Scope — These rules shall govern all pleadings, practice and procedure before the EIAB in all matters concerning inquiry, investigation, hearing, study and/or any other proceedings conducted by the Bureau in the performance of its regulatory powers and functions.

SECTION 4. Construction — These rules shall be liberally construed in order to protect and promote public interest and attain the objectives of R.A. 7638 in the most speedy and inexpensive disposition of cases. In the broader interest of justice and to avoid unnecessary delay, the Bureau may resort to summary proceedings in cases hereinafter provided.

SECTION 5. Suppletory Application of the Rules of Court of the Philippines — In the absence of any applicable provision in these Rules, the pertinent provisions of the Revised Rules of Court of the Philippines may, in the interest of expeditious disposition of cases and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

RULE II
Parties
SECTION 1. Who May be a Party — Any person or group of persons whether natural or juridical, who may be affected by the decision to be rendered by the Bureau in a particular case may be a party and may appear and participate in the manner hereinafter provided.

SECTION 2. Applicant — An applicant is any person who seeks authorization, license, or permission to undertake any matter or business that is within the regulatory jurisdiction of the Bureau.

SECTION 3. Complainant — A complainant is any person who, in writing informs the Bureau of any violation of the EIAB’s Rules and Regulations.

SECTION 4. Petitioner — A petitioner is any person who seeks remedies, relief, or ruling that is within the power of the Bureau to render.

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SECTION 5. Respondent — A respondent is any person or party to whom an order is issued by the Bureau to appear, or give his explanation in writing, or is otherwise summoned to answer any allegation, imputation or issue in any case, hearing or proceeding cognizable by the Bureau or any person who may also be adversely or is otherwise affected by a Petition.

SECTION 6. Oppositor — Any person who participates against the approval of an Application or Petition.

RULE III
Pleadings
SECTION 1. Pleading — The pleadings allowed by these Rules are the Application, the Complaint, the Petition, the Opposition, the Answer, the Reply and such further pleadings as the Bureau may allow.

SECTION 2. Form of Pleading Copies — All pleadings filed with the Bureau must be in triplicate and typewritten or printed on legal size bond paper and shall be in English. The pleading shall contain the names and addresses of all the parties, the Bureau's file number, and designation of the pleading.

SECTION 3. Application — All applications that require publication and posting of notice shall be in the form of a Petition which must state clearly and concisely the ultimate facts and the relief sought.

SECTION 4. Verification — All pleadings filed with the Bureau must be verified or accompanied by affidavits and such documents as would reasonably tend to establish prima facie the truth of the factual allegations thereof.

SECTION 5. Service — Service may be by personal delivery or by registered mail, properly addressed to each party, together with all annexes attached thereto. All pleadings and motions submitted to the Bureau for filing must show proof of service thereof upon all parties to the case.

SECTION 6. Service Upon Parties Represented by Counsel — When any party is represented by attorney, service shall be made to his attorney of record.

SECTION 7. Contents of Pleadings — All pleadings filed with the Bureau must state clearly and categorically the ultimate facts upon which the pleader relies. Pleadings shall contain a prayer for the principal relief sought and may also add a general prayer for such further or other reliefs as may be deemed just and equitable.

SECTION 8. Amendments — Any modification or supplement to an application, complaint, petition or other pleadings shall be deemed as amendment and must comply with the formal requirements of pleadings as mentioned in these rules.

SECTION 9. Amendment When Allowed — Amendments may be made as a matter of right at any time before any responsive pleading is filed and, thereafter, only with leave of the Bureau.

SECTION 10. Defect of Form — No defect in the form of any pleading allowed to be filed under these Rules will prejudice the pleader; however, the Bureau may direct amendments or require the submission of additional affidavits or supporting documents.

RULE IV
Motu Proprio Actions
SECTION 1. Institution of Action by the EIAB — The Bureau may motu proprio initiate an action or inquiry against any person or entity when so required by law, public or national interest, and/or in its exercise of any of the powers vested upon it. In the exercise thereof, the Bureau may commence such hearing or inquiry by an order to show cause, setting forth the grounds for such order.

SECTION 2. Other Instances — When the basis of a motu proprio action is a complaint or otherwise for violation

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of EIAB Orders, Rules or Regulations, the Order shall allege with definiteness and clarity, the violation and also the range or extent of the sanction that may be imposed should the violation be substantiated.

RULE V
Answer
SECTION 1. Answer — Within a period of ten (10) days from receipt of a Motu Proprio Order or a copy of the Petition or Complaint, the Respondent shall file an Answer whether admitting or denying the material allegations of fact set forth in said Order, Petition or Complaint, or setting forth the reason why respondent cannot admit or deny said allegations. The pleader must state the facts and law upon which he relies for his defense with definiteness and clarity.

RULE VI
Motions to Dismiss
SECTION 1. Grounds — No motion to dismiss shall be entertained unless such motion is incorporated in the Answer or Opposition of the respondent or oppositor under any of the following grounds:

a. That the application may not be given due course on account of existing memorandum, law, rules, or regulations.

b. The facts alleged in the Complaint or Order do not constitute a violation of the Bureau's Rules and Regulations.

c. That the Bureau has no jurisdiction over the nature of the case or controversy.

d. That the applicant has not complied with the jurisdictional requirements of an application.

RULE VII
Motions in General
SECTION 1. Scope and Contents — Every application for any procedural or interlocutory ruling or relief may be made by a Motion. Motions shall state the relief sought and the grounds therefor and if necessary shall be accompanied by supporting affidavits and documents. Motions shall be in writing and copies thereof shall be served upon all parties at least three (3) working days before the hearing thereof. All written motions shall specify date and time for the hearing thereof.

SECTION 2. Motions praying for the issuance of a provisional license or permit to operate must be in writing and accompanied by affidavit(s) of merit and other supporting documents showing the necessity of the relief prayed for.

RULE VIII
Pre-Hearing Conference
SECTION 1. After the Answer, the Reply, or the Opposition to a Petition or Complaint has been filed, the Hearing Officer duly designated by the Director, shall issue notice to all the parties to appear for a pre-hearing conference to consider:

a. The possibility of an amicable settlement in cases that may be compromised.

b. Simplifications of the issues through stipulation of facts and/or admission, including admissions of documents and their authenticity.

c. Such other matters as may aid in the just, speedy and inexpensive disposition of the case.

SECTION 2. Failure to Appear — All parties and their attorney, if any, shall attend the pre-hearing conference

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with full authority to enter into an agreement on any and all matters necessary to expedite the proceedings. The Director may, in case of failure to appear on the part of a party and his attorney, issue an order of Default against the absent party, and thereafter the Hearing Officer may receive evidence ex-parte.

SECTION 3. Amicable Settlement — When an amicable settlement is reached as provided under Section 1 (a), Rule VIII hereof, it shall be reduced to writing duly signed by the parties. Such compromise agreement shall then be the basis of an order or decision of the Bureau.

SECTION 4. Nature of Proceedings — The proceedings before the Bureau shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Bureau may avail itself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well informed persons.

SECTION 5. Postponement — Postponement or continuance of hearing may be granted only on highly meritorious grounds provided, that no more than two (2) postponements or continuances shall be allowed.

RULE IX
Summary Proceedings
SECTION 1. Cases that may be the subject of summary proceedings are:

a. Non-Contested Cases — When there is no opposition to the petition or when the opposition fails to tender an issue, the Bureau may conduct summary proceedings in its inquiry on the cases and render judgment based on the pleadings.

b. Contested Cases — When the answer or reply does not contest the material allegations of the complaint for violation of BEU rules and regulations although affirmative defenses are stated therein.

c. All applications for authority to engage in business in the petroleum industry in whatever capacity, or classification shall be conducted through summary proceedings.

SECTION 2. Summary Proceedings, How conducted — After issues have been joined by the filing of the Answer or the Opposition, the Hearing Officer shall summon the parties to appear before him and require the parties to bring all documentary evidence that they may have in support of their claims or defenses.

SECTION 3. Offer of Exhibit/Documentary Evidence — The complainant, the petitioner or applicant shall submit all documentary evidence he may have after authentication for marking as exhibits; then the respondent, or the oppositor shall submit counter documents or affidavits after authentication for marking as exhibits after which the parties shall formally offer their respective exhibits in the same order, stating the purpose for which it is offered. After the formal offer of evidence, the hearing officer may propound clarificatory questions on the documents presented and may require the submission of position papers or memorandum.

SECTION 4. Submission of Memorandum, Position Paper, etc. — In order to expedite resolution of the case, the Hearing Officer may require the parties to submit in addition to the memorandum, position papers or last pleading required of them, a draft of the decision they seek, stating clearly and distinctly the facts and the law or rules and regulations upon which it is based. Following the termination of the hearing and the submission by the parties of the required memorandum and draft of the decision they seek, the Bureau may, after considering and appreciating the applicable laws, rules and regulations and the evidence submitted, adopt, in whole or in part, either of the parties’ draft decision or reject both.

RULE X
Powers and Duties of Hearing Officer

SECTION 1. Powers and Duties — The Hearing Officer shall have the following powers and duties:

a. To administer oaths and affirmations;

b. To receive evidence and rule on the admissibility of evidence as to relevance, materiality, or competence of such evidence.

SECTION 2. Determination of Necessity of Hearing — In contested cases where summary proceedings may not be possible, the Hearing Officer shall immediately after the submission by the parties of their position papers/memorandum, motu proprio determine whether there is need for a formal hearing. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information.

SECTION 3. Period to Decide Case — Should the Hearing Officer finds it necessary to conduct a hearing, he shall recommend to the Bureau the issuance of an Order setting the case for hearing which hearing shall be terminated within sixty (60) days from initial hearing.

SECTION 4. Role of Hearing Officer in Proceedings — The Hearing Officer shall personally preside in the Conferences/Hearings and except as otherwise provided by law, he shall determine the order of presentation of evidence by the parties, subject to the requirements of due process. He shall take full control of the proceedings, examine the parties and their witnesses to satisfy himself with respect to the matters at issue, and may allow the parties or their counsel to ask questions only for the purpose of clarifying points of law or fact involved in the case. He shall limit the presentation of evidence to matters relevant to the issue before him and necessary for a just and speedy disposition of the case.

SECTION 5. Presentation of Evidence — The party initiating the case shall be the first to present his evidence to support his case.

SECTION 6. Extent of Cross-Examination — In the cross-examination of witnesses, only relevant, pertinent, and material questions necessary to enlighten the Hearing Officer shall be allowed.

SECTION 7. Records of Proceedings — The proceedings before a Hearing Officer need not be recorded by stenographers but the Hearing Officer shall prepare a written summary of the proceedings, including the substance of the evidence presented, in consultation with the parties. The written summary shall be signed by the parties and shall form part of the records.

RULE XI
Provisional Relief
SECTION 1. Grounds for Provisional Relief — Any party to a case may, pending hearing of the main case file a motion seeking procedural remedy or interlocutory order, setting forth the remedy or relief prayed for and the grounds relied upon for the grant of such relief. The motion must be accompanied by an affidavit of merit and other supporting documents together with proof of service to the other party.

SECTION 2. Grant of Provisional Relief — The Bureau may grant or deny a motion for provisional relief but nothing shall prohibit the Bureau, motu proprio, from granting any provisional relief to any party when public interest so requires.

RULE XII
Decisions and Motions for Reconsideration
SECTION 1. Contents of Decisions — The Decisions of the Bureau to be signed by the Director shall be clear and concise and shall include a brief statement of the (a) facts of the case; (b) issues(s) involved; (c) finding of facts;

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(d) applicable law or rules; conclusion and reasons therefor; and the dispositive portion.

SECTION 2. Motions for Reconsideration — Motions for reconsideration of any order, resolution or decision of the Bureau shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) calendar days from receipt of the order, resolution or decision, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party and provided further, that only one (1) of such motion from the same party shall be entertained. No other pleading shall be allowed other than the motion for reconsideration and opposition thereto.

RULE XIII
Appeals
SECTION 1. Finality of Orders, Resolutions and Decisions — Orders, Resolutions and Decisions of the Bureau shall be final and executory unless appealed to the Secretary of Energy by any or both parties within ten (10) calendar days from receipt of such orders, resolutions or decisions.

SECTION 2. The appeal may be entertained only on any of the following grounds:

a. If there is prima facie evidence of abuse of discretion on the part of the Hearing Officer or the Bureau;

b. If made purely on question of law; and/or

c. If serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

SECTION 3. The appeal shall be filed within the reglementary period as provided in Section 1 of this rule; shall be under oath; shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed order, resolution, or decision.

A mere notice of appeal without complying with the other requisites aforestated shall not stop the running of the period for perfecting an appeal.

RULE XIV
Effectivity
These rules or any amendment(s) thereto, shall take fifteen (15) days after filing with the University of the Philippines Law Center three (3) copies thereof pursuant to Book VII, Chapter 2, Section 3 of Executive Order No. 292.

Adopted: 4 Feb. 1993

(Sgd.) DELFIN L. LAZARO
Secretary

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