A RESOLUTION PROMULGATING GUIDELINES IN EFFECTING DISCONNECTION BY DISTRIBUTION UTILITIES (DUS) AND OTHER PLAYERS IN THE ENERGY INDUSTRY OF THE ELECTRIC SERVICE OF A CONSUMER-OF...

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WHEREAS, Section 41 of the Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA) mandated the Energy Regulatory Commission (ERC) to handle consumer complaints and ensure the adequate promotion of consumer interests;

WHEREAS, Section 43 thereof required the ERC to promulgate rules, regulations and guidelines and perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernization of the electric power industry;

WHEREAS, for clarity and guidance of distribution utilities, consumers, and other players in the energy industry, in the implementation of Republic Act No. 7832, otherwise known as the “Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994”, certain requisites and procedures must be observed before disconnection may be carried out against a consumer-offender;

NOW, THEREFORE, be it resolved, as this ERC hereby resolves to promulgate the following requirements that must be complied with before any distribution utility may effect disconnection of the electric service of a consumer-offender:

1)

The discovery of the circumstances under R.A. 7832 must be personally witnessed by an officer of the law or ERC representative;[1]

2)

There must be due notice or prior notice of disconnection served upon the consumer-offender. Further, the consumer-offender must be given one (1) business day immediately upon receipt of the demand letter to settle the said differential billing pursuant to Section 8, Rule IV of the Implementing Rules and Regulations (IRR) of R.A. 7832;[2]

3)

In establishing the presence of an officer of the law, the signature of the officer of the law in the Metering Facilities Inspection Report (MFIR) is not sufficient proof thereof. The concerned distribution utility or electric cooperative must submit, as part of its evidence, the duly executed affidavit of the officer of the law who must be presented before the ERC for purposes of identifying the same and to answer clarificatory questions, if any. This requisite shall apply even if the case falls under the ERC Rules on Summary Procedure.[3]

When an ERC representative witnesses the discovery and accordingly signs the MFIR, there is no need for such representative to execute an affidavit and be presented as witness.

Let copies of this resolution be furnished all DUs for their information and guidance.

Pasig City, December 16, 2013.

(SGD) ZENAIDA G. CRUZ-DUCUT
Chairperson

(SGD) ALFREDO J. NON
Commissioner

(SGD) GLORIA VICTORIA C. YAP-TARUC
Commisioner

(SGD) JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner

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[1] Under Section 1, Rule III of the Implementing Rules and Regulations of R.A. 7832, an ERC Representative and officer of the law are defined as follows:

An ERC authorized representative is one who is assigned to conduct testing of electric meters or inspection of electric lines and facilities of any distribution entity or one who may be specifically authorized by the duly authorized head of the main or regional ERC offices.

An officer of the law is any person who, by direct provision of the law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as barangay captain, barangay chairman, barangay councilman, barangay leader, officer or member of Barangay Community Brigades, barangay policeman, PNP policeman, municipal councilor, municipal mayor, and provincial fiscal.

[2] The full text of the provision reads: Section 8. The customer or actual user is given one business day immediately after the receipt of the demand letter to settle the differential billing.

[3] Section 2, Rule 17 of the ERC Rules of Practice and Procedure.

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