

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



OSCAR MAGISTRADO,
Complainant,

- versus -

ERC CASE NO. 2002-184

MANILA ELECTRIC COMPANY,
Respondent.
x -----x

DOCKETED
Date: SEP 24 2008
By: [Signature]

DECISION

Before this Commission for resolution is the verified complaint filed by Oscar Magistrado on July 18, 2002 against respondent Manila Electric Company (MERALCO) for imposing a differential billing for his alleged use of an illegal electrical connection at his premises.

FACTS OF THE CASE

On February 15, 2002, respondent's personnel disconnected complainant's electric service on the allegation that a "two-line permanent jumper" was found illegally tapped at drip loop of its service wires directly to complainant's load without passing through the billing meter. As a consequence thereof, respondent demanded from the complainant the amount of Five Hundred Six Thousand Four Hundred Sixty Pesos and Fifteen Centavos (PhP506,460.15) representing the differential billing for the unregistered consumption from March 15, 1998 to February 15, 2002 based on the listed connected loads.

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Complainant denied respondent's allegation of illegal connection. In his complaint, he alleged that on February 15, 2002, several people, who introduced themselves as MERALCO personnel, and a police officer entered his premises and started looking for an alleged illegal electrical connection. The other members of the inspection team forced their entry into his house for the same reason. He further alleged that although they found nothing illegal, they forced his wife to sign a document unknown to her.

By way of comment, respondent alleged that on February 15, 2002, its service inspectors accompanied by a police officer, after seeking permission from the complainant's representative, conducted a routine inspection on the metering facilities of the complainant and found a jumper connection. Said inspectors allegedly informed complainant's representative of their findings and explained to her that the same constituted an illegal act. They furnished her a copy of the Meter Socket Inspection Report (MSIR) showing their findings which she acknowledged by affixing her signature therein. Respondent further stated that it disconnected the electric service of complainant only after a notice was duly served.

Since no amicable settlement between the parties was reached after several pre-hearing conferences, the complaint was set for a formal hearing.

On September 13, 2002, at the instance of the complainant, the Commission conducted an on-site ocular inspection of the electrical facilities at his residence in order to simplify the issues. A corresponding inspection report was issued where both respondent and complainant submitted their comment and reply to the comment, respectively.

The bottom of the page features five distinct handwritten signatures in black ink, arranged horizontally from left to right. The first signature is a simple 'dw'. The second is a stylized 'S'. The third is a more complex signature with a vertical line extending downwards. The fourth is a signature that appears to be 'J. Garcia' with a circular flourish above the 'G'. The fifth is a signature that appears to be 'M. Garcia' with a circular flourish above the 'G'.

Several hearings ensued wherein both parties presented evidence in support of their respective allegations.

On various dates, complainant and respondent submitted their respective "Memoranda/Position Papers".

DISCUSSION

Based on the evidence submitted, the Commission is convinced that complainant consumed illegally-drawn electricity. Complainant failed to refute with substantial evidence the pictures submitted by the respondent which were corroborated by the Commission's personnel after an ocular inspection was conducted.

In the said ocular inspection report submitted by the Commission's personnel, it was disclosed that a jumper wire was discovered to be embedded in a concrete corner wall outside the complainant's house. The end of the said jumper wire was referred to as "Point B". Respondent claimed that said wire extended inside the house of complainant which they had to cut off. The other end of the jumper wire, referred to in the report as "Pt. A", was shielded by a corrugated plastic insulation (color orange) and embedded in a concrete electric post erected by the complainant in front of his house. The end of "Point A" protrudes atop the said post near the drip loop of the line-side wire. The wire in-between points A and B was hidden beneath the cemented ground.

Evidence submitted by respondent further revealed the presence of electric current even after the kilowatt-hour meter was removed from its meter

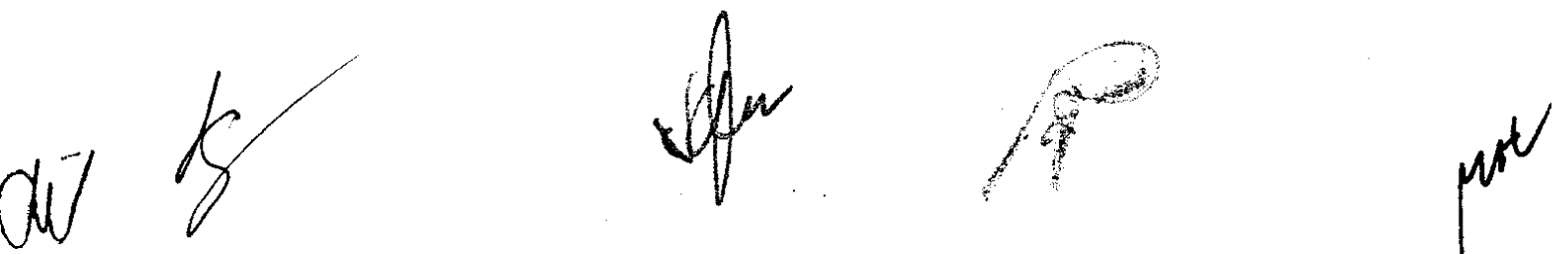
base. This finding was duly reflected in the Socket Test Voltage (STV) report indicated in the MSIR.

Respondent discovered that when the four (4) terminal blocks attached to the meter base were tested, the presence of electricity at socket terminals three and four was detected. This finding was reflected in the MSIR and shown in the pictures marked as Annexes "6 to 10". There should be no voltage or electric current measured or detected at socket terminals if there are no illegal connection and if the kilowatt-hour meter, which normally and legally connects the flow of electricity from the line-side to the customer side, is already removed.

The complainant argued that the rated current carrying capacity of the jumper wire cannot carry **alone** the presumed connected loads as reflected in the report. While this is correct, complainant's argument cannot refute the STV report of the respondent that electricity flows from line-side to load-side even if the meter was already removed from its base. This leads to the conclusion that said jumper wire was used to augment the legal connection of the complainant.

The complainant's reason for embedding the gauge 12 wire in the concrete post is also questionable. He claimed that said wire served to replace the existing aerial wire which connects to the streetlight. The fact that the wire was embedded simultaneously at the time of construction of the concrete post is indicative that the embedded wire already existed prior to the aerial wire.

Complainant further argued that if the subject wire was indeed used as a 'jumper', respondent should have removed it at the time of its inspection prior to commencing electric service.



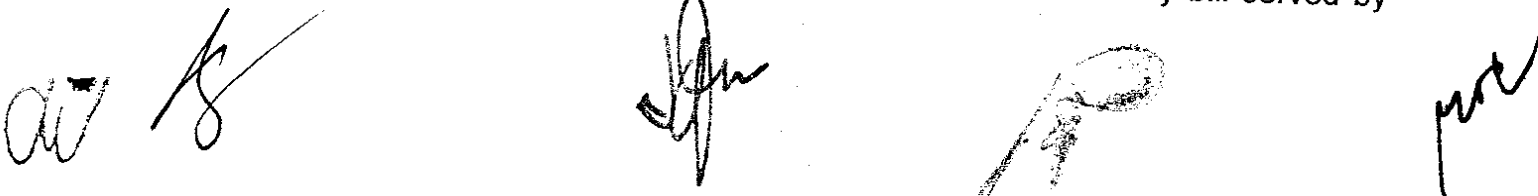
Said argument is untenable. Common sense dictates that such jumper wire may have been concealed at the time of the pre-service inspection so as not to prejudice complainant's electric service application.

The complainant also questioned the competence of the witnessing police officer. Republic Act No. 7832 (R.A. 7832) provides that in order to constitute prima facie illegal use of electricity, the commission of the illegal act so enumerated in the said law must be witnessed by an officer of the law. Said law does not require that the witnessing officer is an expert in the field of engineering.

Respondent imposed on the complainant a differential billing equivalent to forty seven (47) billing months covering the period March 15, 1998 to February 15, 2002 based on listed connected loads. However, respondent failed to adduce evidence on the standard daily energy usage on each connected load, which is an indispensable factor in determining the overall load profile of the load in use. Section 3, Rule VII of the Implementing Rules and Regulations (IRR) of R.A. 7832 provides that the differential billing shall be computed based on the current rate of electricity at the time of apprehension.

Accordingly, the equitable method to compute for the differential billing should be based on complainant's highest monthly electric consumption within five (5) years prior to the discovery of the said illegal act, which in this case is equivalent to 414 kilowatthours, the current rate of electricity at the time of apprehension, or Php6.5127/kilowatthour, and the affected period is forty seven (47) months.

Current rate means the average rate of electricity per kilowatthour as reflected in the current bill. Current bill means the latest monthly bill served by



the utility which does not include any period before the time of apprehension. However, complainant has no current bill or subsequent electric bills after the date of apprehension due to service disconnection. Thus, the Commission got the current rate based on available sample bill from another similarly situated residential customer for the period February 19, 2002 to March 19, 2002, net of Power Act Reduction.

Accordingly, pursuant to R.A. 7832, the differential billing should be **PhP126,724.12**, computed as follows:

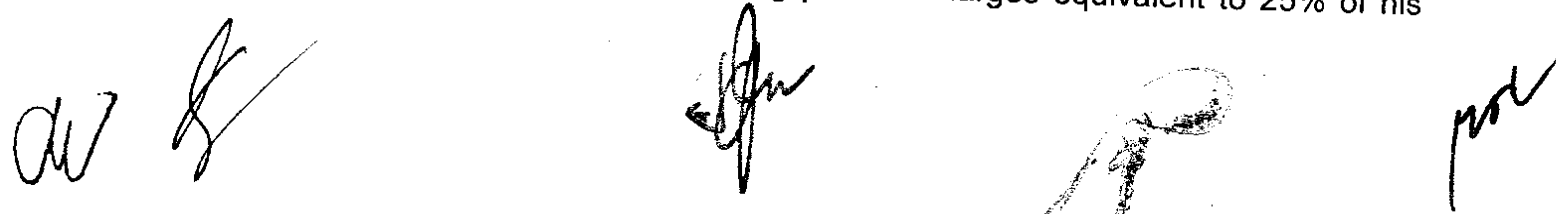
$$\text{Differential Billing} = 414 \times \text{PhP}6.5127 \times 47$$

Where:

414 kwhs	-	highest monthly consumption
PhP6.5127/kwh	-	current rate based on sample bill for the period February 19, 2002 to March 19, 2002 net of Power Act Reduction
47 months	-	allowable period of recovery

In addition to the unregistered consumption, respondent is entitled to collect surcharges from complainant equivalent to twenty-five percent (25%) of his current bill, in accordance with the said Act.

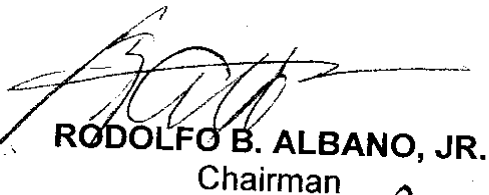
WHEREFORE, the foregoing premises considered, complainant OSCAR MAGISTRADO is hereby found to have unregistered consumption due to an illegal connection or "jumper". Accordingly, he is directed to pay MANILA ELECTRIC COMPANY (MERALCO) the amount of One Hundred Twenty Six Thousand Seven Hundred Twenty Four Pesos and Twelve Centavos (PhP126,724.12) as differential billing plus surcharges equivalent to 25% of his

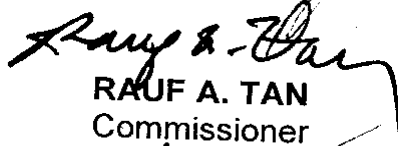


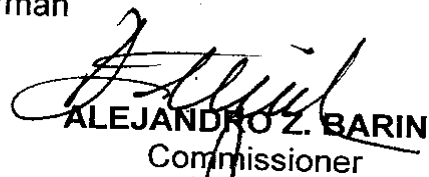
current bill. MERALCO, on the other hand, is directed to immediately cause the reconnection of complainant's electric service upon payment of the differential billing, subject to complainant's compliance with its service connection requirements and without prejudice to his rights under the Magna Carta for Residential Electricity Consumers.

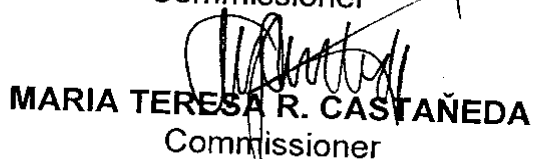
SO ORDERED.

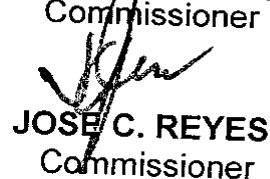
April 3, 2008, Pasig City.


RODOLFO B. ALBANO, JR.
Chairman


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner


EMA/CCC/IJPT 4

Copy furnished:

1. Mr. Oscar S. Magistrado
#9113 Sta. Isabel St., Capitol Parkland
Camarin, Caloocan City
2. Atty. Arturo Tan
Counsel for Complainant
2nd Floor, Eastside Bldg.
77 Malakas St., Brgy. Pinyahan
Diliman, Q. C.
3. Atty. Angel Miranda, Jr.
Counsel for Respondent
MERALCO Legal Department
Ortigas Ave., Pasig City