

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



FELICITO T. MACABANGUN,
Complainant,

- versus -

ERC CASE NO. 2002-60

MANILA ELECTRIC COMPANY,
Respondent.

x -----x

D O C K E T E D
Date: SEP 24 2008
By: [Signature]

DECISION

Before this Commission for resolution is the verified complaint filed by Felicito T. Macabangun on February 6, 2002 arising from the disconnection of his electric service by the Manila Electric Company (MERALCO, for brevity).

FACTS OF THE CASE

On December 4, 2001, MERALCO disconnected the electric service of complainant registered under the name of Norma Estrabo, on the allegation that the meter base had been altered by connecting socket terminal three (3) directly to socket terminal one (1). As a consequence thereof, MERALCO demanded from Ms. Estrabo and/or complainant the payment of One Hundred Forty Thousand Nine Hundred Seventy Seven Pesos and Fifteen Centavos (PhP140,977.15) representing the differential billing for the unregistered consumption.

In his complaint, complainant admitted that he is the caretaker of Ms. Estrabo's house but denied having illegally used electricity. He claimed that the

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discovery of the alleged altered electrical connection and the subsequent disconnection of the electric service on December 4, 2001 were done without his presence and without prior notice. He further alleged that when he came home on that day, the MERALCO inspection team had already disconnected his electric service and was just told that the meter had a "jumper" inside it. However, he was not shown the alleged altered connection. He denied having performed such illegal act because he is not technically educated, hence, he cannot "tinker with the meter". He averred that he was asked by the MERALCO inspection team to sign in the acknowledgment portion of the inspection report so they can work out a way for him to have his electricity immediately restored. He claimed that the notice he received was about his defective-stopped meter with the corresponding cost of billing adjustment. He also alleged that he was not given notice of the differential billing, hence, he was not able to pay the required deposit for the restoration of his electric service.

For its part, respondent, by way of comment, alleged that on December 4, 2001, its field personnel conducted a routine inspection on the metering facility of the complainant and found that line three (3) wire (load-side wire) was directly connected to line one (1) wire (line-side wire); that complainant acknowledged the said findings as well as the amount of differential billing by affixing his signature on the Meter/Socket Inspection Report (MSIR) and Notice of Disconnection that were served on him by its service inspectors; and that the inspection and disconnection were witnessed by a police officer.

The Commission conducted several pre-hearing conferences to afford the parties the opportunity to arrive at an amicable settlement. However, no settlement was reached and thus, the complaint was set for a formal hearing.



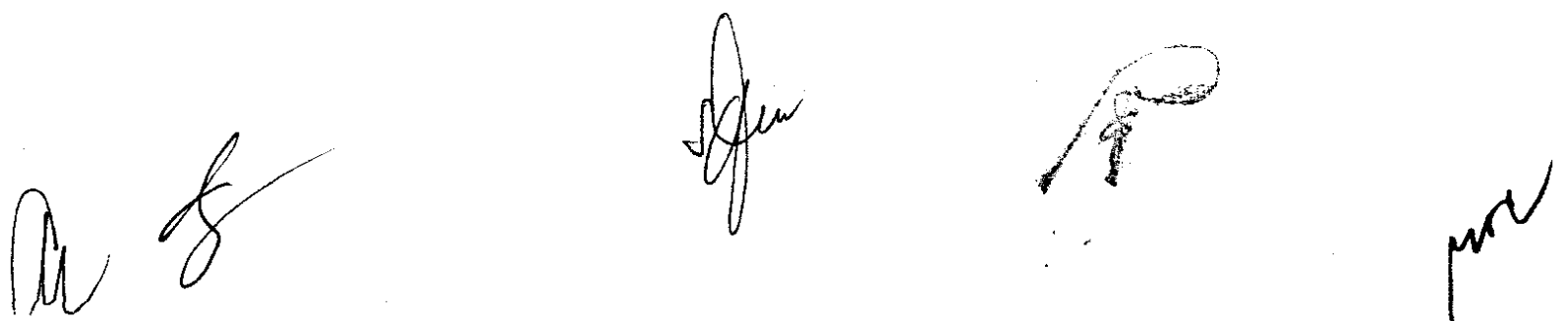
Several hearings ensued wherein both parties presented evidence in support of their respective allegations.

On December 10, 2002 and August 26, 2003, complainant and respondent respectively submitted their "Formal Offers of Evidence".

DISCUSSION

Based on the evidence presented, it cannot be disputed that the electrical connection on the complainant's metering facility was indeed altered. Complainant's defenses that it was not possible for him to have "tinkered with the electric meter" being a non-technical person and that the cover seals of the meter were intact cannot disprove the fact that there was alteration of the electrical connection at the meter base. In the instant case, the terminal seal of the subject meter was missing and complainant was not able to present substantial evidence to refute the findings of the respondent.

This being the case, the respondent acted well within its authority when it disconnected complainant's electric service as there was a prima facie evidence of illegal use of electricity pursuant to Section 1, Rule III of Republic Act No. 7832 (R.A. 7832). Copies of the MSIR and Notice of Disconnection were both duly acknowledged to have been received by the complainant on the very same date of inspection. Said Notice of Disconnection contained the findings of illegal connection, the amount of differential billing, the method used in computing the same, and other important data as required under Section 1, Rule V of the same Act.

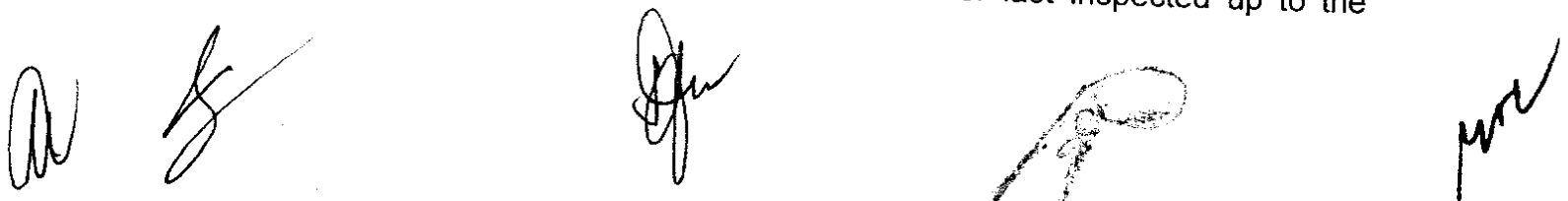
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The Commission is not convinced that complainant did not receive a notice of disconnection arising from pilferage but instead only received a notice on defective/stopped meter. The two (2) notices arose out of different situations, which happened several months apart. The notice on defective/stopped meter pertained to the discovery of a defective meter on February 27, 2001 or more than nine (9) months prior to the discovery of the illegal connection. On the other hand, the "Notice of Disconnection/Demand Letter" attached to his complaint and marked as Annex "B" demanding him to pay the assessed differential bill was dated December 4, 2001, the date of the apprehension, and was duly received by him. The records disproved complainant's insistence that he did not receive the required notice prior to disconnection. Also complainant should have not signed the acknowledgement receipt if he received the notice only after his electric service was disconnected.

However, as to the computation of the complainant's differential billing, the Commission finds respondent's computation inaccurate. It must be stressed that on February 27, 2001 or prior to the findings of illegal connection, the service meter of complainant was inspected and found by respondent to be defective.

Section 5, Rule VII of the Implementing Rules of R.A. 7832 provides that if there is a change in the customer's service connection, such as change of meter, change of seal or reconnection, the reckoning period for purposes of computing the differential billing shall be from the time of the last inspection.

Thus, complainant should only be made to pay for the illegal consumption from the period February 27, 2001 to December 4, 2001, or from the period when complainant's electric service was found defective or last inspected up to the



time of apprehension, applying the current rate of electricity at the time of apprehension, and using the highest consumption, which is 536 kilowatthours, within five (5) years prior to the said date of apprehension.

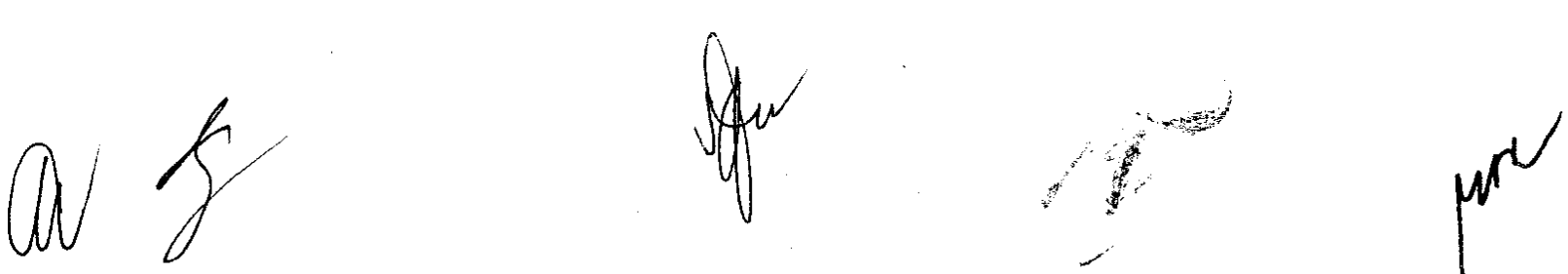
Current rate means the average rate of electricity per kilowatthour as reflected in the current bill. Current bill means the latest monthly bill served by the utility which does not include any period before the time of apprehension. However, complainant has no current bill or subsequent electric bills 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 December 19, 2001 to January 21, 2002, net of Power Act Reduction.

Accordingly, pursuant to R.A. 7832, the differential billing should be **PhP32,319.75**, computed as follows:

$$\text{Differential Billing} = 17.87 \times 6.4593 \times 280$$

Where:

- 17.87kwhs - represent the average daily kilowatthour usage (this was derived by dividing 536 kwhs, the highest consumption within five (5) years prior to the discovery of the said illegal act, by 30 days)
- PhP6.4593/kwh - current rate based on sample bill for the period December 19, 2001, to January 21, 2002 net of Power Act Reduction
- 280 days - allowable period of recovery



In addition to the unregistered consumption, respondent MERALCO 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 FELICITO T. MACABANGUN is hereby found to have unregistered consumption due to an altered metering facility and is directed to pay MANILA ELECTRIC COMPANY (MERALCO) the amount of Thirty Two Thousand Three Hundred Nineteen Pesos and Seventy Five Centavos (Php32,319.75) 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 bill, subject to his compliance with MERALCO's service connection requirements and without prejudice to his rights under the Magna Carta for Residential Electricity Consumers.

SO ORDERED.

Pasig City, March 19, 2008.


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 *mf*

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