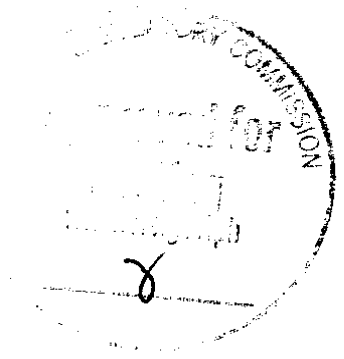


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



**HERMAN SUMADCHAT,**  
Complainant,

- versus -

**ERC CASE NO. 2004-40**

**MANILA ELECTRIC COMPANY,**  
Respondent.  
X-----X

DOCKETED  
Date: OCT 23 2008  
By: [Signature]

**DECISION**

Before this Commission for resolution is the verified complaint filed by Herman Sumadchat on February 4, 2004 against the 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 September 20, 2000, respondent disconnected the electric service registered under the name of Elvira Sumadchat, complainant's wife. Respondent alleged that it found a 'one-line permanent by-pass wire by energizing neutral wire going to loads' at the electrical facilities in complainant's premises. As a

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consequence thereof, it demanded from Ms. Sumadchat the payment of Two Hundred Eighty Three Thousand Three Hundred Nineteen Pesos and 30/100 (PhP283,319.30) representing the differential billing for the unregistered consumption from October 11, 1995 to September 20, 2000 based on the listed connected loads.

To obtain reconnection of service, complainant negotiated with respondent for the settlement of a reduced differential bill. An Installment Payment Agreement (IPA) was executed by the parties after complainant made a downpayment and thereafter paid two (2) monthly installments. He then filed the instant case.

Complainant alleged that he is not the original owner of the subject premises; that he challenged Mr. Ricardo Tanyag, respondent's personnel who conducted the inspection, to show where the alleged illegal wire leads; that Mr. Tanyag refused to do so since the same is the work of an electrician and not his; that he asked Mr. Tanyag to inspect all the electrical connections in his house as he has nothing to hide; that Mr. Tanyag, instead of inspecting the wires, listed all his connected loads; that thereafter, he requested the assistance of an Electrical Engineer from the Municipality of Cainta to check/inspect the alleged illegal connection which was supposed to be witnessed by respondent's representative; that said inspection, which was witnessed by the Village Manager sans respondent's representative, yielded no traces of illegal connection; that the differential billing was without basis; that he even wrote to respondent on August 10, 1998 requesting for a change of meter due to the unusual high billing and that respondent did so; that such change of meter resulted to a reduced differential bill; that his average monthly electrical consumption for the affected

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period was even higher compared with that after the discovery of the alleged illegal connection; and that he agreed to the IPA under duress.

Respondent, by way of comment, alleged that on September 20, 2000, its field personnel conducted a routine inspection of complainant's electric service; that the inspection was made in the presence of the registered customer herself and a police officer; that in the course of the inspection, it discovered the aforementioned illegal connection; that it explained the said findings as well as the differential billing to the customer; that she was furnished a copy of the Meter/Socket Inspection Report (MSIR) and Notice of Disconnection; that it disconnected the complainant's electric service to prevent further damage; and that the complainant voluntarily agreed to pay a reduced differential billing in order to obtain reconnection.

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

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

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

#### DISCUSSION

Technical standards require that service entrance wires and line-side wires (both line 1 and line 2) must be joined or connected by the service provider

with a device commonly termed as 'connector' in order to protect both wires from ordinary wear-and-tear.

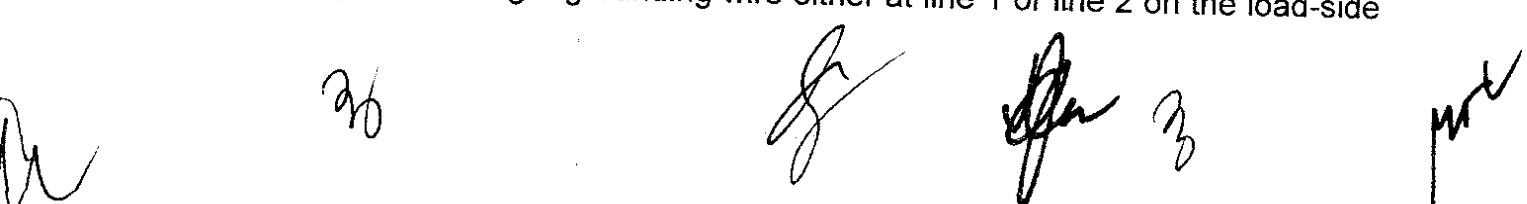
As shown by the picture submitted as Exhibit "B" by the complainant himself, the line 1 wires in his premises were connected using a different wire not by the service-provided 'connector'. Only the line 2 wires were joined by a 'connector'. This, in itself, proves that the line 1 wires were tampered.

Further, the same Exhibit "B" showed the presence of a third wire alongside line 1 and line 2 wires protruding from the weather cap at the service entrance. A weather cap serves to protect the service entrance wires from all weather conditions. Per respondent's MSIR, the line 3 wire was found to be energized through a connection to line 1. This resulted to a splitting of the flow of electricity between line 1 wire and the line 3 wire. Thus, when respondent's inspector tested line 3 at the meter base, said wire was found to be a 'live' wire.

It must be noted that respondent's approved distribution system is line-to-line where there are only two (2) 'live' wires, the line 1 and the line 2 wires with a measured voltage of 230 volts across the lines. In this system, a third or neutral wire is not necessary. Thus, the presence of a third wire or the neutral wire found at the complainant's service entrance is questionable.

Complainant argued that he could not have possibly made such illegal connection at the service entrance because it is visible in plain view. He further claimed that he uses a grounding line or wire for his 110 volts loads.

Assuming *arguendo* that complainant has 110 volts load, such can be supplied by connecting a grounding wire either at line 1 or line 2 on the load-side

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but never on the line-side, which complainant did. To do the latter will affect the normal registration of electricity being consumed.

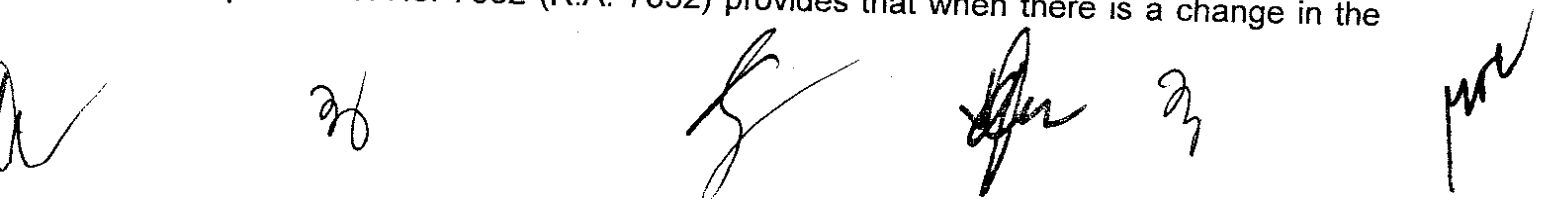
Furthermore, complainant failed to convince this Commission that his electric consumption before and after the inspection did not substantially change. The electric bills which complainant claimed as his reference and in his possession were not presented in evidence.

The testimony of Engr. Rodolfo Bigtas, Cainta City Electrical Inspector, is not compelling enough to reverse the Commission's findings. The situation obtaining at the time of apprehension cannot be compared to the situation existing after said apprehension.

Moreover, the Commission sees no defect in respondent's conduct of its inspection and its subsequent findings, the same being in accordance with the existing law.

However, with respect to the computation of the differential billing made by respondent, the Commission finds the same to be incorrect. Respondent charged complainant with a five-year differential billing covering the periods October 11, 1995 to September 20, 2000 based on listed connected loads. It, however, 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. Complainant alleged that his meter was replaced by respondent per his request. Such allegation was not disputed by respondent.

Section 5, Rule VII of the Implementing Rules and Regulations (IRR) of Republic Act No. 7832 (R.A. 7832) provides that when there is a change in the

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customer's service connection, such as change of meter or change of seal or reconnection, the period to be recovered shall be reckoned from the time of the last inspection.

Accordingly, pursuant to R.A. No. 7832, the differential billing should be **PhP63,111.24**, computed as follows:

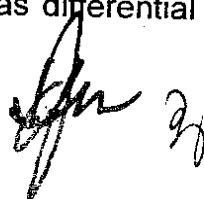
$$\text{Differential Billing} = (71.87 \times \text{PhP}5.2485 \times 759) - \text{PhP}223,190.92$$

Where:

<b>71.87 kwhs</b>	-	average daily kilowatthour usage based on the highest monthly consumption within five (5) years prior to the date of apprehension
<b>PhP5.2485/kwh</b>	-	average rate of electricity based on August, 2000 bill
<b>759 days</b>	-	allowable period of recovery
<b>PhP223,190.92</b>	-	total payment made for the affected periods, inclusive of the IPA

In addition to the unregistered consumption, respondent is entitled to collect surcharges from complainant equivalent to twenty-five percent (25%) of his current bill, pursuant to Section 8 (a) of R.A. 7832.

**WHEREFORE**, the foregoing premises considered, complainant HERMAN SUMADCHAT is hereby found to have unregistered consumption due to an illegal electrical connection. Accordingly, he is directed to pay MANILA ELECTRIC COMPANY (MERALCO) the amount of Sixty Three Thousand One Hundred Eleven Pesos and 24/100 (PhP63,111.24) as differential billing for the



period September 18, 1998 to September 20, 2000 plus surcharges equivalent to 25% of his current bill.

SO ORDERED.

Pasig City, August 11, 2008.

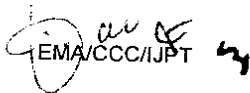
  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson

  
**RAUF A. TAN**  
Commissioner

  
**ALEJANDRO Z. BARIN**  
Commissioner

  
**MARIA TERESA R. CASTAÑEDA**  
Commissioner

  
**JOSE C. REYES**  
Commissioner

  
EMA/CCC/IJPT

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