

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

**RULES OF PROCEDURE GOVERNING COMPLAINTS
FILED WITH THE CONSUMER AFFAIRS SERVICE,
ENERGY REGULATORY COMMISSION**

Pursuant to Section 41 in relation to Section 43 of Republic Act No. 9136, the Energy Regulatory Commission (ERC) hereby adopts and promulgates the following Rules of Procedure governing complaints filed before the Consumer Affairs Service of the ERC.

RULE I. DEFINITION OF TERMS

Section 1. Definition of Terms – As used in these Rules:

- a) *Complaint* – is a concise statement of the ultimate facts of the matter or act complained of within the regulatory power or jurisdiction of the Commission, and shall specify the principal relief sought.
- b) *Consumer Complaint* – refers to a complaint filed before the Commission by any person, natural or juridical, receiving services or entitled to receive service from a utility regulated by ERC;
- c) *Respondent* – refers to any person, natural or juridical, against whom the complaint is filed, alleged as the perpetrator of such act or omission, which may include but not limited to distribution utilities, private or public cooperative, etc;
- d) *Energy Regulatory Commission (ERC)* – refers to the quasi-judicial body created under Republic Act No. 9136 to promote competition, encourage market development, ensure customer choice and penalize abuse of market power in the restructured electric industry;
- e) *Consumer Affairs Service (CAS)* – refers to the department of the ERC created, among others, to promote consumer interests and address consumer complaints and mandated to conduct the proceedings which is the subject matter of these Rules. It shall include the field offices located in the Visayas (Cebu City) and Mindanao (Davao City).

RULE II. COVERAGE

Section 1. Coverage. – The herein rules shall govern all complaints filed with the Consumer Affairs Service (CAS) for specific violations of laws, rules, regulations and policies being implemented by the ERC, including but not limited to Republic Act No. 9136, otherwise known as the “Electric Industry Reform Act of 2001”, Republic Act No. 7832, otherwise known as the “Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994.”

Section 2. Technical Rules, To Be Liberally Construed. – 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 to the proceedings before the CAS. The CAS shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, all in the interest of substantive due process.

Section 3. Nature of Proceedings. – The proceedings conducted before the Consumer Affairs Service (CAS) of the ERC shall be non-litigious and conciliatory in nature.

RULE III. PLEADINGS

Section 1. Complaint – Any person, natural or juridical, may file a complaint, under oath, in the form prescribed by the ERC, for alleged violation/s of the existing provisions of laws, rules, regulations and policies being implemented by the ERC. The prescribed form of the complaint, including the Certification against Forum Shopping, shall be available at the CAS and in all public utilities and electric cooperatives.

If a complaint is unverified, the CAS shall advise the complainant of the proper form of the complaint and cause the same to be in the prescribed form. This is without prejudice to the CAS taking appropriate action thereon in the meantime that complainant is complying with the requirement.

The CAS shall not entertain any complaint for which a case involving the same issue/violation has been filed with the regular courts or other quasi-judicial bodies.

Section 2. Where to file the Complaint. – A complaint for any such violation referred to in Section 1, Rule II may be filed with the CAS of the ERC.

Section 3. Contents of a Complaint. – The Complaint shall contain the following information:

- a) Full names and addresses of all the real parties in interest, whether natural or juridical persons or entities authorized by law;
- b) A party having more than one cause of action against the other party,

arising out of the same relationship, shall join all of them in one complaint;

- c) The specific act complained of constituting the violation;
- d) Relief/s being sought; and
- e) Other information relevant to the complaint

Section 4. *Prior Consultation with Respondent's Consumer Desk.* - No complaint, action or proceeding shall be filed and/or entertained before the CAS unless there has been prior consultation and/or discussion with the respondent before the respondent's consumer desk located in its head office or branch office and that no settlement has been reached.

Section 5. *Notice to the Respondent.* - The CAS shall, within three (3) days from receipt of the complaint, issue notice to the respondent/s, attaching therewith a copy of the complaint and requiring the latter to file its answer to the complaint within ten (10) days from receipt thereof.

On motion duly filed and served, and before the expiration of the reglementary period, the CAS, for justifiable reasons, can grant an extension of time to file the answer.

Section 6. *Answer.* - The respondent shall submit an answer to the complaint in writing, by either denying specifically the material allegations of the complaint or alleging any lawful defense. All allegations in the complaint not specifically denied in the answer shall be deemed admitted and affirmative defenses not pleaded shall be deemed waived.

Section 7. *Answer to Amended Complaint.* - At any time before the complaint is referred to the CAS Hearing Officer, the complaint may be amended provided that a copy thereof is duly served upon the respondent who shall answer the amended complaint within ten (10) days from receipt thereof.

Section 8. *Other Pleadings Allowed* - Counterclaims, cross-claims, third (fourth, etc.) party-complaints and complaint-in-intervention may also be filed in relation to the complaint filed before the CAS.

RULE IV. PRE-HEARING CONFERENCES

Section 1. *Initial Pre-Hearing Conference.* - The CAS shall direct the parties, their duly authorized representatives and/or their counsels to appear before the CAS Hearing Officer for an initial pre-hearing conference.

Section 2. *Presence of Counsel Optional* - In all pre-hearing conferences, the parties need not be represented by counsel.

Attorney or representative of a party shall be deemed clothed with authority to bind his/her client/principal in conciliation.

Section 3. Purpose of the Initial Pre-Hearing Conference. – The CAS Hearing Officer shall conduct an initial pre-hearing conference between the parties to consider the following:

- a) Possible settlement of the case;
- b) Simplification of issues;
- c) Advisability of amendment of complaint/pleadings;
- d) Possibility of stipulation of facts;
- e) Possible limitation on the number of witnesses to be presented not to exceed five (5) excluding the complainant;
- f) Such other matters that may aid in the speedy disposition of the case.

Section 4. Pre-Hearing Conferences. – With the objective of a speedy and adequate disposition of the issues and a possible amicable settlement, the CAS Hearing Officer shall set the dates and venue for the pre-hearing conferences which shall not be more than three (3) conferences excluding the initial pre-hearing conference: Provided however, That additional pre-hearing conferences may be scheduled upon the discretion of the CAS Hearing Officer, based on justifiable reasons.

Section 5. Control of the Pre-Hearing Conferences. – The CAS Hearing officer shall exercise complete control over all proceedings to insure a speedy, adequate and justifiable disposition of the disputes and cases submitted to them for resolution.

Section 6. Conduct of Pre-Hearing Conferences. – The parties, and/or their duly authorized representatives and/or their respective counsels must attend pre-hearing conferences.

During the said conferences, the parties shall be given the opportunity to prove their respective cases and submit evidences in support thereof. The complainant shall initially present his claims and supporting documents followed by the respondent. Rebuttal evidence of both parties may also be submitted before the proceedings.

The CAS Hearing Officer shall at all times adopt the most expeditious procedures for the introduction and reception of evidences, and shall afford full and equal opportunity to all parties to present relevant evidence.

Section 7. Continuance and Postponements. – Request for postponements of hearings may be granted by the CAS Hearing Officer at least three (3) days before the date of the hearing with prior notice to the other party/ies: Provided, however, That no more than three (3) postponements upon request of one party shall be allowed during the pendency of the proceedings before the CAS, except for justifiable reasons at the discretion of the CAS Hearing Officer.

Section 8. Failure to Appear in Three (3) Consecutive Hearings. – Failure of the complainant to appear in three (3) consecutive Pre-Hearing Conferences without justifiable cause shall be a ground for the dismissal of the case for

lack of interest. With respect to the respondent, a fine may be imposed by the Commission on him in accordance with the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties.

Section 9. *Record of the Proceedings.* – Proceedings before the CAS Hearing Officer shall be recorded by means of stenographic notes or minutes taken of such proceedings.

Section 10. *Termination of the Pre-Hearing Conferences.* – A case shall be terminated within six (6) months from filing thereof unless both parties agree to enter into an amicable settlement. When an amicable settlement is agreed upon by the parties, the CAS officer shall terminate the proceedings with the signing of such amicable settlement.

However, when it becomes apparent that no amicable settlement can be reached, the CAS Hearing Officer shall terminate the proceedings and endorse the same to the Legal Service for Hearing. The CAS Hearing Officer shall then forward all the records of the proceedings, including the minutes of the pre-hearing conferences and evidences submitted.

RULE V. AMICABLE SETTLEMENT

Section 1. *Form of Amicable Settlement.* - All amicable settlements shall be in writing and signed by the parties who shall furnish a copy thereof to the Commission. The settlement shall contain the provision that it has been agreed upon by the parties voluntarily and freely with full understanding of its terms and consequences thereof.

Section 2. *Binding Effect of the Amicable Settlement.* – An amicable settlement duly entered into in accordance with the preceding section shall be final and binding upon the parties and the order approving it shall have the effect of a judgment rendered by the ERC in the final disposition of the case.

Section 3. *Violation of Terms and Conditions of Amicable Settlement.* Whenever one party fails to observe the terms and conditions of amicable settlement, the aggrieved party may file a complaint for violation thereof before the Legal Service of the ERC.

RULE VI. FINAL PROVISIONS

Section 1. The provisions of the Rules Governing Hearings before the former Energy Regulatory Board (ERB) shall apply to these proceedings, whenever possible.

Section 2. *Effectivity Clause.* These Rules of Procedure shall take effect

immediately, upon its publication in a newspaper of general circulation.

Pasig City, June 25, 2002.

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Chairman

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