

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



MARILEN BARTOLOME
REPRESENTED BY ELADIO
BARTOLOME,
Complainant,

- versus -

ERC CASE NO. 2005-245 CC

MANILA ELECTRIC COMPANY
(MERALCO),
Respondent.

X-----X

ISMAEL BARTOLOME
REPRESENTED BY ELADIO
BARTOLOME,
Complainant,

- versus -

ERC CASE NO. 2005-247 CC

MANILA ELECTRIC COMPANY
(MERALCO),
Respondent.

X-----X

DOCKETED
Date: JUL 26 2017
By: _____

ORDER

Before this Commission for resolution is the "*Motion for Partial Reconsideration (To The Decision Dated July 6, 2015)*" filed on August 24, 2015 by respondent Manila Electric Company (MERALCO) praying that the Commission's Decision dated July 6, 2015 be reconsidered and that complainants, Marilen and Ismael be directed to pay the differential billings amounting to PhP1,212,815.10¹. The dispositive portion of the said Decision reads:

"**WHEREFORE**, the foregoing premises considered, complainants Marilen Bartolome and Ismael Bartolome are hereby found to have illegally consumed electricity through an illegal loop connection. Accordingly, they are liable to pay the computed unregistered electric consumption for the period, to wit:

¹ PhP928,448.85 for SIN 733-634-801 and PhP284,366.25 for SIN 593-550-601

1. **Marilen Bartolome** – Feb. 2000 to June 2001 in the amount of Eleven Thousand Seven Hundred Thirty Three Pesos and 52/100 (PhP11,733.52) plus 25% surcharge of her current bill;
2. **Ismael Bartolome** – Feb. 2000 to July 2001 in the amount of Two Thousand Four Hundred Twenty Two Pesos and 05/100 (PhP2,422.05) plus a 25% surcharge of his current bill;
3. **Eladio Bartolome** is hereby found to have not illegally consumed electricity. Accordingly, the differential billing of Fifty Three Thousand Four Hundred Ninety Seven Pesos and 65/100 (PhP53,497.65) being imposed by respondent MANILA ELECTRIC COMPANY has no sufficient basis."

In its partial motion for reconsideration, MERALCO averred that it properly applied the connected load methodology in the computation of complainants' differential billings. Not only that this was the most appropriate methodology to apply due to absence of a drastic drop in the electricity consumptions of both Marilen and Ismael, the said methodology is the first to be mentioned in the enumeration of methodologies provided for in Section 4 Rule III of the Rules and Regulations Implementing² Republic Act No. 7832³ (R.A. 7832) which was then the applicable implementing rules, to wit:

"Section 4. Computation of the Unbilled Consumption in Kilowatthour. – The unbilled consumption in kilowatthour may be computed by using the following methodologies:

4.1 For cases falling under paragraphs (a), (e), (f) and (g) Section 1 Rule III hereof, the following methodologies shall be used:

(a) **The estimated monthly consumption as per report of load inspection conducted during the time of discovery;**

(b) **The highest recorded monthly consumption within the five-year period preceding the time of the discovery;**

² Adopted by then Energy Regulatory Board (ERB) on July 7, 1995

³ "An Act Penalizing the Pilferage of Electricity and Theft of Electric Power Transmission Lines/Materials, Rationalizing System Losses by Phasing Out Pilferage Losses as a Component Thereof, and for Other Purposes."

- (c) The higher consumption between the average consumptions before or after the highest drastic drop in consumption within the five-year billing period preceding the discovery; and
- (d) The highest recorded monthly consumption within four (4) months after the time of the discovery.” (underscoring supplied)

Since the proper methodology to be applied is the connected load methodology, to determine differential billing, respondent prayed that complainants⁴ be directed to pay the amounts of PhP928,448.85 for Service Identification Number (SIN) 733634801 and PhP284,366.25 for SIN 593550601 as differential billings.

On October 5, 2015, the Commission issued an Order directing the complainants to file their respective comments on the said partial motion for reconsideration. In compliance therewith, on November 11, 2015, complainants filed their consolidated “*Comment to Respondent MERALCO’s Partial Motion for Reconsideration*”.

In their consolidated comments, complainants argued that it is impossible for Ms. Marilen Bartolome to accumulate a very huge electric bill given the small sari-sari store that she was occupying with one (1) fluorescent lamp and one (1) electric fan as appliances. This only shows the erroneous computation of complainants’ electricity bills. Moreover, respondent merely concocted a list of non-existent home appliances in order to justify its arbitrary and exorbitant charges of electricity consumption against complainants.

MERALCO’s argument is bereft of merit. Though the **connected load methodology** is the first among the enumeration of methodologies listed in Section 4 Rule III of the Rules and Regulations Implementing⁵ R.A. 7832, the application of any of the methodologies do not depend upon their precedence in the enumeration. In the application of each of the methodologies, the foremost thing to consider is whether the application is supported by the facts and as established by sufficient evidence.

In addition, the application by the respondent of the connected load methodology finds no support in evidence in view of its failure 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 a load in use.

⁴ Except Eladio Bartolome

⁵ Adopted by then Energy Regulatory Board (ERB) on July 7, 1995

It bears stressing that the methodology applied by the Commission was the **highest consumption methodology** in view of the presence of drastic drops in both of Marilen and Ismael Bartolome's electricity consumptions. Thus, for the affected periods of February 2, 2000 to January 12, 2005, it applied to their respective cases each of their recorded highest monthly consumptions within the period, that is, 319 kilowatthours for Marilen and 400 kilowatthours for Ismael. The application of the highest consumption methodology was called for since despite the recorded drastic drop in Marilen's consumption at eighty (87) kilowatthours in June 2001, and in Ismael's consumption at sixty-six (66) kilowatthours in July 2001, respondent was not alarmed and took no action to provide remedy, thereby unduly prolonging the situation.

In view thereof, the Commission finds no cogent reason to set aside its Decision dated July 6, 2015.

WHEREFORE, the foregoing premises considered, respondent's "*Motion for Partial Reconsideration (To The Decision Dated July 6, 2015)*" is hereby **DENIED** for lack of merit.

SO ORDERED.

Pasig City, July 18, 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:


GLORIA VICTORIA C. YAP-TARUC
Commissioner

Copy Furnished:

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