



Republic Act No. 7832

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December 8, 1994

REPUBLIC ACT NO. 7832

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

SECTION 1. Short Title. — This Act shall be referred to as the "Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994."

SECTION 2. Illegal Use of Electricity. — It is hereby declared unlawful for any person, whether natural or juridical, public or private, to:

- (a) Tap, make or cause to be made any connection with overhead lines, service drops, or other electric service wires, without previous authority or consent of the private electric utility or rural electric cooperative concerned;—
- (b) Tap, make or cause to be made any connection to the existing electric service facilities of any duly registered consumer without the latter's or the electric utility's consent or authority;
- (c) Tamper, install or use a tampered electrical meter, jumper, current reversing transformer, shorting or shunting wire, loop connection or any other device which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted;
- (d) Damage or destroy an electric meter, equipment, wire or conduit or allow any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electric current; and
- (e) Knowingly use or receive the direct benefit of electric service obtained through any of the acts mentioned in subsections (a), (b), (c), and (d) above. —

SECTION 3. Theft of Electric Power Transmission Lines and Materials. — (a) It is hereby declared unlawful for any person to:

- (1) Cut, saw, slice, separate, split, sever, smelt, or remove any electric power transmission line/material or meter from a tower, pole, or any other installation or place of installation or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;
- (2) Take, carry away or remove or transfer, with or without the use of a motor vehicle or other means of conveyance, any electric power transmission line/material or meter from a tower, pole, any other installation or place of installation, or any place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located without the consent of the owner, whether or not the act is done for profit or gain;—
- (3) Store, possess or otherwise keep in his premises, custody or control, any electric power transmission line/material or meter without the consent of the owner, whether or not the act is done for profit or gain; and
- (4) Load, carry, ship or move from one place to another, whether by land, air or sea, any electrical power transmission line/material, whether or not the act is done for profit or gain, without first securing a clearance/permit for the said purpose from its owner or the National Power Corporation (NPC) or its regional office concerned, as the case may be.

(b) For purposes of this section, "electrical power transmission line/material" refers to electric power transmission steel towers, woodpoles, cables, wires, insulators, line hardwares, electrical conductors and other related items with a minimum voltage of sixty-nine kilovolts (69 kv), such as the following:

- (1) Steel transmission line towers made of galvanized steel angular members and plates or creosoted and/or tannelized woodpoles/ concrete poles and designed to carry and support the conductors;
- (2) Aluminum conductor steel reinforced (ACSR) in excess of one hundred (100) MCM;
- (3) Overhead ground wires made of 7 strands of galvanized steel wires, 3.08 millimeters in diameter and designed to protect the electrical conductors from lightning strikes;
- (4) Insulators made of porcelain or glass shell and designed to insulate the electrical conductors from steel towers or woodpoles; and
- (5) Various transmission line hardwares and materials made of aluminum alloy or malleable steel and designed to interconnect the towers, conductors, ground wires, and insulators mentioned in subparagraphs (1), (2), (3), and (4) above for the safe and reliable operation of the transmission lines. —

SECTION 4. Prima Facie Evidence. — (a) The presence of any of the following circumstances shall constitute *prima facie* evidence of illegal use of electricity, as defined in this Act, by the person benefitted thereby, and shall be the basis for: (1) the immediate disconnection by the electric utility to such person after due notice, (2) the holding of a preliminary investigation by the prosecutor and the subsequent filing in court of the pertinent information, and (3) the lifting of any temporary restraining order or injunction which may have been issued against a private electric utility or rural electric cooperative:

- (i) The presence of a bored hole on the glass cover of the electric meter, or at the back or any other part of said meter;
- (ii) The presence inside the electric meter of salt, sugar and other elements that could result in the inaccurate registration of the meter's internal parts to prevent its accurate registration of electricity;
- (iii) The existence of any wiring connection which affects the normal operation or registration of the electric meter;
- (iv) The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered or tampered meter recording chart or graph, or computerized chart, graph, or log;—
- (v) The presence in any part of the building or its premises which is subject to the control of the consumer or on the electric meter, of a current reversing transformer, jumper, shorting and/or shunting wire, and/or loop connection or any other similar device;
- (vi) The mutilation, alteration, reconnection, disconnection, bypassing or tampering of instruments, transformers, and accessories;
- (vii) The destruction of, or attempt to destroy, any integral accessory of the metering device box which encases an electric meter, or its metering accessories; and
- (viii) The acceptance of money and/or other valuable consideration by any officer or employee of the electric utility concerned or the making of such an offer to any such officer or employee for not reporting the presence of any of the circumstances enumerated in subparagraphs (i), (ii), (iii), (iv), (v), (vi), or (vii) hereof: *Provided, however*, That the discovery of any of the foregoing circumstances, in order to constitute *prima facie* evidence, must be personally witnessed and attested to by an officer of the law or a duly authorized representative of the Energy Regulatory Board (ERB).

(b) The possession or custody of electric power transmission line/material by any person, natural or juridical, not engaged in the transformation, transmission or distribution of electric power, or in the manufacture of such electric power transmission line/material shall be *prima facie* evidence that such line/material is the fruit of the offense defined in Section 3 hereof and therefore such line/material may be confiscated from the person in possession, control or custody thereof....

SECTION 5. Incentives. — An incentive scheme by way of a monetary reward in the minimum amount of Five thousand pesos (P5,000) shall be given to any person who shall report to the NPC or police authorities any act which may constitute a violation of Section 3 hereof. The Department of Energy (DOE), in consultation with the NPC, shall issue the necessary guidelines for the proper implementation of this incentive scheme within thirty (30) days from the effectivity of this Act.

SECTION 6. Disconnection of Electric Service. — The private electric utility or rural electric cooperative concerned shall have the right and authority to disconnect immediately the electric service after serving a written notice or warning to that effect, without the need of a court or administrative order, and deny restoration of the same, when the owner of the house or establishment concerned or someone acting in his behalf shall have been caught *en flagrante delicto* doing any of the acts enumerated in Section 4(a) hereof, or when any of the circumstances so enumerated shall have been discovered for the second time: *Provided*, That in the second case, a written notice or warning shall have been issued upon the first discovery: *Provided, further*, That the electric service shall not be immediately disconnected or shall be immediately restored upon the deposit of the amount representing the differential billing by the person denied the service, with the private electric utility or rural electric cooperative concerned or with the competent court, as the case may be: *Provided, furthermore*, That if the court finds that illegal use of electricity has not been committed by the same person, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against the private utility or rural electric cooperative, and the utility or cooperative shall be made to immediately pay such person double the value of the payment or deposit with legal interest, which amount shall likewise be creditable against immediate future billings, without prejudice to any criminal, civil or administrative action that such person may be entitled to file under existing laws, rules and regulations: *Provided, finally*, That if the court finds the same person guilty of such illegal use of electricity, he shall, upon final judgment, be made to pay the electric utility or rural electric cooperative concerned double the value of the estimated electricity illegally used which is referred to in this section as differential billing.

For purposes of this Act, "differential billing" shall refer to the amount to be charged to the person concerned for the unbilled electricity illegally consumed by him as determined through the use of methodologies which utilize, among others, as basis for determining the amount of monthly electric consumption in kilowatt-hours to be billed, either: (a) the highest recorded monthly consumption within the five-year billing period preceding the time of the discovery, (b) the estimated monthly consumption as per the report of load inspection conducted during the time of discovery, (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, (d) the highest recorded monthly consumption within four (4) months after the time of discovery, or (e) the result of the ERB test during the time of discovery and, as basis for determining the period to be recovered by the differential billing either: (1) the time when the electric service of the person concerned recorded an abrupt or abnormal drop in consumption, or (2) when there was a change in his service connection such as a change of meter, change of seal or reconnection, or in the absence thereof, a maximum of sixty (60) billing months up to the time of discovery: *Provided, however*, That such period shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity.---

SECTION 7. Penalties. — (a) *Violation of Section 2.* — The penalty of *prisión mayor* or a fine ranging from Ten thousand pesos (P10,000) to Twenty thousand pesos (P20,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 2 hereof.

(b) *Violation of Section 3.* — The penalty of *reclusión temporal* or a fine ranging from Fifty thousand pesos (P50,000) to One hundred thousand pesos (P100,000) or both at the discretion of the court, shall be imposed on any person found guilty of violating Section 3 hereof.---

(c) *Provision common to violations of Section 2 and Section 3 hereof.* — If the offense is committed by, or in connivance with, an officer or employee of the power company, private electric utility or rural electric cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company and from holding any public office.

If, in committing any of the acts enumerated in Section 4 hereof, any of the other acts as enumerated is also committed, then the penalty next higher in degree as provided herein shall be imposed.

If the offense is committed by, or in connivance with an officer or employee of the electric utility concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company. Likewise, the electric utility concerned which shall have knowingly permitted or having knowledge of its commission shall have failed to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, shall be made to pay a fine not exceeding triple the amount of the "differential billing" subject to the discretion of the courts.

If the violation is committed by a partnership, firm, corporation, association or any other legal entity, including a government-owned or -controlled corporation, the penalty shall be imposed on the president, manager and each of the officers thereof who shall have knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offense.---

SECTION 8. Authority to Impose Violation of Contract Surcharges. — A private electric utility or rural electric cooperative may impose surcharges, in addition to the value of the electricity pilfered, on the bills of any consumer apprehended for tampering with his electric meter/metering facility installed on his premises, as well as other violations of contract like direct connection, use of jumper, and other means of illicit usage of electricity found installed in the premises of the consumer. The surcharge for the violation of contract shall be collected from and paid by the consumer concerned as follows:

(a) *First apprehension.* — Twenty five percent (25%) of the current bill as surcharge;

(b) *Second apprehension.* — Fifty percent (50%) of the current bill as surcharge; and..

(c) *Third and subsequent apprehensions.* — One hundred percent (100%) of the current bill as surcharge.

The private electric utility or rural electric cooperative is authorized to discontinue the electric service in case the consumer is in arrears in the payment of the above imposed surcharges.

The term "apprehension" as used herein shall be understood to mean the discovery of the presence of any of the circumstances enumerated in Section 4 hereof in the establishment or outfit of the consumer concerned.

SECTION 9. Restriction on the Issuance of Restraining Orders or Writs of Injunction. — No writ of injunction or restraining order shall be used by any court against any private electric utility or rural electric cooperative exercising the right and authority to disconnect electric service as provided in this Act, unless there is *prima facie* evidence that the disconnection was made with evident bad faith or grave abuse of authority.---

If, notwithstanding the provisions of this section, a court issues an injunction or restraining order, such injunction or restraining order shall be effective only upon the filing of a bond with the court, which shall be in the form of cash or cashier's check equivalent to the "differential billing," penalties and other charges, or to the total value of the subject matter of the action: *Provided, however*, That such injunction or restraining order shall automatically be refused or, if granted, shall be dissolved upon filing by the public utility of a counterbond similar in form and amount as that above required: *Provided, finally*, That whenever such injunction is granted, the court issuing it shall, within ten (10) days from its issuance, submit a report to the Supreme Court setting forth in detail the grounds or reason for its order.

SECTION 10. Rationalization of System Losses by Phasing out Pilferage Losses as a Component Thereof. — There is hereby established a cap on the recoverable rate of system losses as follows:

(a) For private electric utilities:

(i) Fourteen and a half percent (14 ½%) at the end of the first year following the effectivity of this Act;

(ii) Thirteen and one-fourth percent (13 ¼%) at the end of the second year following the effectivity of this Act;

(iii) Eleven and three-fourths (11 ¾%) at the end of the third year following the effectivity of this Act; and..

(iv) Nine and a half-percent (9 ½%) at the end of the fourth year following the effectivity of this Act.

Provided, That the ERB is hereby authorized to determine at the end of the fourth year following the effectivity of this Act, and as often as necessary taking into account the viability of private electric utilities and the interest of the consumers, whether the caps herein or theretofore established shall be reduced further which shall, in no case, be lower than nine percent (9%) and accordingly fix the date of the effectivity of the new caps: *Provided, further*, That in the calculation of the system loss, power sold by the NPC or any other entity that supplies power directly to a consumer and not through the distribution system of the private electric utility shall not be counted even if the billing for the said power used is through the private electric utility.

The term "power sold by NPC or any other entity that supplies power directly to a consumer" as used in the preceding paragraph shall for purposes of this section be deemed to be a sale directly to the consumer if: (1) the point of metering by the NPC or any other utility is less than one thousand (1,000) meters from the consumer, or (2) the consumer's electric consumption is three percent (3%) or more of the total load consumption of all the customers of the utility, or (3) there is no other consumer connected to the distribution line of the utility which connects to the NPC or any other utility point of metering to the consumer meter.

(b) For rural electric cooperatives:

- (i) Twenty-two percent (22%) at the end of the first year following the effectivity of this Act;....
- (ii) Twenty percent (20%) at the end of the second year following the effectivity of this Act;
- (iii) Eighteen percent (18%) at the end of the third year following the effectivity of this Act;
- (iv) Sixteen percent (16%) at the end at the fourth year following the effectivity of this Act; and
- (v) Fourteen percent (14%) at the end of the fifth year following the effectivity of this Act.

Provided, That the ERB is hereby authorized to determine at the end of the fifth year following the effectivity of this Act, and as often as is necessary, taking into account the viability of rural electric cooperatives and the interest of the consumers, whether the caps herein or theretofore established shall be reduced further which shall, in no case, be lower than nine percent (9%) and accordingly fix the date of the effectivity of the new caps.

Provided, finally, That in any case nothing in this Act shall impair the authority of the ERB to reduce or phase out technical or design losses as a component of system losses.

SECTION 11. Area of Coverage. — The caps provided in Section 10 of this Act shall apply only to the area of coverage of private electric utilities and rural electric cooperatives as of the date of the effectivity of this Act.

The permissible levels of recovery for system losses in areas of coverage that may be added on by either a private electric utility or a rural electric cooperative shall be determined by the ERB.

SECTION 12. Recovery of Pilferage Losses. — Any private electric utility or rural electric cooperative which recovers any amount of pilferage losses shall, within thirty (30) days from said recovery, report in writing and under oath to the ERB: (a) the fact of recovery, (b) the date thereof; (c) the name of the consumer concerned, (d) the amount recovered, (e) the amount of pilferage loss claimed, (f) the explanation for the failure to recover the whole amount claimed, and (g) such other particulars as may be required by the ERB. If there is a case pending in court for the recovery of a pilferage loss, no private electric utility or rural electric cooperative shall accept payment from the consumer unless so provided in a compromise agreement duly executed by the parties and approved by the court.

SECTION 13. Information Dissemination. — The private electric utilities, the rural electric cooperatives, the NPC, and the National Electrification Administration (NEA) shall, in cooperation with each other, undertake a vigorous campaign to inform their consumers of the provisions of this Act especially Sections 2, 3, 4, 5, 6, 7, and 8 hereof, within sixty (60) days from the effectivity of this Act and at least once a year thereafter, and to incorporate a faithful condensation of said provisions in the contracts with new consumers.

SECTION 14. Rules and Regulations. — The ERB shall, within thirty (30) working days after the conduct of due hearings which must commence within thirty (30) working days upon the effectivity of this Act, issue the rules and regulations as may be necessary to ensure the efficient and effective implementation of the provisions of this Act, to include but not limited to, the development of methodologies for computing the amount of electricity illegally used and the amount of payment or deposit contemplated in Section 7 hereof, as a result of the presence of the *prima facie* evidence discovered.

The ERB shall, within the same period, also issue rules and regulations on the submission of the reports required under Section 12 hereof and the procedure for the distribution to or crediting of consumers for recovered pilferage losses.

SECTION 15. Separability Clause. — Any portion or provision of this Act which may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof. ..

SECTION 16. Repealing Clause. — The provisions in Presidential Decree No. 401, as amended by *Batas Pambansa Blg. 876*, penalizing the unauthorized installation of electrical connections, tampering and/or knowing use of tampered electrical meters or other devices, and the theft of electricity are hereby expressly repealed. All other laws, ordinances, rules, regulations, and other issuances or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

SECTION 17. Effectivity Clause. — This Act shall take effect thirty (30) days after its publication in the *Official Gazette* or in any two (2) national newspapers of general circulation.

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July 7, 1995

RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7832

Pursuant to Section 14 of Republic Act No. 7832, the Energy Regulatory Board hereby adopts and promulgates the following Rules and Regulations to implement the aforesaid law.

RULE I

General Provisions

SECTION 1. *Title.* — These Rules shall be known as the Implementing Rules and Regulations of the Anti-Pilferage of Electricity and Theft of Electric Transmission Lines/Materials Act of 1994.

SECTION 2. *Construction.* — These Rules shall be strictly construed to attain the efficient and effective implementation of R.A. 7832.

SECTION 3. *Definition of Terms.* — As used in this Rules:

- a) "ERB" means the Energy Regulatory Board;
- b) "DOE" means the Department of Energy;
- c) "NEA" means the National Electrification Administration;
- d) "NPC" means the National Power Corporation;
- e) "Utility" means the Private or Investor-owned Electric Utility and that owned and/or operated by the Municipal, City, Provincial or National Government;
- f) "Cooperative" means the Rural Electric Cooperative;
- g) "Electric power transmission line/material" refers to electric power transmission steel towers, wood-poles, cables, wires, insulators, line hardwares, electrical conductors and other related items with minimum voltage of sixty-nine kilovolts (69 kv), such as the following:
 - (1) Steel transmission line towers made of galvanized steel angular members and plates or creosoted and/or tannelized woodpoles/concrete poles and designed to carry and support the conductors;
 - (2) Aluminum conductor steel reinforced (ACSR) in excess of one hundred (100) MCM;
 - (3) Overhead ground wires made of 7 strands of galvanized steel wires, 3.08 millimeters in diameter and designed to protect the electrical conductors from lightning strikes;
 - (4) Insulators made of porcelain or glass shell and designed to insulate the electrical conductors from steel towers or woodpoles; and
 - (5) Various transmission line hardwares and materials made of aluminum alloy or malleable steel and designed to inter-connect the towers, conductors, ground wires, and insulators mentioned in subparagraphs (1), (2), (3) and (4) above for the safe and reliable operation of the transmission lines.
- h) "Differential billing" shall refer to the amount to be charged to the person concerned for the unbilled electricity illegally consumed as determined through the use of methodologies outlined in Section 6 of R.A. 7832;
- i) "Apprehension" shall be understood to mean the discovery of the presence of any of circumstances enumerated in Section 4 of R.A. No. 7832 in the establishment or outfit of the consumer concerned as personally witnessed and attested to by the consumer concerned or a duly authorized ERB representative or any officer of the law, as the case may be.
- j) "Power sold by NPC or any other entity that supplies power directly to a consumer" is deemed to be sale directly to the consumer if: (1) the point of metering by the NPC or any other utility is less than one thousand (1,000) meters from the consumer, or (2) the consumer's electric consumption is three (3%) or more of the total load consumption of all the customers of the utility, or (3) there is no other consumer connected to the distribution line of the utility which connects to the NPC or any other utility point of metering to the consumer meter;
- k) "Current bill" shall mean the latest monthly bill served by the utility or cooperative which does not include any period before the time of apprehension;
- l) "Current rate" shall mean the average rate of electricity per kilowatthour as reflected in the current bill.

RULE II

Illegal Use of Electricity and Theft of Electric Power Transmission Lines and Materials

SECTION 1. *Illegal Use of Electricity.* — It shall be unlawful for any person, natural or juridical, private or public to:

- (a) Tap, make or cause to be made any connection with overhead lines, service drops, or other electric service wires, without previous authority or consent of the private electric utility or rural electric cooperative concerned;
- (b) Tap, make or cause to be made any connection to the existing electric service facilities of any duly registered consumer without the latter's or the electric utility's consent or authority;
- (c) Tamper, install or use a tampered electrical meter, jumper, current reversing transformer, shorting or shunting wire, loop connection or any other device which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted;
- (d) Damage or destroy an electric meter, equipment, wire or conduit or allow any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electric current; and
- (e) Knowingly use or receive the direct benefit of electric service obtained through any of the acts mentioned in subsections (a), (b), (c) and (d) above.

SECTION 2. *Theft of Electric Power Transmission Lines and Materials.* — It shall be unlawful for any person, natural or juridical, public or private to:

- (a) Cut, saw, slice, separate, split, severe, smelt or remove any electric power transmission line/material or meter from a tower, pole, any other installation or place of installation or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;
- (b) Take, carry away or remove or transfer, with or without the use of a motor vehicle or other means of conveyance, any electric power transmission line/material or meter from a tower, pole, any other installation or place of installation, or any place or site where it where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;

- (c) Store, possess or otherwise keep in his premises, custody or control, any electrical power transmission line/material or meter without the consent of the owner, whether or not the act is done for profit or gain; and
- (d) Load, carry, ship or move from one place to another, whether by land, air or sea any electrical power transmission line/material, whether or not the act is done for profit or gain, without first securing a clearance/permit for the said purpose from its owner or the NPC or its regional office concerned, as the case may be. ^{DOE}

RULE III

Prima Facie Evidence

SECTION 1. *Prima Facie Evidence of Illegal Use of Electricity.* — The presence of any of the following circumstances shall constitute *prima facie* evidence of illegal use of electricity by the person benefited thereby:

- (a) The presence of a bored hole on the glass cover of the electric meter or at the back or any part of said meter;
- (b) The presence of salt, sugar and other elements inside the electric meter that could result in the inaccurate registration of the meter's internal parts to prevent its accurate registration of consumption of electricity;
- (c) The existence of any wiring connection which affects the normal operation or registration of the electric meter;
- (d) The absence of an ERB/NEA seal or the presence of a tampered, broken or fake seal on the meter or mutilated, altered or tampered meter recording chart or graph or computerized chart, graph or log;
- (e) The presence of a current reversing transformer, jumper, shorting and/or shunting wire and/or loop connection or any other similar device in any part of a building or its premises which is subject to the control of the consumer or on the electric meter;
- (f) The mutilation, alteration, reconnection, disconnection, bypassing or tampering of instruments, transformers and accessories;
- (g) The destruction of or attempt to destroy any integral accessory of the metering device box which encases an electric meter or its metering accessories; and
- (h) The acceptance of money and/or other valuable consideration by any officer or employee of the electric utility concerned or the making of such an offer to any such officer or employee for not reporting the presence of any of the circumstances enumerated in subparagraphs (a), (b), (c), (d), (e), (f), or (g), hereof.

A *prima facie* evidence of illegal use of electricity shall be the basis for: (a) immediate disconnection by the electric utility or cooperative to such person after due notice; (b) the holding of preliminary investigation by the prosecutor and the subsequent filing in court of the pertinent information; and (c) the lifting of any temporary restraining order or injunction which may have been issued against a utility or cooperative.

In order to constitute *prima facie* evidence, the discovery of any of the circumstances enumerated in Section 1 hereof, must be personally witnessed and attested to by the consumer concerned or a duly authorized ERB representative or any officer of the law, as the case may be.

An ERB authorized representative is one who is assigned to conduct testing of electric meters or inspection of electric lines and facilities of any distribution entity or one who may be specially authorized by the duly authorized head of the main or regional ERB offices.

An officer of the law is any person who, by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as barangay captain, barangay chairman, barangay councilman, barangay leader, officer or member of Barangay Community Brigades, barangay policeman, PNP policeman, municipal councilor, municipal mayor and provincial fiscal.

SECTION 2. *Prima Facie Evidence of Theft of Electric Power Transmission Lines and Materials.* — The possession, control or custody of electric power transmission line/material by any person, natural or juridical, not engaged in the transformation, transmission or distribution of electric power, or in the manufacture of such electric power transmission line/material shall be *prima facie* evidence that such line/material is the fruit of the offense defined in Section 2, Rule II hereof, and such line/material may be confiscated from the person in possession, control or custody thereof.

RULE IV

Incentives

SECTION 1. *Incentive Scheme.* — An incentive scheme by way of a monetary reward in the minimum amount of Five Thousand Pesos (P5,000) shall be given to any person who shall report to the NPC or police authorities any act which may constitute a violation of Section 2, Rule II hereof. The Department of Energy (DOE), in consultation with the NPC, shall issue the necessary guidelines for the proper implementation of this incentive scheme within thirty (30) days from the effectivity of R.A. 7832.

RULE V

Disconnection of Electric Service

SECTION 1. *Right to Disconnect and its Requirements.* — The utility or cooperative concerned shall have the right and authority to disconnect immediately the electric service of any person, natural or juridical, without the need of a court or administrative order and deny restoration of the same, in the following circumstances:

- (a) When the owner/occupant of the house or establishment concerned or someone acting in his behalf shall have been caught in *flagrante delicto* doing any of the acts enumerated in Section 1, Rule III hereof, *Provided:* that a written notice or warning to that effect has been served by the utility or cooperative concerned to the owner of the house/establishment or his duly authorized representative, prior to such disconnection.
- (b) When any of the circumstances enumerated in Section 1, Rule III shall have been discovered for the second time, *Provided:* that a written notice or warning shall have been issued upon the first discovery.

The written notice or warning being referred to herein shall be served prior to such disconnection and shall indicate the name and address of the consumer, consumer account number, date of apprehension, findings of fact, amount of energy pilfered in kilowattour, the amount representing the differential billing and the method used in computing the differential billing as determined herein, which shall indicate the following:

- (a) Computation of the unbilled consumption in kilowattour.
- (b) The period to be used in computing the differential billing.
- (c) The latest Inspection Report prior to apprehension.

SECTION 2. *Deposit.* — The utility or cooperative concerned shall not immediately disconnect or shall immediately restore the electric service upon the deposit by the person denied the service with the utility or the cooperative concerned or with the competent court, as the case may be, of the amount representing the differential billing.

RULE VI

Penalties

SECTION 1. *Liability of the Utility/Cooperative.* — If the court finds by final judgment that the person has not committed illegal use of electricity, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against the utility or cooperative. ^{DOE}

Likewise, the utility or cooperative shall be made to immediately pay such person double the value of the payment or deposit with legal interest, which amount shall be creditable against immediate future billings.

The foregoing remedies are without prejudice to any criminal, civil or administrative action that such person may be entitled to file under existing laws, rules and regulations.

SECTION 2. *Liabilities Under Section 1, Rule II Hereof.* — If the person has been found by final judgment to have violated Section 1, Rule II hereof, he shall be made to pay the utility or the cooperative concerned double the value of the estimated electricity illegally used which is referred to in this section as differential billing, in addition to the penalty of *prision mayor* or a fine of Ten Thousand Pesos (P10,000.00) to Twenty Thousand Pesos (P20,000.00) or both, at the discretion of the court.

- (a) If the offense is committed by, or in connivance with, an officer or employee of the power company, electric utility or rural electric cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company and from holding any public office.

- (b) If in committing any of the acts enumerated in Section 1, Rule II hereof, any of the other acts enumerated is also committed, then the penalty next higher in degree as provided herein shall be imposed.
- (c) If in committing any of the acts enumerated in Section 1, Rule II hereof, any of the other acts enumerated is also committed by, or in connivance with an officer or employee of the power company, utility or cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty of one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company. Likewise the electric utility concerned which shall have knowingly permitted or having knowledge of its commission shall have failed to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, shall be made to pay a fine not exceeding triple the amount of the "differential billing" subject to the discretion of the courts.
- (d) If the violation is committed by a partnership, firm, corporation, association, or any other legal entity, including a government-owned or controlled corporation, the penalty shall be imposed on the president, manager, and each of the officers thereof who shall have knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offense.

SECTION 3. *Liabilities Under Section 2, Rule II Hereof.* — A person found by final judgement to have violated Section 2, Rule II hereof, shall be meted the penalty of *reclusion temporal* or a fine ranging from Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand Pesos (P100,000.00) or both, at the discretion of the court.

- (a) If the offense is committed by, or in connivance with, an officer or employee of the power company, utility or cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company and from holding any public office.
- (b) If in committing any of the acts enumerated in Section 2, Rule II hereof, any of the other acts enumerated is also committed, then the penalty next higher in degree as provided herein shall be imposed.
- (c) If in committing any of the acts enumerated in Section 2, Rule II hereof, any of the other acts enumerated is also committed by, or in connivance with an officer or employee of an electric utility concerned, such officer or employee shall, upon conviction, be punished with a penalty of one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company. Likewise, the utility concerned which shall have knowingly permitted or having knowledge of its commission shall have failed to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, shall be made to pay a fine not exceeding triple the amount of the "differential billing" subject to the discretion of the courts.
- (d) If the violation is committed by a partnership, firm, corporation, association, or any other legal entity, including a government-owned or controlled corporation, the penalty shall be imposed on the president, manager, and each of the officers thereof who shall have knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offense.

RULE VII

Billings and Surcharges

SECTION 1. *Testing of Watthour Meter Standard Equipment.* — The NPC, the NEA and all electric utilities shall submit all their working watthour meter standard equipment (which are used in the testing of their respective consumers' watthour meters) for testing and sealing by the ERB within thirty (30) days following the publication of this Implementing Rules and Regulations and every year thereafter.

The NEA shall likewise furnish the ERB, within the same period aboveprescribed, with copies of the test reports on the calibration of the watthour meter standard equipment of all the electric cooperatives.

SECTION 2. *Testing of Meters.* — All electric utilities and cooperatives, as the case may be, shall cause the calibration of the meters of their respective customers at least once every two (2) years.

The said utilities and cooperatives shall likewise furnish the ERB with copies of the test reports within thirty (30) days after each calibration.

SECTION 3. *Computation of the Differential Billing.* — The differential billing shall be determined by multiplying the unbilled consumption in kilowatthour, the period covered by the differential billing and the current rate of electricity at the time of apprehension.

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;
 - (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;
 - (d) The highest recorded monthly consumption within four (4) months after the time of the discovery.
- 4.2 For cases falling under paragraphs (b), (c) and (d) Section 1, Rule III hereof, the following methodologies shall be used:
 - (a) The result of the ERB test during the time of the discovery;
 - (b) 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;
 - (c) The estimated monthly consumption as per report of load inspection conducted during the time of discovery;
 - (d) The highest recorded monthly consumption within four (4) months after the time of the discovery; or
 - (e) The highest recorded monthly consumption within the five-year period preceding the time of the discovery.
- 4.3 For cases falling under paragraph (h) Section 1, Rule III hereof, any of the foregoing methodologies may be used, whichever is applicable.

SECTION 5. *Period to be Recovered.* — In determining the period to be recovered under the differential billing, the following shall be considered:

- a. When there was change in the customer's service connection, such as change of meter, change of seal or reconnection, or replacement of parts, the period to be recovered under the differential billing shall be reckoned from the time of the last inspection.
- b. In the absence thereof, the period to be recovered under the differential billing shall start from the time the electric service of the person concerned recorded an abrupt or abnormal drop in consumption; or

In the absence of both, a maximum of sixty (60) billing months, up to the time of the discovery may be used as basis for the consumption; *Provided, however,* that if the person concerned presents adequate and indubitable proof showing that the period to be recovered by the differential billing is less than sixty (60) billing months, the utility or cooperative may recompute the amount of the differential billing based on the established period for recovery.

The period to be used shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity.

In cases where the affected period is less than one (1) year, the utility or cooperative may be allowed to compute for the differential billing using one (1) year as the minimum basis for computation.

SECTION 6. *Discovery of Prima Facie Evidence.* — The electric utility or rural electric cooperative, upon discovery of any of the circumstances mentioned in Rule III hereof, shall notify in writing the owner/occupant of the house or establishment concerned or someone of suitable age and discretion residing therein and acting in behalf of the owner/occupant of the incident.

In case the apprehension is witnessed by an officer of the law and not by an ERB authorized representative, the tampered electric meter subject of the offense must be placed in a suitable container, properly identified and sealed, and shall be opened only for testing in the ERB's meter laboratory by the duly authorized representative of the Board.

SECTION 7. *Inspection Report.* — An Inspection Report must be accomplished by the utility or cooperative concerned after every inspection, monitoring of meter installation or apprehension, indicating the following:

- a. Date and time of the inspection;
- b. Condition of the meters, instrument transformers and metering installations;

- c. Changes made with the connections during the time of the inspection;
- d. Replacement made on the metering installations, if there is any;
- e. Signature over the printed name of the inspector; and
- f. Signature over the printed name of the consumer or his duly authorized representative.

The accomplished Inspection Report shall be attested to by the authorized ERB representative or by the officer of the law, as the case may be.

The original copy of the Inspection Report shall be kept by the electric utility or electric cooperative concerned and shall not be destroyed without prior authority from the ERB. A duplicate of the said report shall likewise be furnished to the owner/occupant of the establishment concerned or someone of suitable age and discretion residing therein and acting in behalf of the owner/occupant.

SECTION 8. *Imposition of Surcharges.* — An electric utility or rural electric cooperative may impose surcharges in addition to the value of electricity pilfered, on the bills of any consumer apprehended for tampering with his electric meter/metering facility installed on his premises, as well as other violations of contract like direct connection, use of jumper and other means of illicit usage of electricity found installed in the premises of the consumer. The surcharge for the violation of contract shall be collected from and paid by the consumer concerned as follows: ^{2005a}

- a. First apprehension — twenty-five percent (25%) of the current bill;
- b. Second apprehension — fifty percent (50%) of the current bill;
- c. Third and subsequent apprehensions — one hundred percent (100%) of the current bill.

The electric utility or rural electric cooperative is authorized to discontinue electric service in case the consumer is in arrears in the payment of the above imposed surcharges.

RULE VIII

Issuance of Restraining Orders or Writs of Injunction

SECTION 1. *Issuance of the Writ of Injunction.* — Unless there is a *prima facie* evidence that the disconnection was made with evident bad faith or grave abuse of authority, no writ of injunction or restraining order shall be issued by any court against any utility or cooperative exercising the right and authority to disconnect electric service as provided in this Rules.

SECTION 2. *Filing of Bond/Counterbond.* — A writ of injunction or restraining order issued by a court in the absence of evident bad faith or grave abuse of authority on the part of the utility or cooperative concerned shall be effective only when the affected person/customer files a bond with the court in the form of cash or cashier's check equivalent to the differential billing, penalties and other charges in cases of illegal use of electricity. Such writ of injunction or restraining order shall automatically be refused or, if already granted, shall be dissolved upon the filing by the utility or cooperative concerned of a counterbond similar in form and amount as that above registered.

SECTION 3. *Report to the Supreme Court.* — Whenever a writ of injunction or restraining order is granted, the court which issued the same shall submit a report to the Supreme Court within ten (10) days from its issuance, setting forth in detail the grounds or reasons therefor.

RULE IX

Rationalization of System Loss

SECTION 1. *Caps on Recoverable System Loss Allowed to Private Electric Utilities.* — The maximum rate of system loss that the utility can pass on to its customers shall be as follows:

- 1. Fourteen and a half percent (14 1/2%) effective on February 1996 billing.
- 2. Thirteen and one fourth percent (13 1/4%) effective on February 1997 billing.
- 3. Eleven and three-fourths percent (11 3/4%) effective on February 1998 billing.
- 4. Nine and a half percent (9 1/2%) effective on February 1999 billing.

SECTION 2. *Automatic Cost Adjustment Formula.* — Each and every utility shall file with the ERB, on or before September 30, 1995, an application for approval of an amended Generation Charge or Power Cost Adjustment formula that would reflect the new system loss cap to be included in its schedule of rates.

The automatic cost adjustment clause of every utility shall be guided by the following formula:

Generation Charge

Subsidizing consumption shall be charged a generation charge per KWH equal to:

$$\frac{A}{B - (C + D)} \times \frac{1}{1 - FT} - E$$

Where:

A = Cost of electricity purchased and generated for the previous month less revenue from subsidized Kwhrs on generation charge as applicable

B = Total KWH purchased and generated for the previous month

C = The actual system loss but not to exceed the maximum recoverable rate of system loss in Kwh plus actual company use in Kwhrs but not to exceed 1% of total KWHRS purchased and generated ^{2005a}

D = KWH consumed by subsidized consumers

E = Applicable base cost of the amount incorporated into their basic rate per KWH

FT = Franchise tax rate

SECTION 3. *Fixing the Level and Effectivity of the New System Loss for the Utility.* — Each and every utility shall file with the ERB, before the end of the fourth year following the effectivity of this Rules, an application for the purpose of determining the following:

- a) whether the caps fixed shall be reduced further which shall in no case be lower than nine percent (9%) after taking into account the viability of the private electric utilities and the interest of the consumers;
- b) the date of the effectivity of the new caps; and
- c) the permissible levels of recovery of system loss in areas that may be added to the franchise area of the private electric utility after the date of the effectivity of R.A. No. 7832.

SECTION 4. *Caps on System Loss Allowed to Rural Electric Cooperatives.* — The maximum rate of system loss that the cooperative can pass on to its customers shall be as follows:

- a. Twenty-two percent (22%) effective on February 1996 billing.
- b. Twenty percent (20%) effective on February 1997 billing.
- c. Eighteen percent (18%) effective on February 1998 billing.
- d. Sixteen percent (16%) effective on February 1999 billing.
- e. Fourteen percent (14%) effective on February 2000 billing.

SECTION 5. *Automatic Cost Adjustment Formula.* — Each and every cooperative shall file with the ERB, on or before September 30, 1995, an application for approval of an amended Purchased Power Adjustment Clause that would reflect the new system loss cap to be included in its schedule of rates.

The automatic cost adjustment of every electric cooperative shall be guided by the following formula:

Purchased Power Adjustment Clause

A

(PPA) = _____ – E

B – (C + D)

Where:

A = Cost of electricity purchased and generated for the previous month

B = Total Kwh purchased and generated for the previous month

C = The actual system loss but not to exceed the maximum recoverable rate of system loss in Kwh plus actual company use in Kwhrs but not to exceed 1% of total KWHRS purchased and generated

D = KWH consumed by subsidized consumers

E = Applicable base cost of power equal to the amount incorporated into their basic rate per kwh

SECTION 6. *Fixing the Level and Effectivity of the New System Loss Cap.* — Each and every cooperative shall file an application with the ERB, before the end of the fifth year following the effectivity of this Rules, to determine the following:

- a. whether the caps fixed shall be reduced further which shall in no case be lower than nine percent (9%) after taking into account the viability of the electric cooperatives and the interest of the consumers;
- b. the date fixed for the effectivity of the new caps; and
- c. the permissible levels of recovery of system loss in the areas that may be added in the area of coverage of the rural electric cooperative after the date of the effectivity of R.A. No. 7832.

SECTION 7. *Authority of the Energy Regulatory Board.* — Nothing in this Rule shall impair the authority of the ERB to reduce or phase out technical or design losses as a component of system losses.

RULE X

Recovery of Pilferage Losses

SECTION 1. *Submission of Report.* — A utility or cooperative which recovers any amount of pilferage losses shall submit to the ERB, within thirty (30) days from said recovery, a written report under oath, which shall contain the following:

- a. the fact of recovery
- b. the date of recovery
- c. the name of consumer concerned
- d. the amounts recovered including the amounts resulting from compromise agreement and surcharges imposed, if any
- e. the amount of pilferage loss claimed
- f. the explanation for the failure to recover the whole amount claimed
- g. itemized expenses incurred, if there is any
- h. the amount passed on to the consumer

The utility or cooperative shall not accept payment from the consumer during the pendency of the case for the recovery of a pilferage loss, unless so provided in a compromise agreement duly executed by the parties and approved by the Court.

SECTION 2. The full amount recovered by the utility or cooperative under the preceding section shall be reflected as a reduction in the customer's electric bill through the automatic cost adjustment formula abovementioned, the application of which shall be verified and confirmed by the Board through an Order.

RULE XI

Information Dissemination

SECTION 1. *Information Dissemination.* — The private electric utilities, the rural electric cooperatives, the NPC, and the National Electrification Administration (NEA) shall, in cooperation with each other, undertake vigorous campaign to inform their consumers of the provisions of the Implementing Rules and Regulations, within sixty (60) days from the effectivity thereof and at least once a year thereafter, and to incorporate a faithful condensation of said provisions in the contract with new consumers.

RULE XII

Repeal and Separability

SECTION 1. *Repeal and Separability.* — All existing rules, regulations or orders or any part thereof inconsistent with this Rules are hereby repealed, amended or modified accordingly. If any part or provision of this Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid. CHART

RULE XIII

Effectivity

SECTION 1. *Effectivity.* — This Rules shall take effect fifteen (15) days after its publication in two newspapers of general circulation in the country.
Pasig City, July 7, 1995

(SGD.) REX V. TANTIONGCO
Chairman

(SGD.) OSCAR E. ALA
Member

(SGD.) BAYANI V. FAYLONA
Member

(SGD.) ARNALDO P. BALDONADO
Member

(SGD.) EDWARD C. CASTANEDA
Member