

[DE, February 04, 1993]

**RULES OF PRACTICE AND PROCEDURE BEFORE THE ENERGY
INDUSTRY ADMINISTRATIVE BUREAU OF THE DEPARTMENT OF
ENERGY**

Pursuant to the provisions of Section 5, (K) of R.A. 7638 otherwise known as the Department of Energy Act of 1992, and in compliance with Executive Order No. 26 dated October 7, 1992, the following Rules of Practice and Procedure are hereby adopted and promulgated:

RULE I

Title, Definition, Scope and Construction

SECTION 1. Title of the Rules — These rules shall be known as the Rules of Practice and Procedure of the Energy Industry Administrative Bureau (EIAB) of the Department of Energy.

SECTION 2. Definition — As used herein, the word EIAB or Bureau shall mean the Energy Industry Administrative Bureau of the Department of Energy.

SECTION 3. Scope — These rules shall govern all pleadings, practice and procedure before the EIAB in all matters concerning inquiry, investigation, hearing, study and/or any other proceedings conducted by the Bureau in the performance of its regulatory powers and functions.

SECTION 4. Construction — These rules shall be liberally construed in order to protect and promote public interest and attain the objectives of R.A. 7638 in the most speedy and inexpensive disposition of cases. In the broader interest of justice and to avoid unnecessary delay, the Bureau may resort to summary proceedings in cases hereinafter provided.

SECTION 5. Suppletory Application of the Rules of Court of the Philippines — In the absence of any applicable provision in these Rules, the pertinent provisions of the Revised Rules of Court of the Philippines may, in the interest of expeditious disposition of cases and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

RULE II

Parties

SECTION 1. Who May be a Party — Any person or group of persons whether natural or juridical, who may be affected by the decision to be rendered by the Bureau in a particular case may be a party and may appear and participate in the manner hereinafter provided.

SECTION 2. Applicant — An applicant is any person who seeks authorization, license, or permission to undertake any matter or business that is within the regulatory jurisdiction of the Bureau.

SECTION 3. Complainant — A complainant is any person who, in writing informs the Bureau of any violation of the EIAB's Rules and Regulations.

SECTION 4. Petitioner — A petitioner is any person who seeks remedies, relief, or ruling that is within the power of the Bureau to render.

SECTION 5. Respondent — A respondent is any person or party to whom an order is issued by the Bureau to appear, or give his explanation in writing, or is otherwise summoned to answer any allegation, imputation or issue in any case, hearing or proceeding cognizable by the Bureau or any person who may also be adversely or is otherwise affected by a Petition.

SECTION 6. Oppositor — Any person who participates against the approval of an Application or Petition.

RULE III Pleadings

SECTION 1. Pleading — The pleadings allowed by these Rules are the Application, the Complaint, the Petition, the Opposition, the Answer, the Reply and such further pleadings as the Bureau may allow.

SECTION 2. Form of Pleading Copies — All pleadings filed with the Bureau must be in triplicate and typewritten or printed on legal size bond paper and shall be in English. The pleading shall contain the names and addresses of all the parties, the Bureau's file number, and designation of the pleading.

SECTION 3. Application — All applications that require publication and posting of notice shall be in the form of a Petition which must state clearly and concisely the ultimate facts and the relief sought.

SECTION 4. Verification — All pleadings filed with the Bureau must be verified or accompanied by affidavits and such documents as would reasonably tend to establish prima facie the truth of the factual allegations thereof.

SECTION 5. Service — Service may be by personal delivery or by registered mail, properly addressed to each party, together with all annexes attached thereto. All pleadings and motions submitted to the Bureau for filing must show proof of service thereof upon all parties to the case.

SECTION 6. Service Upon Parties Represented by Counsel — When any party is represented by attorney, service shall be made to his attorney of record.

SECTION 7. Contents of Pleadings — All pleadings filed with the Bureau must state clearly and categorically the ultimate facts upon which the pleader relies. Pleadings shall contain a prayer for the principal relief sought and may also add a general prayer for such further or other reliefs as may be deemed just and equitable.

SECTION 8. Amendments — Any modification or supplement to an application, complaint, petition or other pleadings shall be deemed as amendment and must comply with the formal requirements of pleadings as mentioned in these rules.

SECTION 9. Amendment When Allowed — Amendments may be made as a matter of right at any time before any responsive pleading is filed and, thereafter, only with leave of the Bureau.

SECTION 10. Defect of Form — No defect in the form of any pleading allowed to be filed under these Rules will prejudice the pleader; however, the Bureau may direct amendments or require the submission of additional affidavits or supporting documents.

RULE IV Motu Proprio Actions

SECTION 1. Institution of Action by the EIAB — The Bureau may motu proprio initiate an action or inquiry against any person or entity when so required by law, public or national interest, and/or in its exercise of any of the powers vested upon it. In the exercise thereof, the Bureau may commence such hearing or inquiry by an order to show cause, setting forth the grounds for such order.

SECTION 2. Other Instances — When the basis of a *motu proprio* action is a complaint or otherwise for violation of EIAB Orders, Rules or Regulations, the Order shall allege with definiteness and clarity, the violation and also the range or extent of the sanction that may be imposed should the violation be substantiated.

RULE V Answer

SECTION 1. Answer — Within a period of ten (10) days from receipt of a *Motu Proprio* Order or a copy of the Petition or Complaint, the Respondent shall file an Answer whether admitting or denying the material allegations of fact set forth in said Order, Petition or Complaint, or setting forth the reason why respondent cannot admit or deny said allegations. The pleader must state the facts and law upon which he relies for his defense with definiteness and clarity.

RULE VI Motions to Dismiss

SECTION 1. Grounds — No motion to dismiss shall be entertained unless such motion is incorporated in the Answer or Opposition of the respondent or oppositor under any of the following grounds:

- a. That the application may not be given due course on account of existing memorandum, law, rules, or regulations.
- b. The facts alleged in the Complaint or Order do not constitute a violation of the Bureau's Rules and Regulations.
- c. That the Bureau has no jurisdiction over the nature of the case or controversy.

d. That the applicant has not complied with the jurisdictional requirements of an application.

RULE VII Motions in General

SECTION 1. Scope and Contents — Every application for any procedural or interlocutory ruling or relief may be made by a Motion. Motions shall state the relief sought and the grounds therefor and if necessary shall be accompanied by supporting affidavits and documents. Motions shall be in writing and copies thereof shall be served upon all parties at least three (3) working days before the hearing thereof. All written motions shall specify date and time for the hearing thereof.

SECTION 2. Motions praying for the issuance of a provisional license or permit to operate must be in writing and accompanied by affidavit(s) of merit and other supporting documents showing the necessity of the relief prayed for.

RULE VIII Pre-Hearing Conference

SECTION 1. After the Answer, the Reply, or the Opposition to a Petition or Complaint has been filed, the Hearing Officer duly designated by the Director, shall issue notice to all the parties to appear for a pre-hearing conference to consider:

- a. The possibility of an amicable settlement in cases that may be compromised.
- b. Simplifications of the issues through stipulation of facts and/or admission, including admissions of documents and their authenticity.
- c. Such other matters as may aid in the just, speedy and inexpensive disposition of the case.

SECTION 2. Failure to Appear — All parties and their attorney, if any, shall attend the pre-hearing conference with full authority to enter into an agreement on any and all matters necessary to expedite the proceedings. The Director may, in case of failure to appear on the part of a party and his attorney, issue an order of Default against the absent party, and thereafter the Hearing Officer may receive evidence ex-parte.

SECTION 3. Amicable Settlement — When an amicable settlement is reached as provided under Section 1 (a), Rule VIII hereof, it shall be reduced to writing duly signed by the parties. Such compromise agreement shall then be the basis of an order or decision of the Bureau.

SECTION 4. Nature of Proceedings — The proceedings before the Bureau shall be non-litigious in nature. 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 thereto. The Bureau may avail itself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well informed persons.

SECTION 5. Postponement — Postponement or continuance of hearing may be