

SPECIAL SECOND DIVISION

[G.R. NO. 135992, January 31, 2006]

**EASTERN TELECOMMUNICATIONS PHILIPPINES, INC. AND
TELECOMMUNICATIONS TECHNOLOGIES, INC., PETITIONERS,
VS. INTERNATIONAL COMMUNICATION CORPORATION,
RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

On July 23, 2004, the Court promulgated its Decision in the above-captioned case with the following dispositive portion:

WHEREFORE, the petition for review on certiorari is PARTIALLY GRANTED. The Order of the National Telecommunications Commissions dated November 10, 1997 in NTC Case No. 96-195 is AFFIRMED with the following modifications:

Respondent International Communication Corporation, in accordance with Section 27 of NTC MC No. 11-9-93, is required to:

- (1) Deposit in escrow in a reputable bank 20% of the investment required for the first two years of the implementation of the proposed project; and
- (2) Post a performance bond equivalent to 10% of the investment required for the first two years of the approved project but not to exceed P500 Million.

within such period to be determined by the National Telecommunications Commission.

No pronouncement as to costs.

SO ORDERED.^[1]

Respondent now seeks a partial reconsideration of the portion of the Court's decision requiring it to make a 20% escrow deposit and to post a 10% performance bond. Respondent claims that Section 27 of NTC MC No. 11-9-93, which required the foregoing amounts, pertains only to applications filed under Executive Order No. 109 (E.O. No. 109) and not to applications voluntarily filed. In its Manifestation in support of the motion for partial reconsideration, respondent attached a letter from Deputy Commissioner and Officer-in-Charge (OIC), Kathleen G. Heceta, of the National Telecommunications Commission (NTC), stating thus:

x x x

Please be informed that the escrow deposit and performance bond were required to public telecommunications entities to ensure that the mandated installation of local exchange lines are installed within three (3) years pursuant to EO 109 and RA 7925. Since your company has already complied with its obligation by the installation of more than 300,000 lines in Quezon City, Malabon City and Valenzuela City in the National Capital Region and Region V in early 1997, the escrow deposit and performance bond were not required in your subsequent authorizations.^[2]

In a Resolution dated October 4, 2004, the Court required petitioners and the NTC to file their respective comments on the motion.^[3]

Subsequently, in its Manifestation/Comment filed on January 11, 2005, the Office of the Solicitor General (OSG), in behalf of the NTC, likewise referred to the same letter of OIC Heceta and declared that it fully agrees with respondent that the escrow deposit and performance bond are not required in subsequent authorizations for additional/new areas outside its original roll-out obligation under the Service Area Scheme of E.O. No. 109.

Petitioners did not file any comment and it was only after the Court issued a show cause and compliance Resolution on October 19, 2005 that petitioners manifested in their Entry of Special Appearance, Manifestation and Compliance dated November 25, 2005 that they have no further comments on respondent's motion for partial reconsideration.^[4]

The Court has observed in its Decision that Section 27 of NTC MC No. 11-9-93 is silent as to whether the posting of an escrow deposit and performance bond is a condition sine qua non for the grant of a provisional authority. The NTC, through the OSG, explicitly clarified, which was not disputed by petitioners, that the escrow deposit and performance bond are not required in subsequent authorizations for additional/new areas outside its original roll-out obligation under E.O. No. 109. The OSG agreed with respondent's stance that since the provisional authority in this case involves a voluntary application not covered by the original service areas created by the NTC under E.O. No. 109, then it is not subject to the posting of an escrow deposit and performance bond as required by E.O. No. 109, but only to the conditions provided in the provisional authority. Further, the OSG adapted the ratiocination of the Court of Appeals on this matter, i.e., respondent was not subjected to the foregoing escrow deposit and performance bond requirement because the landline obligation is already outside its original roll-out commitment under E.O. No. 109.^[5]

The NTC, being the government agency entrusted with the regulation of activities coming under its special and technical forte, and possessing the necessary rule-making power to implement its objectives,^[6] is in the best position to interpret its own rules, regulations and guidelines. The Court has consistently yielded and accorded great respect to the interpretation by administrative agencies of their own rules unless there is an error of law, abuse of power, lack of jurisdiction or grave abuse of discretion clearly conflicting with the letter and spirit of the law.^[7]

In *City Government of Makati vs. Civil Service Commission*,^[8] the Court cited cases