



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
NATIONAL TELECOMMUNICATIONS COMMISSION
BIR Road, East Triangle, Diliman, Quezon City

The 2006 Rules of Practice and Procedure Before the National Telecommunications Commission

Pursuant to the authority vested in the Commission under existing laws, the Commission hereby adopts and promulgates the following rules governing pleading, practice, and procedure before it:

PART I - GENERAL PROVISIONS

RULE 1

TITLE, CONSTRUCTION, AND DEFINITION

Section 1. Title. – These rules shall be known and cited as the National Telecommunications Commission's 2006 Rules of Practice and Procedure.

Section 2. Scope. – These rules govern pleadings, practice, and procedure before the National Telecommunications Commission in all matters of hearing, investigation and proceedings within the jurisdiction of the Commission. However, in the broader interest of justice and in order to best serve the public interest, the Commission may, in any particular matter, exempt the application of these rules and apply such procedure to improve the service in the transaction of the public business, as well as in the disposition of cases filed before it.

Section 3. Rule on Construction. – These rules shall be liberally construed in the pursuit of state policy to protect and promote public interest in a suitable manner and to assist the parties in obtaining just, speedy and inexpensive determination of every case before the Commission.

Section 4. Suppletory Application of the Rules of Court and Jurisprudence. – In the absence of any applicable provision of these rules, and in order to effectuate the objectives of Sections 14 to 16 of Executive Order No. 546, the pertinent provisions of the Revised Rules of Court of the Philippines and prevailing jurisprudence may, in the interest of expeditious disposition of cases pending before the Commission and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

Section 5. Rules on Electronic Evidence. - Unless specifically provided under these Rules, the rules on admissibility of electronic evidence shall be applicable.

RULE 2

PARTIES

Section 1. Applicant and Oppositor. – Any person, applying to the Commission for a Certificate of Public Convenience and/or Necessity (CPC/CPCN), Certificate of Authority (CA), or Provisional Authority (PA) for the operation of public communication utilities and services or for any form of authorization within the regulatory powers of the Commission shall be called the **applicant**.

Any affected party, as defined under Section 5 of this Rule who opposes the application shall be called the **oppositor**.

Section 2. Complaint and Respondent. – Any aggrieved person who files a complaint with the Commission shall be called the complainant and the public service operator or party complained of shall be called respondent.

Section 3. Appearance by Consumers or Users. – If individual users or entities opposing any application or complaints are represented by several attorneys, they shall choose among their attorneys, not more than two who shall be allowed by the Commission to conduct the proceedings in behalf of all the oppositors.

Section 4. Appearance by Solicitor General. - Whenever the Solicitor General appears in behalf of the public in applications filed before this Commission, his appearance shall be considered as representative of all individuals, consumers or users who have filed their written oppositions to such applications and who are not represented by counsel.

Section 5. Affected Parties. – The following shall be considered as affected parties:

A. For Broadcast/Cable Television (CATV) Cases

1.) For AM and FM radio broadcast applications:

All authorized grantees of PA/CPC/permits (Construction Permit, P/Purchase, TP to Operate) to operate AM, FM and TV stations within the 1 millivolt Field Intensity Contour of the service area of the proposed station.

2.) For TV station:

All authorized grantees of PA/CPC/permits (Construction Permit, TP to Operate) to operate TV, AM and FM within the grade A Field Intensity Contour of the service area of the proposed station.

3.) For Pay TV station:

J

All grantees of PA/CPC and/or TP to operate CATV, pay TV, and free TV stations in the same service area and those that may be prescribed by the Commission.

4) For CATV:

All grantees of PA/CA, TP to operate CATV, MMDS, Pay TV, and regular TV stations in the service area applied for.

For all broadcast/CATV applications, the Office of the Solicitor General (OSG), Kapisanan ng mga Brodkasters sa Pilipinas (KBP), Movie Television Review and Classification Board (MTRCB), all Sangguniang Bayan/Panglunsod/Panlalawigan in the proposed area, and the concerned NTC Regional Office shall be included in the list of affected parties.

B. For telecommunications cases:

a.) The existing authorized operator of the same service in the same service area being applied for; or when their assigned frequencies are to be affected;

b.) The Office of the Solicitor General (OSG), all Sangguniang Bayan/Panglunsod/Panlalawigan in the proposed service area and the concerned NTC Regional Office shall be included in the list of affected parties.

RULE 3

VENUE

Section 1. Venue of Hearings. – All cases and applications brought under these rules shall be pursued, prosecuted, and/or defended before the Commission. However, all applications for authority and/or CPC/CPCN shall be directly filed with the Commission's Central Office.

RULE 4

PLEADINGS

Section 1. Form. – Pleadings shall be written in any of the official languages, typewritten or printed, in double space, on legal size white bond paper. Every pleading shall contain a caption, title of the case, designation of the pleading, signature of the party or counsel representing him, address of the party and his counsel, and shall contain in logical form a plain, concise, and direct statement of the ultimate facts and laws in which the party relies.

Section 2. Verification and Supporting Documents. – All pleadings shall be accompanied by a verification under oath and such other documents which substantially establish the truth of the factual allegations contained therein. In

appropriate cases, it shall state clearly and concisely the ultimate facts upon which the applicant claims sufficient legal basis for the grant of an authorization. It may ask a general prayer for such further relief as may be deemed just and equitable.

Section 3. Application. By means of an application, the applicant seeks authorization or permission to undertake any matter or activity within the regulatory power of the Commission and/or the issuance of CPC/CPCN/CA in appropriate cases. It shall state clearly and concisely the ultimate facts and legal authority upon which the applicant claims sufficient basis for the grant of an authorization. It may ask a general prayer for such further relief as may be deemed just and equitable.

Section 4. Complaint – The complaint is a concise statement of the ultimate facts of the matter complained of within the regulatory power of the Commission, and shall specify the relief sought.

Section 5. Answer. – The respondent summoned to answer a complaint or to whom an order is issued by the Commission to show cause, shall file an answer within ten (10) days from receipt of the Order. The answer shall admit or deny the material allegations stated in the complaint or show cause order, and shall state the matters of fact and the law relied upon, attaching therewith such documents supporting the allegations in the answer.

Section 6. Amendment. - Pleadings may be amended once as a matter of right before a responsive pleading has been filed, and thereafter, may be amended only with leave of the Commission, with a copy of the amended pleading served to the oppositor or respondent.

Section 7. Amendment to Conform to the Evidence. – Whenever at a hearing, issues not raised by the pleadings are introduced by the express or implied consent of the parties, they shall be treated in all respects as if they have been raised in the pleadings. If evidence upon new issues is objected to on the ground that it is not within the issues raised in the pleadings, the Commission may allow the pleadings to be amended and such evidence received when it appears that the presentation of the merits of the proceedings will be served thereby without prejudicing the public interest or the rights of the adverse party. The Commission may grant a continuance to enable the objecting party to meet such evidence.

Section 8. Directed Amendments. – The Commission may, at any time, issue an order to state his case fully or in a more detailed manner. Such amendment shall be reduced to writing and filed within such time as may be fixed, and shall comply with the requirements of the rule pertaining to the pleading amended insofar as appropriate.

Q

A

→

Section 9. Withdrawal of Pleadings. – An applicant may withdraw his application by filing the appropriate motion. Likewise, any oppositor may withdraw his opposition, at any time.

Section 10. Intervention. - Any affected party who was not served with any notice due to excusable negligence and upon showing of meritorious ground thereof, may intervene at any stage of the proceedings; provided, such party shall file a written motion together with the formal intervention with the Commission, prior to the decision.

RULE 5

MOTIONS

Section 1. Form. – Generally, all motions shall be in writing and copies thereof shall be served upon all parties at least three (3) working days before the hearing thereof. Motions during hearings may be stated orally upon the record, unless the Commission requires that such be reduced to writing.

Section 2. Contents. – A motion shall state the ruling or relief sought and the grounds relied upon, and if necessary, shall be accompanied by supporting documents and affidavits.

Section 3. Notice. – A written motion shall contain a notice setting the hearing thereof at a specified date and time. The Commission, may, however, for good cause, hear a motion on shorter notice.

Section 4. Service. – The Commission shall not act upon any motion without proof of service of notice thereof to all parties concerned, except when the Commission is satisfied that the rights of the adverse party or parties are not affected.

Section 5. Ex-parte Motions. – Except for motions for provisional authorization of proposed services and increase of rates, ex-parte motions shall be acted upon by the Commission only upon showing of urgent necessity therefor and the right of the opposing party is not substantially impaired.

Section 6. Evidence on Motion. – Allegation of facts in a motion or in an opposition thereto, not appearing on record, may be proved by affidavits or sworn documents, but the Commission may require that the matter be heard wholly or partly on oral testimony.

RULE 6

FILING AND SERVICE OF PLEADING

Section 1. Filing. – All pleadings, motions, documents, and other papers required or allowed to be submitted shall be filed in ten (10) copies with the Secretariat of the Commission.

Section 2. Acceptance. – Only pleadings, motions, documents, and other papers which conform to the formal requirements of these Rules shall be accepted for filing. The acceptance thereof shall not mean waiver of any obligation to comply with the provisions of these Rules. Failure to comply may be cause for the striking off of all or part of the documents filed.

Section 3. Service. – All pleadings, documents, and other papers, together with all annexes attached thereto, submitted to or filed before the Commission and which shall be used as part of the evidence shall show proof of service thereof upon all duly recognized parties to the proceeding. Service shall be made by personal delivery or by registered mail, properly addressed, with postage prepaid.

SEC.4. Service upon parties represented by attorneys. - When any party has appeared by attorney, service upon him shall be made upon his attorney or any of his attorneys of record.

Section 5. Substituted Service of Summons. – If for justifiable causes a party to the case cannot be served within a reasonable time, service may be affected (1) by leaving copies of the summons at the party's residence with some person of suitable age and discretion then residing therein, or (2) by leaving the copies at the party's office or regular place of business with some competent charge thereof.

Section 6. Service Upon a Party whose Identity or Whereabouts are Unknown. – In any action where a party is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of the Commission, be affected upon him by publication in a newspaper of general circulation and in such places and for such time as the Commission may order, at the expense of the petitioner.

Section 7. Service Upon Foreign Private Juridical Entity. – When a party does not reside and is not found in the Philippines, and the action affects the personal status of the petitioner or relates to, or the subject of which is, property within the Philippines, in which a party has or claims a lien or interest, actual or contingent, or in which the relief demanded consist, wholly or in part, in excluding the party from any interest therein, or the property of the party has been attached within the Philippines, or when an action is commenced against a party who ordinarily resides within the Philippines, but who is temporarily out of it, service may, in addition to those provided under the Rules of Court, by leave of the Commission, be affected by announcement in a radio/TV station of nationwide

broadcast in such places and for such time as the Commission may determine, at the expense of the petitioner.

Section 8. Proof of Service. – When service is made by registered mail, the addressee is deemed to have received the mail within ten (10) days from the date of mailing if the addressee resides in Luzon, 15 days if the addressee resides in Visayas and Mindanao. Submission of registry receipts, together with the affidavit of mailing, and a certification to the effect that registry return cards were appended thereto shall be sufficient compliance with the proof of service required herein.

PART II

PROCEDURE IN APPLICATION

RULE 7

APPLICATION

Section 1. How commenced. – Any proceeding the object of which is to obtain a CPCN/CPC/CA/PA or any form of authority shall be commenced by the filing of the corresponding application and the payment of the required fees.

Section 2. Contents. – The application shall contain a concise statement of the service proposed or the authorization applied for, and the ultimate facts and laws that would qualify or entitle the applicant to the grant thereof. When the application is predicated on a franchise, sale, lease, mortgage, or any other contract, such franchise or contract shall be impleaded in the application by alleging in substance its salient provisions, appending to the application a copy of the same.

A Broadcast/CATV application shall indicate or cover only one service area. However, this provision shall not apply to broadcast services having a nation-wide or multi region-wide coverage, such as but not limited to, Direct-to-User (DTU)/Direct-to-Home (DTH) services. For purposes of this provision, the term “service area” shall mean the 1 millivolt Field Intensity contour for FM and AM radio stations; the Grade A or B contour for television; and city/municipality for CATV services.

RULE 8

NOTICE OF HEARING

Section 1. Duty of the Secretariat of the Commission. – After the filing of the application and the payment of the required fees, the Secretariat of the

4

7

Commission shall promptly cause the same to be docketed, issue the notice of hearing, and forward it to the proper department/division of the Commission.

Section 2. Publication and Service. – At least 15 days before the date of hearing, applicant shall have published the notice of hearing once in one (1) newspaper of general circulation and have served copies of the notice of hearing and the application including all annexes attached therewith to all the affected parties, as furnished by the Commission.

Section 3. Compliance with the Jurisdictional Requirements. At the initial hearing of the case, applicant shall submit in writing, its compliance with the jurisdictional requirements of publication and notice to all affected parties, attaching thereto such evidence, including registry receipts and/or return cards, whether full or partial, methodically arranged and duly marked for examination/inspection of the other parties. Re-publication shall be required where there is non-compliance with the requirements of publication. In case notice by publication has been duly complied with but affected parties have not been duly notified, applicant shall be directed to cause notice to all affected parties by enclosing a copy of the application and the Order resetting the case for hearing. Failure to comply with the above provisions shall be subject to the sound discretion of the Commission who may postpone or defer the hearing of the case.

RULE 9

OPPOSITION

Section 1. Contents. - Within the time stated in the notice of hearing, a written opposition, not a Motion to Dismiss/Quash, may be filed against an application with a copy served upon the applicant, stating concisely the rights or interests affected by the application and the ultimate facts constituting the grounds of opposition. Any Motion to Dismiss/Quash filed before the Commission shall be treated as written opposition under this Rule.

PART III

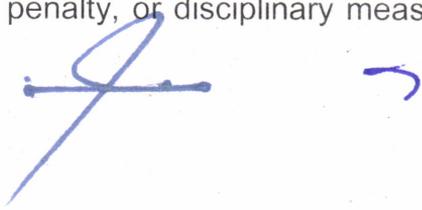
PROCEDURE IN COMPLAINTS

RULE 10

COMPLAINTS

Section 1. How Commenced. – Any action, the object of which is to subject a holder of a CPCN/CPC/CA/PA/authorization or any person operating a service or activity or possessing any instrument and equipment without any authority, permit or license from the Commission, to any penalty, or disciplinary measure

7



that may be taken by the Commission against such holder or person for violation of any provisions of the laws, rules and regulations of this Commission, or terms and conditions of its certificate or any order, decision, or regulation of the Commission, shall be commenced by the filing of a complaint in accordance with these Rules.

Section 2. Form and Contents. - Complaints filed with the Commission is sufficient in form and substance if it is in writing and shall contain:

- (i) the name and address of the complainant;
- (ii) the name and address of the person/entity against whom the complaint is made;
- (iii) a brief and concise statement of the acts or omissions complained of as constituting the offense, and a reference, whenever practicable, of the provisions of the Public Service Act and other applicable laws, rules, regulations, guidelines, standards or specifications violated.

All complaints shall be subscribed and verified by the complainant and shall accompany the affidavits of his witnesses.

Section 3. Complaints by the Commission. - The Commission may file or initiate a complaint based on the report of the appropriate department/division/unit concerned or any employee/personnel deputized by the Commission.

Section 4. Issuance of Show Cause Order Complaints. - The Commission may, based on the report of the appropriate department/division/unit or any employee/personnel deputized by the Commission, the sworn statement of any offended party, or *motu proprio*, issue a show cause order which shall contain a statement of the particulars and matters which the Commission is inquiring and may call upon the respondent to appear and submit a verified answer to the complaint at a place and time therein stated and explain why no judgment or action shall be taken against the respondent. Pending hearing and final consideration of the case, the Commission may, in the interest of public service, welfare and security of the state and/or where the respondent does not have any authority from the Commission to install operate and maintain the service/facility, upon motion or *motu proprio* issue a cease and desist order to a respondent.

Section 5. Summary Hearing. - Whenever applicable, the Commission may, conduct a summary proceeding and issue an order directing the parties to appear before the Commission within seventy two (72) hour from his receipt of a copy of the order. Within 15 days from receipt of the Order, the Commission shall also require the parties to submit a verified memorandum or position papers together with all the evidence and affidavit of their witnesses. The Commission shall also set a conference on the case for the purpose of clarifying some issues or issue a cease and desist order in the discretion of the Commission, in cases if

the continued acts of the public's utility operator shall cause serious detriment to public interest and the security of the state and in cases of willful or unreasonable refusal by an operator to comply with an order, rule or regulation of the Commission, or any provisions of the Public Service Act, as amended, Executive Order No. 546, Republic Act No. 7925, Memorandum Circulars, and other relevant laws.

PART IV

PROCEEDINGS COMMON TO ALL CASES

RULE 11

PROCEDURE IN THE HEARING OF CASES

Section 1. Classification. - Cases filed before the Commission shall be classified as Common Carrier Authorization (CCA), Broadcast Authorization (BCA), Cable Television Authorization (CATV), and Administrative Complaints (ADM).

Section 2. Pre-Hearing Conference. - A pre-hearing conference may be conducted on contested authorization cases, or on highly contentious administrative complaints to consider and encourage whenever appropriate, an amicable settlement, the simplification of the issues, the necessity or desirability of amendment to the pleadings, the possibility of obtaining stipulations or admissions of facts and documents, the limitation of the number of witness, and such other matters as may aid in the prompt disposition of the case. This shall not however, prevent the Commissioners or Hearing Officers from calling the parties to a hearing to answer clarificatory questions and the submission of respective position papers or memoranda. At any stage of a proceeding, the Commission may call for a conference to be held, if the same may aid in the speedy disposition of cases without adversely affecting the rights of parties thereto.

Section 3. Role of Hearing Commissioner or Hearing Officer in Proceedings. - The Hearing Commissioner or Hearing Officer shall personally conduct the hearing if deemed necessary and take full control of the proceedings, examine the parties and their witnesses to satisfy himself with respect to the matters at issue. He may allow the parties or their counsel to ask questions only for the purpose of clarifying points of law or of fact involved in the case. He shall limit the presentation of evidence to matters relevant to the issue before him and necessary for a just and speedy disposition of the case.

The Hearing Officer may issue orders on matters interlocutory in nature. However, decisions, judgments, orders granting, dismissing, canceling or suspending the authorizations granted to telecommunications/broadcast/CATV

operators, and orders resolving motions for reconsideration shall be decided by the Commission en banc. Notwithstanding the filing of a motion for reconsideration of an interlocutory order before the Commission en banc, proceedings shall continue unless restrained by the Commission en banc.

Section 4. Order of Presentation. - As far as practicable, the direct testimony of the witnesses presented by the parties shall be contained in an affidavit which shall be submitted to the opposing parties at least three (3) days before the scheduled hearing with proof of actual service to the opposing party/counsel. All documents referred to or mentioned in the affidavit of the witnesses shall be attached thereto. The following order of presentation of evidence shall be followed:

- a) The party initiating the proceedings shall present his evidence by offering the affidavits and supporting documents of his witnesses and such additional evidence as he may wish to present. In consolidated proceedings, all parties initiating the consolidated proceeding shall first present their evidence.
- b) The party or parties opposing the grant of the relief sought shall then present their evidence;

Presentation of rebuttal or sur-rebuttal evidence may be allowed subject to the discretion of the Commission.

Section 5. Extent of Cross-Examination. - In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Commission shall be allowed.

Section 6. Uncontested Proceedings. - The Commission may, when it appears to be in the public interest to grant the relief or authority requested in the initial pleading and there being no opposition or contest, forthwith dispose of the case based on the pleadings, as well as the supporting affidavits and documents attached thereto.

Section 7. Consolidation. - The Commission on its own initiative, or upon motion by a party, may consolidate cases involving common questions of fact or law, or may conduct joint hearings thereon. However, upon motion of the interested party, a separate hearing may be held on issues peculiar only to the movant.

Section 8. Appearances. - Any party to a hearing may appear in person assisted by an attorney admitted to practice law in the Philippines who is a member in good standing of the Philippine Bar.

Section 9. Notice and proof of service. - All preliminary conferences and hearings shall be conducted with notice to all parties on record of the time and

4

7

place for such conference or hearing. Proof of service of notice shall be in accordance with Sections 3 and 4 of Rule 6.

Section 10. Records of Proceedings. - All conferences and hearings may be recorded by the official stenographer of the Commission, and the transcript of stenographic notes shall be made part of the records of the case.

Section 11. Revival/ Re-opening of Dismissed Case. - A party may file a motion to revive or reopen a case dismissed without prejudice, within fifteen (15) calendar days from receipt of the order dismissing the same; otherwise, his only remedy shall be to re-file the case.

Section 12. Postponements of Hearing. - The parties and their counsel shall be prepared for continuous hearing. Postponements or continuance of hearing shall be allowed only on meritorious ground and shall not exceed twenty (20) days from the date of resetting.

Section 13. Period to Hear Cases. - Hearings in all authorization cases, whether contested or uncontested, as well as administrative complaints shall, as much as practicable be completed within ninety (90) calendar days from the date of the first hearing. For this purpose, the period for the conduct of the preliminary hearing and conference shall be excluded from the ninety (90) calendar-day within which to complete the hearings.

PART V

DECISIONS AND ORDERS

RULE 12

DECISIONS AND ORDERS

Section 1. How Rendered. - Subject to Section 3, Rule 11 of these rules all orders, resolutions and/or decisions shall be signed by the majority of all the Commissioners.

Section 2. Form and Contents. - All orders, rulings, decisions and resolutions shall be in writing stating clearly and distinctly the facts and the law on which it is based. They shall be filed with the Secretariat of the Commission which shall immediately cause copies thereof to be served upon the parties, as provided under sections 3 and 4 of Rule 6 hereof.

Section 3. Provisional Relief. - Upon the filing of the application, complaint or petition or at any stage thereafter, the Commission may grant or deny the relief prayed for, upon motion of the applicant or petitioner based on the pleading,

together with the affidavits and supporting documents attached thereto, without prejudice to a final decision after completion of the hearing on the case. For this purpose, applicants seeking provisional authorizations shall submit immediately to the Commission, either together with their application or in a Motion, all their legal, technical, financial, economic documentation in support of their prayer for provisional authorization, for evaluation. On the basis of the documents and applicant's compliance with the requirements of the case, and when public interest so requires, the Commission may issue provisional authorizations.

Section 4. Final Decision. - The Commission en banc shall render a decision, order, or resolution in all applications, petitions or complaints within thirty (30) days from the date the case was submitted to it for decision on the merits. In all final orders, resolutions or decisions, the Commission may grant such other reliefs, impose such conditions or fix such terms as may be deemed necessary to promote public interest.

Section 5. Execution of Order, Ruling, Decision or Resolution. - All orders, decisions or resolutions of the Commission shall take effect immediately and unless there is an appeal, shall become final upon the expiration of fifteen (15) days from notice thereof to all parties.

SEC.6. Compilation and publication of decisions. - The Secretariat shall compile all final decisions and resolutions of the Commission, including final decisions of the Supreme Court on appeal, if any, and shall cause them to be printed by the Bureau of Printing in bound and numbered volumes.

PART VI

RE-OPENING, RECONSIDERATION AND APPEAL

RULE 13

MOTIONS FOR REOPENING OR RECONSIDERATION

Section 1. Motions for Reopening. - Notwithstanding the provisions of Section 12 Rule 11, any party may file a motion for reopening of the proceeding at any time after the presentation of evidence has been completed but before promulgation of a decision, order or resolution, if during that period there should occur or arise transactions, events or matters, whether factual or legal, resulting in a changed situation of the parties.

Section 2. Motion for Reconsideration of Final Decisions. - A party adversely affected by a decision, order or resolution may within fifteen (15) days from receipt of a copy thereof, file a motion for reconsideration. No more than one motion for reconsideration by each party shall be entertained, unless otherwise permitted by the Commission.

Section 3. Service and Hearing. - The Motion allowed by this Rule shall be served upon all parties on record and shall be set for hearing not less than three (3) days from service thereof.

Section 4. Opposition. - Any party to the proceeding may file an opposition to the motions allowed by this rule accompanied by such supporting affidavits and documents necessary, serving a copy thereof upon the movant.

PART VII

MISCELLANEOUS PROVISIONS

RULE 14

REPEAL

All prior rules, regulations, guidelines or practices followed before the Commission which are inconsistent herewith are hereby repealed.

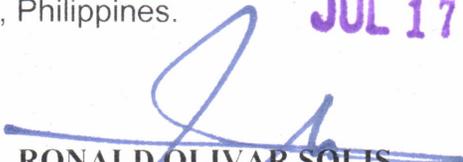
RULE 15

EFFECTIVITY

Effectivity. – These rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Quezon City, Philippines.

JUL 17 2006



RONALD OLIVAR SOLIS
Commissioner



JORGE V. SARMIENTO
Deputy Commissioner



JAIME M. FORTES, JR.
Deputy Commissioner

WITNESSES:

