

La Salle wins CA dismissal case against teachers

THE Court of Appeals (CA) has upheld the dismissal of former teachers at De La Salle University's Center for Language and Lifelong Learning, after they failed to meet the employment requirement of having master's degrees.

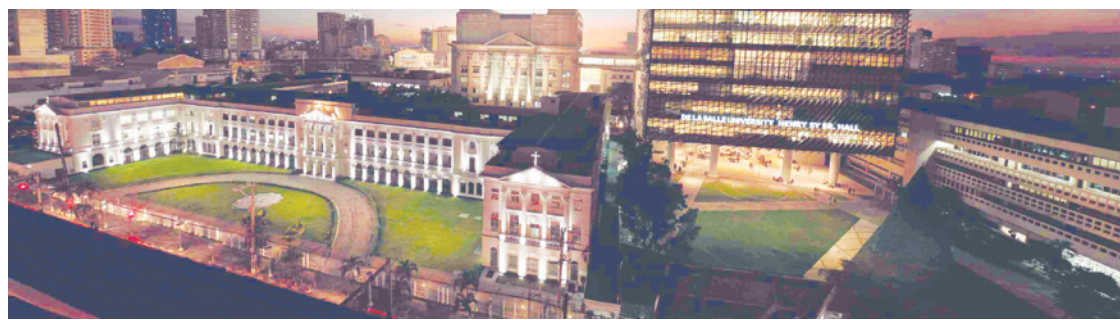
In a 13-page decision issued on Oct. 17, the CA Tenth Division said the National Labor and Relations Commission (NLRC) did not abuse its discretion when it ruled that teachers Luz Dela Cruz Raymundo and Meredith Ruth C. Lagarde were not illegally dismissed.

"If the NLRC's ruling has basis in the evidence and the ap-

plicable law and jurisprudence, then no grave abuse of discretion exists and this Court should so declare and, accordingly, dismiss the petition," Associate Justice Jamie Fortunato A. Caringal said in the ruling.

He added that teachers' right to due process was not violated since the twin notice rule is only applicable to regular employees.

Under the Labor department's rules, employers are required to issue two written notices that show the grounds for terminating employment, and must consider all circumstances before ordering dismissal.



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The case stemmed from a complaint filed by the teachers after the school chose not to renew their contracts.

In 2018, an officer of the language school told Ms. Raymundo

that her contract would not be renewed as master's degrees were now required to work at the school.

The school official said the teachers were only hired for a

fixed period of one month since they taught short certificate courses. The contracts of the teachers had been renewed every month for 17 years as they continued working at the school.

The NLRC in 2019 ruled that the teachers were illegally dismissed and classified them as regular employees of the school, a position it reversed in 2021. In the second ruling, Ms. Raymundo was deemed to have been employed on a part-time basis.

"The practice of hiring teachers per semester or school year, or in this case per month, by educational institutions, is generally governed by the rules on fixed-term employment unless the circumstances provide for either a probationary or a regular employment status," the appellate court ruled. — **John Victor D. Ordoñez**

OPINION

Mishandled resignations

I told my boss, the chief executive officer (CEO) that a major competitor is pirating me with a lucrative offer. He asked me, "Are you expecting a counteroffer?" I was shocked. I told him that I'm resigning with 30 days' notice. To which the CEO replied: "The sooner, the better." I left the room sadly. Please help me understand and manage my situation. — Lone Wolf.

Once upon a time, a young man consulted the Socrates to learn from the great philosopher. The moment he arrived, the young man began to speak, until interrupted by Socrates: "Young man, I regret I will have to charge you double fee for that."

"Why is that?" the young man replied.

Socrates replied: "I will be teaching you two skills. First, how to hold your tongue. Second, how to use it at an appropriate time."

I'm not sure about your motivation for disclosing that you're being pirated by a competitor. It's not advisable to tell your boss about a prospective employer. If you want to resign, then resign without making it appear that you wanted to negotiate a package. Therefore, the CEO was right in humiliating you.

Most CEOs would not be baited into making a counteroffer for many reasons. They're too smart for that. If they do, you'll feel indispensable, thereby setting a bad precedent that others could emulate.

If you've already made up your mind about your resignation, do it without hesitating. Be firm. But hold your tongue until you've filed a resignation letter. No amount of verbal preliminary notification will sway your boss into making a counter-offer, unless management is incompetent enough to neglect putting together a succession plan.

THE CURE

File your resignation right away. There's no turning back. Retreating is the worst thing you can do. The CEO has already spoken: "The sooner, the better." He's telling you the company is ready to work without you. He may have somebody in mind as a temporary or permanent replacement which may come from within.

Therefore, you have no recourse but to file a professionally-written letter that includes the following elements:

One, give 30-day advance notice as required by law. This is to allow your employer to make preparations for a smooth turnover. This may be waived by management to protect the organization's interests. One scenario that calls for immediate effectivity of resignations is to prevent

a resigned person from accessing confidential files and other sensitive records.

Even if the CEO has allowed you to resign "the sooner, the better," you must protect yourself against claims for damages resulting from lack of a formal, advance notice. Put the specific date of your last working day and be open to exhausting your remaining leave credits, subject to management approval.

Two, offer assistance towards ensuring a smooth turnover. Commit to train your replacement even if your boss may not be receptive. Even if your boss rejects your offer, ensure that you will be available physically according to a mutually-agreed schedule. Or else, leave your e-mail address for any questions that may arise.

Make a complete list of all documents and equipment and turn them all to your department second-in-command. Require that person to acknowledge receipt.

Three, request clearance and an employment certificate. Be specific about these requests in your letter. Also, ask the human resource (HR)

department to return your basic documents, which may include the original copy of your transcript or anything that you may have been required to submit previously.

If this creates some difficulties with HR, then forget about it. At least you tried.

Four, ask the CEO's secretary to sign upon receipt of your letter. This is your best proof that you've resigned in accordance with the dictates of the law. It's not important that a resignation is approved by a boss even under normal circumstances. What's important is that there is a formal document to prove that you're no longer interested in continuing your employment.

There's also a chance the CEO's secretary may ask to consult the boss. If the secretary refuses to sign, move on to the HR department head or a representative to sign your copy.

Last, express sincere gratitude to top management. Even under the most difficult circumstances, don't forget to thank management for giving you the chance to work and be trained in that organization. Expressing gratitude is the professional move. You should be grateful even if you botched your initial attempt to resign.

Professionalism gives you a long-lasting sense of satisfaction that you've done the right thing with the people you met on your way up or down.

Chat your workplace questions with Rey Elbo on Facebook, LinkedIn, Twitter or e-mail elbonomics@gmail.com or go to <https://reyelbo.com>



More US firms charging workers job training costs if they resign

WASHINGTON — When a Washington state beauty salon charged Simran Bal \$1,900 for training after she quit, she was shocked.

Not only was Ms. Bal a licensed esthetician with no need for instruction, she argued that the training was specific to the shop and of low quality.

Ms. Bal's story mirrors that of dozens of people and advocates in healthcare, trucking, retail and other industries who complained recently to US regulators that some companies charge employees who quit large sums of money for training.

Nearly 10% of American workers surveyed in 2020 were covered by a training repayment agreement, said the Cornell Survey Research Institute.

The practice, which critics call Training Repayment Agreement Provisions, or TRAPs, is drawing scrutiny from US regulators and lawmakers.

On Capitol Hill, Senator Sherrod Brown is studying legislative options with an eye toward introducing a bill next year to rein in the practice, a Senate Democratic aide said.

At the state level, attorneys general like Minnesota's Keith Ellison are assessing how prevalent the practice is and could update guidance.

Mr. Ellison told Reuters he would be inclined to oppose reimbursement demands for job-specific instruction while it "could be different" if an employer wanted reimburse-

ment for training for a certification like a commercial driving license that is widely recognized as valuable.

The Consumer Financial Protection Bureau (CFPB) has begun reviewing the practice, while the Justice department and Federal Trade Commission have received complaints about it.

The use of training agreements is growing even though unemployment is low, which presumably gives workers more power, said Jonathan Harris who teaches at the Loyola Law School Los Angeles.

"Employers are looking for ways to keep their workers from quitting without raising wages or improving working conditions," said Mr. Harris.

The CFPB, which announced in June it was looking into the agreements, has begun to focus on how they may prevent even skilled employees with years of schooling, like nurses, from finding new, better jobs, according to a CFPB official who was not authorized to speak on the record.

"We have heard from workers and worker organizations that the products may be restricting worker mobility," the official said.

TRAPs have been around in a small way since the late 1980s primarily in high-wage positions where workers received valuable training.

But in recent years the agreements have become more widespread, said Loyola's Mr. Harris. — **Reuters**

FULL STORY



Read the full story by scanning the QR code with your smartphone or by typing the link bit.ly/Labor102122

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF CAPITAL EXPENDITURE PROJECT RE: REPLACEMENT OF DAMAGED 1-10MVA POWER TRANSFORMER IN SAN ENRIQUE SUBSTATION BY NEW 1-10MVA POWER TRANSFORMER AND ITS ACCESSORIES

ERC CASE NO. 2022-065 RC

NEGROS ELECTRIC (NOCECO),
X-----X

Promulgated:
September 21, 2022

Applicant.

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 08 September 2022, Negros Occidental Electric Cooperative (NOCECO) filed an Application dated 27 July 2022, seeking the Commission's approval of its Capital Expenditure Project Re: Replacement of Damaged 1-10 MVA Power Transformer in San Enrique Substation by new 1-10 MVA Power Transformer and its accessories.

The pertinent allegations of the Application are hereunder quoted as follows:

- Applicant NOCECO is an electric cooperative duly organized and existing under and by virtue of Presidential Decree No. 269 (PD 269) and other laws of the Republic of the Philippines, with principal office at Sitio Naga, Brgy, Binicuil, Kabankalan City, Negros Occidental.
- Applicant was issued an exclusive franchise by the National Electrification Administration (NEA) to operate electric light and power services in southern Negros Occidental, specifically in the towns of Pulupandan, Valladolid, San Enrique, Pontevedra, Hinigaran, Binalagan, La Castellana, Moises Padilla, Isabela, Ilog, Cauayan, Candoni and Hinoban and the cities of La Carlota City, Himamaylan City, Kabankalan City and Sipalay City.
- NOCECO is submitting this Application pursuant to ERC Resolution 26, Series of 2009, Resolution 20, Series of 2011 and other pertinent rules and regulations.

STATEMENT OF FACTS

- On 15 April 2022, a fire broke out in NOCECO's San Enrique substation damaging the 10-MVA power transformer, 69kV relay and power cables connecting the switchgears and metering of the said substation.
- NOCECO's 10-MVA San Enrique substation serves the towns of San Enrique and Pontevedra and parts of Hinigaran. San Enrique Feeder 1 (SEF1) and a portion of San Enrique Feeder 2 (SEF2) were temporarily energized through the 10-MVA Valladolid substation while San Enrique Feeder 3 and San Enrique Feeder 4 (SEF3 and SEF4) were transferred to the 10-MVA La Carlota substation.
- The existing 10-MVA power transformer of the San Enrique substation was tested and failed the minimum requirement for it to be back online.
- In order to reduce the downtime, NOCECO utilize on-hand materials and equipment.
 - The damaged 10-MVA power transformer was temporarily replaced with the existing 5-MVA power transformer that had been pulled-out when the Sipalay substation was updated to 10-MVA capacity in 2018; this 5-MVA unit is however intended for the proposed substation project in Himamaylan City, which is scheduled for implementation this year;
 - Due to the unavailability of the power cable replacement, which was also damaged in the incident, a feeder take-off was constructed and feeder reclosers and energy meters were installed instead of using the existing switchgears.

EMERGENCY CAPEX PROJECT

- The evaluation of project options showed that a 10-MVA power transformer is the most technically feasible and economically viable option for the San Enrique substation.
- The project involves the replacement of the 1-10MVA power transformer damaged in the fire in the San Enrique substation with a new 1-10MVA power transformer and accessories including the 69kV protection relay of the substation and the take-off structure for the feeders; the replacement metering and protection for the feeders would also need to be relocated from the control room to the newly constructed feeder take-off structure.
- Project Schedule.** The damaged accessories of the substation including the feeder take-off, protection and metering were replaced prior to the energization of the temporarily installed 5-MVA power transformer on 19 April 2022, utilizing materials and equipment from NOCECO's buffer stock. The new 1-10MVA power transformer, on the other hand, is expected to be delivered and installed this July 2022.
- Project Cost.** The total project cost amounts to Twenty Two Million Four Hundred One Thousand One Hundred Ninety One Pesos and Seventy Centavos (P 22,401,191.70); it covers the replenishment of the buffer stock that was used to construct the feeder take-off, metering and protection facility as well as the supply, delivery and commissioning of the 10-MVA power transformer.
- Financing Plan and Rate Impact.** The project cost shall be sourced from collections through NOCECO's Reinvestment Fund for Sustainable CAPEX (RFSC). An average shortfall of P0.0400 was computed for 2021 and 2022 indicating the need for additional inflows into the RFSC.

PARTICULAR	2021	2022	TOTAL
Energy sales, kWh	293,453,926	319,328,960	612,782,886
Fund balance beginning, PhP, excess/(shortfall)	4,768,034.84	10,286,939.46	4,768,034.84
FUND INFLOWS			
Current Year Collection @PhP0.2904/kWh	81,491,841.25	92,733,129.98	174,224,971.23
Interest income from bank	-	-	-
Loan proceeds from financial institutions, PhP	-	120,000,000.00	120,000,000.00
Utilizations from General Fund 2021 CapEx, PhP	21,810,284.13	-	21,810,284.13
Utilizations from General Fund for San Enrique Substation, PhP	-	22,401,191.70	22,401,191.70
Total Cash Inflows, PhP	103,302,125.38	235,134,321.68	338,436,447.06
Available cash for disbursement	108,070,160.22	245,421,261.14	353,491,421.36

FUND OUTFLOWS			
Payment for other CapEx projects, PhP	82,738,752.48	196,588,131.91	279,326,884.39
Payment for Costs of San Enrique SS (Emergency CapEx), PhP	-	22,401,191.70	22,401,191.70
Old debt (old amortization), PhP	15,044,468.28	2,142,785.70	17,187,253.98
New Amortization (new CapEx), PhP	-	8,306,412.87	8,306,412.87
Replenishment of General Fund account, PhP	-	38,879,269.49	38,879,269.49
ERC Permit Fee, PhP	-	1,642,419.93	1,642,419.93
Total Fund Outflows, PhP	97,783,220.76	269,960,211.60	367,743,432.36
Fund balance ending, PhP, excess/(shortfall)	10,286,939.46	(24,538,950.45)	(24,538,950.45)
Excess/(shortfall) on RFSC, PhP/kWh	0.0351	(0.0768)	(0.0400)

COMPLIANCE WITH PRE-FILING REQUIREMENTS

- A comprehensive write up on the CAPEX project is attached as Annex "A".
- NOCECO furnished the legislative bodies of the local government units where it principally operates with copies of the Application with all its annexes and accompanying documents. Copies of the proofs of service to the Office of the City Mayor and the Sangguniang Panlungsod of Kabankalan, Negros Occidental and the Office of the Governor and Sangguniang Panlalawigan of Negros Occidental are attached as Annex "B" and its sub markings.
- NOCECO also published the Application sans annexes in its entirety in a newspaper of general circulation within its franchise area. Copies of the Affidavit of Publication and the Newspaper where the Application was published are attached as Annex "C" and its sub-markings;

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Commission that, after a hearing on the merits, a DECISION be rendered APPROVING the instant Application.

Other reliefs, just and equitable in the premises are likewise prayed for.

The Commission hereby sets the instant Application for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution 09, Series of 2020 dated 24 September 2020, and Resolution No. 01, Series of 2021 dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):²

Date	Platform	Activity
11 November 2022 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and expository presentation
18 November 2022 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

Accordingly, NOCECO is hereby directed to host the virtual hearings at NOCECO's principal office at Sitio Naga, Brgy. Binicuil, Kabankalan City, Negros Occidental, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, NOCECO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- The petitioner's name, mailing address, and e-mail address;
- The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- The name, mailing address, and e-mail address of such person;
- A concise statement of the Opposition or Comment; and
- The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may access the copy of the Application on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant Application. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Chairperson and CEO MONALISA C. DIMALANTA, and Commissioners ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, and MARKO ROMEO L. FUENTES, Energy Regulatory Commission, this 21st day of September 2022 in Pasig City.

Floresinda G. Baldo-Digal
FLORESINDA G. BALDO-DIGAL
Oversight Commissioner for the Legal Service

1 A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
2 A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.