

Violation of consumer rights in the public electricity service in Guayaquil, 2022

Vulneración de derechos del consumidor en el servicio público de energía eléctrica Guayaquil 2022

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ABSTRACT

The present study has as a general objective to elaborate a legal analysis on the rights of the consumers of the public electricity service from the Constitutional and Legal context that allows to demonstrate if there is or is not a violation of rights before the provision of this service. For this purpose, an exhaustive search has been carried out on the figures, conceptions and theoretical constructions on the right to the consumer and the quality that they must generate in the provision of this service. For this, adequate research methods were used that allowed knowing the perception of the users of the city of Guayaquil about the provision of this service, thus evidencing a discontent due to different factors associated with quality, unsatisfactory customer service, lack of maintenance, exorbitant charges on electricity bills, among others. These results led to the conclusion that institutions such as the Ombudsman should correctively influence user demand and ask the company that provides the electric power service for detailed reports on its operations and solutions regarding complaints and petitions. of the users.

Keywords: Quality, Consumer, Rights, Electric power, Services.

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RESUMEN

El presente estudio tiene como objetivo general elaborar un análisis jurídico sobre los derechos de los consumidores del servicio público de energía eléctrica desde el contexto Constitucional y Legal que permita evidenciar si existe o no vulneración de derechos ante la prestación de este servicio. Para tal fin se ha realizado una búsqueda exhaustiva sobre las figuras, concepciones y construcciones teóricas sobre el derecho al consumidor y la calidad que deben generar en la prestación de este servicio. Para ello se utilizaron métodos de investigación adecuados que permitieron conocer la percepción de los usuarios de la ciudad de Guayaquil sobre la prestación de este servicio, evidenciando así un descontento por diferentes factores asociados con la calidad, atención a la cliente insatisfactoria, falta de mantenimiento, cobros exorbitantes en las planillas de luz, entre otras. Estos resultados llevaron a la conclusión de que, instituciones como la Defensoría del Pueblo influya de manera correctiva ante la demanda de los usuarios y solicite a la empresa prestadora del servicio de energía eléctrica informes detallados de sus operaciones y soluciones en cuanto a las quejas y peticiones de los usuarios.

Palabras clave: Calidad, Consumidor, Derechos, Energía eléctrica, Servicios.

INTRODUCTION

This document addresses a very interesting topic within the legal field, specifically consumer rights, specifically those who receive electricity services in the city of Guayaquil. To this end, it is necessary to conduct a study focused on analyzing the exercise of consumer rights, making this issue particularly relevant given that it concerns a vital public service enshrined in the Constitution, which must be provided in an optimal manner by the entities responsible for it in order to ensure user satisfaction.

However, in response to various requests and complaints to the Public Defender's Office, it is striking that corrective measures have not been taken to provide a quality service. On the contrary, this problem has continued to affect users over the years, who have expressed their dissatisfaction with factors related to quality, poor customer service, lack of maintenance, exorbitant charges on electricity bills, among other issues.

However, the aim is not only to ensure that the provision of this service is geared towards user satisfaction, but also to enable consumers to exercise their rights as set out in the regulations, and not only in the provision of private services.

In short, the document detailed here provides timely content for greater awareness of both consumer rights and public electricity services in the country.

To address this study, it is necessary to point out that over the years, countries have sought to maintain peace agreements after World War II, thus creating a culture in companies to provide trust and peaceful coexistence among all, giving rise to a list of rights aimed at protecting consumers, which have an impact on the circulation of goods and services within the market.

However, these visions have not been fully realized because these guidelines have not achieved the desired end, that is, essential aspects within this system such as quality optimization, fair competition, protection from misleading advertising, adequate information, assistance, or equitable treatment of users or consumers are scarcely perceived by those who depend on the provision of a good and/or service.

At the same time, it is striking that, despite the existence of the Organic Law on Consumer Protection, which came into force in 2000 through Official Register Supplement I 16 of July 10, 2000, as an organic law regulating the protection of consumer rights, its lack of awareness is alarming, both in terms of its existence and, even more so, its content. This prevents consumers from effectively exercising their rights and, at the same time, allows companies, suppliers, and businesses to ignore or omit certain considerations, rules, or benefits that users are entitled to under the aforementioned law.

It should be noted that this law introduced the so-called Complaints Book, which different types of businesses are required to acquire so that customers or users can record their complaints about the service or product they have received. However, few businesses use them, although most public sector entities do keep such a book.

At the same time, there is a problem in the field of public service relations that can arise between the consumer and the provider, where the former has been only superficially protected by common law, due to the lack of effective control of companies, businesses, and commerce in the country, since misleading advertising, abusive contracts, rates, and fees for certain services, and even intentional harassment of consumers are commonplace.

Therefore, given all these considerations, public services have always been the subject of controversy when it comes to evaluating or assessing the care and diligence with which they carry out their work. One such service is electricity, which is the subject of numerous complaints and claims to the Ombudsman's Office and to the public companies themselves, where citizens' dissatisfaction is evident in the lack of maintenance, control, quality, determination of proportional values, customer service, and all types of management, which are criticized by consumers. Furthermore, these complaints are not addressed in accordance with the law that regulates them.

In short, this problem has been causing discontent among the people of Guayaquil, who

are affected not only by the obsolete and inadequate quality of the service, but also by unforeseen events that are not dealt with urgently and put citizens at risk, such as falling cables, poor connections, and overloaded regulators, among others.

MATERIALS AND METHODS

Google Scholar was used to ensure that the information referred to regarding the legal relationship between parents and children came from scientific articles, books, or documents identified as verified sources of information. In addition, the following table details the resources used and their respective values.

As its name suggests, this is a decisive method when analyzing data and information. In this particular case, it is applied in the review of various research sources, such as scientific articles, books, legislation, doctrine, and others, from which the most relevant points for this project must be extracted and subsequently analyzed to provide optimal content on public electricity services in relation to consumer rights.

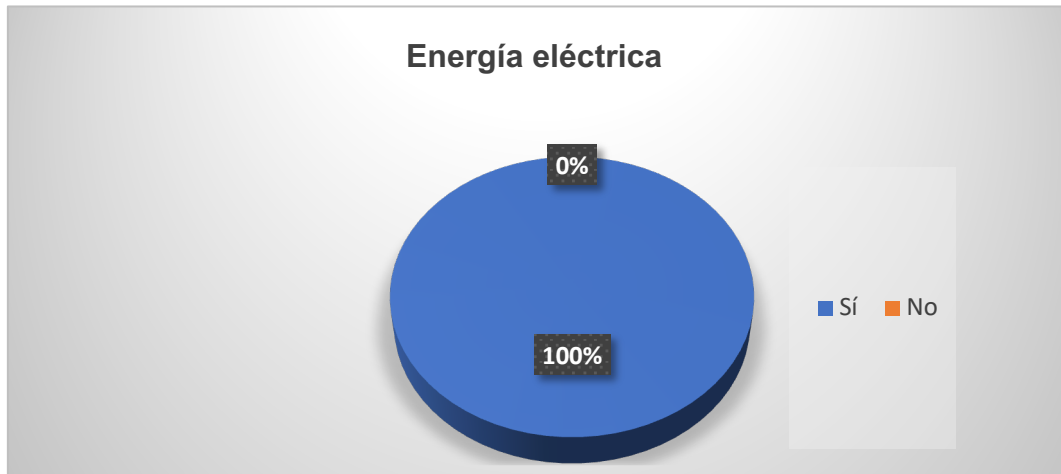
This method consists of collecting information obtained from a specific place or area for research purposes, based on the application of various procedures. For our topic, this method is necessary because we have carried out the respective research in specific places such as the Ombudsman's Office in the city of Guayaquil. At the same time, we have focused on a specific population, namely the electricity consumers of this city.

RESULTS

Given the results of the research techniques used, it was found that all the people included in this study have electricity service. However, their response was not affirmative in terms of the quality of this service, as most of them indicated that they were dissatisfied with its quality, which appears to be far from being addressed and optimized.

Consequently, citizens' lack of knowledge about consumer rights is considerable, as most indicated that they had no idea about them, and those who indicated that they knew a little about them had an ambiguous and unclear perception.

Similarly, it was found that there are several shortcomings in the provision of this service, and that most of those surveyed considered that all of them (lack of maintenance, customer service, excessive charges) are part of the problems they face on a daily basis with this service. They have even gone to their local agencies to file complaints about various irregularities and have not received a response that satisfies their requests. They indicated that the problems were not corrected, which has led them to distrust the entity.

Figure 1. Electricity service**Figure 2.** Quality of electricity service

DISCUSSION

On the other hand, it has become clear that people have little information about the functions of the Ombudsman's Office, especially with regard to consumer rights. However, some have submitted requests regarding the electricity service, which are still being processed. Finally, they indicated the need for a restructuring of the provision of this service, with an effective and high-quality model to meet their needs. The study on public electricity services reached the following conclusions: Through a legal analysis

of the rights of consumers of public electricity services from a constitutional and legal perspective, it was possible to demonstrate that there is a violation of rights in the provision of this service to users in the city of Guayaquil, based on various sources of research, such as Official Letter No. DPE-DPGYS-2023-0709-O dated July 17, 2023, regarding complaints related to this service; the results obtained from surveys showing that users are dissatisfied, interviews with officials from the Ombudsman's Office who have detailed the multiple problems with the provision of this service, and the regulations themselves that describe the standards under which this service must be provided. At the same time, it was possible to identify the main problems associated with the provision of public electricity services in the city of Guayaquil, which have to do with poor technical management, lack of maintenance, high consumption bills that users claim they did not incur, late or denied responses to their requests, lack of maintenance, among others.

The importance and diligence with which this service must be provided was also detailed, as it is recognized by international instruments as a contributing factor to improving people's living conditions.

Finally, a proposal was made to establish three measures that would benefit the provision of this service in order to optimize its quality and customer service so that citizens can effectively exercise their consumer rights.

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