

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF
VIOLATION OF ERC
ORDERS, RULES AND
REGULATIONS,**

ERC CASE NO. 2016-096 SC
Re: Violation of Article 2,
Section 2 of ERC Resolution No.
16, Series of 2009, As Amended
by ERC Resolution No. 21, Series
of 2010

**TABLAS ISLAND
ELECTRIC COOPERATIVE,
INC. (TIELCO),
Respondent.**

X-----X

D O C K E T E D
Date: MAY 07 2018
By: [Signature]

DECISION

On 19 January 2016, the Commission issued a Show Cause Order (SCO) directing Tablas Island Electric Cooperative, Inc. (TIELCO) to submit its explanation why no administrative penalty should be imposed upon it and/or criminal action instituted against it, its directors and officers for failure to comply with Article 2, Section 2 of the Commissions Resolution No. 16, Series of 2009¹, as amended by ERC Resolution No. 21, Series of 2010² (Resolution).

In compliance therewith, on 13 September 2016, TIELCO filed its "*Explanation*" dated 09 September 2016 stating, among others, that:

1. On 27 December 2011, TIELCO received from the National Electrification Administration (NEA) an official message informing them that the ERC authorizes the Electric Cooperatives to recover the amount of PhP3,638,605,715.71

¹ A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities.

² A Resolution Amending Section 4 of Article 4 and Section 1 of Article 5 of the Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities.

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or equivalent to PhP1.2532/kWh relative to ERC Case Nos. 2009-021 RC, 2009-058 RC and 2011-008 RC. Likewise, to recover the amount of PhP508,031,190.56 or equivalent to PhP0.1750/kWh under ERC Case Nos. 2009-033 RC, 2009-059 RC and 2011-007 RC;

2. Interpreting the NEA message in utmost good faith, TIELCO started implementing the NPC recovery in its January 2012 billing cycle;
3. However, when TIELCO received copies of the subject ERC Decisions which happened after it has already started implementing the NPC recovery in its January 2012 billing, it was clarified that the effectivity of the recovery will start on February 2012; and
4. To show good faith that it is not concealing the advanced collection of the NPC recovery during its January 2012 billing cycle, when TIELCO filed its application for confirmation of its over/under-recovery under ERC Case No. 2014-006 CF, it presented and disclosed the said over collection.

PRAYER

Premises considered, TIELCO most respectfully prays that this explanation be duly considered by the Honorable Commission.

On 28 September 2016, the Commission issued an Order setting the case for conference on 28 October 2016.

During the 28 October 2016, TIELCO appeared and reiterated its position as stated in the submitted explanation.

ISSUE

The issue for Commission's consideration is whether or not respondent TIELCO has committed a violation of the Commission's orders, rules and regulations for its failure to compute its January 2012 Generation Rate (GR) in accordance with the formula under Article 2, Section 2 of Resolution No. 16, Series of 2009³, as amended by Resolution No. 21, Series of 2010⁴.

(This space is intentionally left blank.)

³ Ibid.

⁴ Ibid.

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COMMISSION'S RULING

On 21 March 2017, the Commission deliberated and resolved the instant case. In its deliberation, the Commission found merit on the explanation advanced by TIELCO. Therefore, no administrative penalty should be imposed against it.

However, due to supervening events⁵, the Decision could no longer be promulgated without undergoing reconfirmation by the Commission *En Banc*. Thus, the Commission resolved to reconfirm the Decision on 26 March 2018.

DISCUSSION

The Commission takes into account the justification offered by TIELCO and finds the same to be sufficient so as not to warrant the imposition of administrative penalty against it.

A perusal of the records showed that TIELCO computed its Generation Rate (GR) for the January 2012 billing cycle following the formula provided under Article 2, Section 2 of the Resolution. The increase in TIELCO's January 2012 billing cycle was due to the inadvertent advanced collection of the National Power Corporation (NPC) recovery in the amount of PhP1.4282/kWh pursuant to the Decisions and Orders issued by the Commission in ERC Case No. 2009-021 RC⁶, 2009-058 RC⁷ and 2011-008 RC⁸, which authorized the NPC to recover the amount of PhP3,638,605,715.71, or its equivalent amount of PhP1.2532/kWh, and in ERC Case Nos. 2009-033 RC⁹, 2009-059 RC¹⁰ and 2011-007 RC¹¹, which likewise authorized NPC to recover the amount of PhP508,031,190.56, or its equivalent amount of PhP0.1750/kWh, to wit:

⁵ The previous chairman was dismissed as per Decision of the Office of the President (OP-DC Case No. 17-D-094).

⁶ In the matter of the adoption of the generation rate adjustment mechanism (4th Gram), with prayer for provisional authority.

⁷ In the matter of the 5th application for the approval of the generation rate adjustment under the gram rules, with prayer for provisional authority.

⁸ In the matter of the 6th application for the approval of the generation rate adjustment under the gram rules, with prayer for provisional authority.

⁹ In the Matter of the Adoption of the 4th, Incremental Currency Exchange Rate Adjustment (ICERA).

¹⁰ In the Matter of the Adoption of the 5th Incremental Currency Exchange Rate Adjustment (ICERA).

¹¹ In the Matter of the Adoption of the 6th Incremental Currency Exchange Rate Adjustment (ICERA).

| | ERC CASE Nos. 2009-021 RC; 2009-058 RC; and 2011-008 RC (GRAM) | ERC CASE Nos. 2009-033 RC; 2009-059 RC; and 2011-007 RC (ICERA) | TOTAL |
|---|---|--|---------------|
| 4 th , 5 th & 6 th GRAM | 1.2532 | | |
| 4 th , 5 th & 6 th ICERA | | 0.1750 | |
| TOTAL | 1.2532 | 0.1750 | 1.4282 |

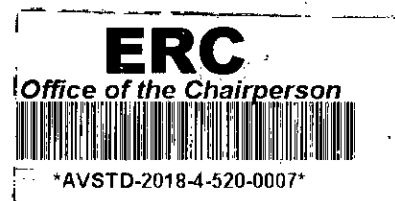
Moreover, the corresponding amount vis-a-vis TIELCO's advanced collection of the NPC recovery was disclosed in the application for confirmation of its (over)/under-recoveries filed by the respondent TIELCO on 15 September 2014 docketed as ERC Case No. 2014-006 CF¹². Subsequently, the Commission in its Decision dated 19 January 2016 directed TIELCO to refund the (over)-recoveries in the Generation Rate.

WHEREFORE, the foregoing premises considered, the explanation by Tablas Island Electric Cooperative, Inc. is found to be meritorious. Accordingly, no administrative penalty is imposed against TIELCO.

SO ORDERED.

Pasig City, 26 March 2018.


AGNES VST DEVANADERA
Chairman and CEO



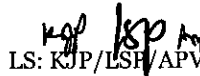

ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


GERONIMO D. STA. ANA
Commissioner


JIL/ACF/NDC/FBD


LS: KJP/LSH/APV

¹² In the matter of the application for confirmation and approval of calculations of over/under-recoveries in the implementation of the automatic cost adjustments and true-up mechanisms for the period 2011 to 2013, pursuant to the energy regulatory commission (ERC) resolution no. 16, series of 2009 as amended by resolution no. 21, series of 2010 and resolution no. 23, series of 2010.

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Tablas Island Electric Cooperative, Inc. (TIELCO)
Odiongan, Romblon