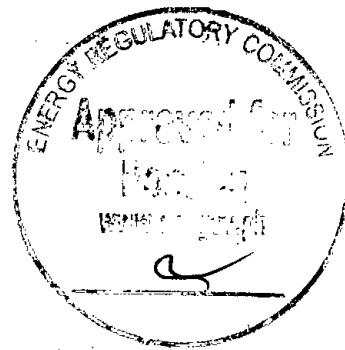


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE  
APPLICATION TO CONFIRM  
THE GENERATION RATE  
OVER/UNDER RECOVERY  
(GOUR) FOR SPECIAL  
PROGRAMS COVERING  
THE PERIOD MARCH 2007  
TO DECEMBER 2011, AND  
FOR AUTHORITY TO  
RECOVER CONFIRMED  
GOUR, WITH PRAYER FOR  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2016-001 CF**

**MANILA ELECTRIC  
COMPANY (MERALCO),  
Applicant.**

X-----X

**D O C K E T E D**

Date: JUN 01 2016

By: [Signature]

**O R D E R**

On 29 January 2016, Applicant Manila Electric Company (MERALCO) filed an Application to confirm the Generation Rate Over/Under Recovery (GOUR) for special programs covering the period March 2007 to December 2011, and for authority to recover confirmed GOUR, with prayer for provisional authority.

The Application alleged the following:

1. MERALCO is a private corporation existing under the laws of the Republic of the Philippines, with principal office located at Lopez Building, Ortigas Avenue, Barangay Ugong, Pasig City. It may be served with notices and other processes of this Honorable Commission at its principal office address or through its counsel at the address indicated herein.
2. Pursuant to Republic Act No. 9209, MERALCO was granted a legislative franchise to operate and maintain a distribution system in the cities/municipalities of Metro Manila, Bulacan, Cavite and Rizal and certain cities/municipalities/barangays in Batangas, Laguna,

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Quezon and Pampanga and is authorized to charge all its customers for their electric consumption at the rates approved by the Honorable Commission.

3. Section 25 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), allows Distribution Utilities (DUs), such as Applicant, to charge for the supply of electricity to its customers based on the principle of full recovery of prudent and reasonable economic costs incurred, which includes pass-through charges like generation rates.
4. On 01 June 2015, the Honorable Commission rendered separate Decisions for ERC Case No. 2011-010<sup>1</sup> and ERC Case No. 2012-039 RC<sup>2</sup>, which both state that:

“[t]he Consolidated Rules pertain only to the confirmation of pass through charges imposed upon regular customers but not to customers under special programs. However, there exists no rule or regulation of the Commission precluding the confirmation of pass through charges from special program customers. Thus, the confirmation of pass through charges imposed on special program customers shall not be done in the instant application. This is to ensure that there is no cross-subsidy between regular and special program customers.”<sup>3</sup>

5. In this regard, since the confirmation of the pass-through charges involving generation costs for special program customers (Customer Choice Program and Ecozone customers) were excluded in the above-cited cases previously filed by the Applicant, to ensure that there is no cross-subsidy between regular and special program customers, a separate filing to recover the same is in order.
6. In relation to the foregoing, it is well to note that there is no specific Resolution rendered by the Honorable Commission that established a systematized confirmation process for the automatic generation cost adjustments implemented by the Distribution Utilities (DUs) and the

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<sup>1</sup> In the Matter of the Application to Confirm the Generation Rate Over/Under Recovery (GOUR); Transmission Over/Under Recovery (TOUR); System Loss Over/Under Recovery (SOUR); and Lifeline Subsidy Over/Under Recovery (LSOUR); and for Authority to Refund/Recover Confirmed Over/Under Recoveries, with Prayer for Provisional Authority.

<sup>2</sup> In the Matter of the Application to Confirm the Generation Rate Over/Under Recovery (GOUR); Transmission Over/Under Recovery (TOUR); System Loss Over/Under Recovery (SOUR); and Lifeline Subsidy Over/Under Recovery (LSOUR) covering the period January 2011 to December 2011; and for Authority to Refund/Recover Confirmed Over/Under Recoveries, with Prayer for Provisional Authority.

<sup>3</sup> Decision for ERC Case No. 2011-010, pages 34 and 35; Decision for ERC Case No. 2012-039 RC, page 18.

true-up of approved generation charge for Special Program Customers (Customer Choice Program and Ecozone customers) to ensure, among other things, appropriate recovery thereof in an efficient and transparent process.

7. Considering the above, this Application is aligned with the provisions of ERC Resolution No. 16, Series of 2009, issued by the Honorable Commission, entitled, "*A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities*" since the said Rules govern the recovery of allowed pass-through charges of Distribution Utilities.
8. During the period from March 2007 to December 2011, Applicant's net Generation Charge Under Recovery (GUR) for Special Programs (Customer Choice Program and Ecozone customers) have reached a significant level and already affected Applicant's cash flow. Below is a summary of said GUR for Special Programs:

**GENERATION CHARGES UNDER RECOVERIES  
(SPECIAL PROGRAMS)  
IN PASS-THROUGH COSTS**

Period	Amount in million PhP
May 2007- December 2010	118.83
January -December 2011	131.83
<b>TOTAL</b>	<b>250.66</b>

9. Generation charge over/under recoveries occur as a result of the lag in the recovery of generation costs from consumers. Basically, the rate used to compute for the generation charge in a current billing month is based on the generation cost incurred during the previous month. Accordingly, when the actual allowable generation cost of the current month is compared to the generation recoveries in the current month, which recoveries were computed on the basis of previous month's cost, an over- or under-recovery arises.
10. The bulk of the under recovery was incurred in 2009 to 2011. This was due to the increases in the cost of power sourced from the National Power Corporation (NPC) mainly due to the following events:



- In January 2009, a lower GRAM refund of 4.9 centavos per kWh was implemented by NPC. The refund has reached as high as 18.63 centavos per kWh in 2007 and 56.11 centavos in 2008.
  - In March 2009, an increase in the NPC Basic Generation Rates was implemented by NPC.
  - In March 2010, NPC started to implement the Automatic Cost Adjustment of Fuel and Purchased Power Cost (FPPCA) and Foreign Exchange-related Cost (FxA).
  - NPC Incremental Currency Exchange Rate Adjustment (ICERA) refund ended in March 2011.
11. In computing the GUR for Special Programs, Applicant followed the formula contained in Section 2, Article 4 of ERC Resolution No. 16, Series of 2009 and determined that net under-recoveries in generation cost is in the total amount of PhP250,658,295.28 for the period covering March 2007 to December 2011. The computation details of the generation net under recovery are shown in the ANNEX "A" to "A-2" and made integral parts hereof.
12. Considering the delay in the recovery of the pass-through costs subject of the instant Application, and to ensure the revenue-neutral position of herein Applicant, the following appropriate carrying charges are proposed as follows:

Generation Charge Under Recovery	Carrying Charge	Total Amount
250,658,295.28	64,244,445.81	314,902,741.09

13. The computation details of the carrying charge is attached hereto as ANNEX "B" and made an integral part hereof. In support of the computation of the carrying charge, attached hereto as Annexes "C" and "D" and made integral parts hereof, are the BSP 91-day T Bill series and the calculation of interest rates, respectively.
14. Applicant further proposes to recover the foregoing amounts in the following manner:

Principal Rate/ KWh	Carrying Charge (Rate/kwh)	Total (Rate/ kWh)	Recovery Period (in mos.)
0.0021	0.0005	0.0026	36

15. Attached hereto as ANNEX "E" is the detailed computation on how the amounts were translated into rate per kilowatthour.
16. Considering that the Generation Costs are pass-through costs, Applicant should neither earn any revenue nor incur losses from the imposition of the same. Thus, it is incumbent for Applicant to refund and/or recover whatever costs it incurred above and/or below the valid pass-through costs.

**ALLEGATIONS IN SUPPORT OF THE PRAYER  
FOR PROVISIONAL AUTHORITY**

17. The immediate issuance of a Provisional Authority in favor of the Applicant is warranted in order to prevent further accumulation of the generation rate under recovery, as well as the corresponding carrying costs, to the prejudice of the Applicant's customers, and avert any prejudice that the same will bring to the Applicant's customers in terms of the quality of its service.
18. In support of the instant Application and Applicant's prayer for provisional authority, attached hereto as ANNEX "F" and made integral part hereof is the Judicial Affidavit of MS. ARLYN I. DELA CRUZ, Specialist, Rates and Pricing, Regulatory Management Office (RMO), MERALCO.

**PRAYER**

WHEREFORE, it is respectfully prayed to this Honorable Commission that, pending hearing of the instant Application, a Provisional Authority BE ISSUED authorizing Applicant to collect the following amount and charge the corresponding rate per kilowatthour representing the under recovery for the generation charge pass through cost, together with carrying cost:

Principal Amount (PhP)	Principal (Rate/ kWh)	Carrying Charge (PhP)	Carrying Charge (Rate/ kwh)	Total (Rate/ kWh)	Recovery/ Period (in mos)
250,658,295.28	0.0021	64,244,445.81	0.0005	0.0026	36

After trial and hearing, a DECISION be rendered PERMANENTLY APPROVING the recovery of the proposed principal and carrying costs, their corresponding charge per kilowatt-hour and the period of recovery.

Other relief just and equitable under the premises are likewise prayed for.



Finding the said Application sufficient in form and substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **20 June 2016 at two o'clock in the afternoon (2:00 P.M.), at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Applicant MERALCO is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in a newspaper of nationwide circulation in the Philippines at least ten (10) days before the date of the scheduled initial hearing. It is also directed to inform the consumers within its franchise area by any other means available and appropriate, of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the Application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the offices of the Provincial Governor, Municipal and City Mayors, and Local Government (LGU) legislative bodies within MERALCO's franchise area for the appropriate posting thereof on their respective bulletin boards.

Applicant MERALCO is hereby directed to furnish all those making requests therefor with copies of the Application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, MERALCO must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published together with the complete issues of the said



newspapers, and such other proofs of compliance with the requirements of the Commission.

Applicant MERALCO and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and Pre-Trial Conference, their respective Pre-trial Briefs containing, among others:

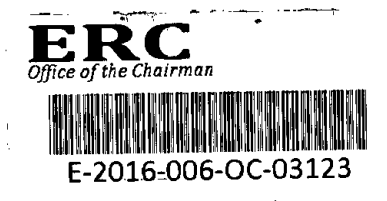
- a. A summary of admitted facts and proposed stipulation of facts;
- b. The issues to be tried or resolved;
- c. The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- d. The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of MERALCO to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

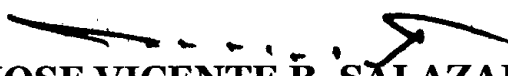
As part of the Pre-trial Conference, Applicant MERALCO must also be prepared to make an expository presentation of its Application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.

**SO ORDERED.**

Pasig City, 23 May 2016.

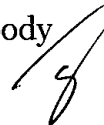


FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**JOSE VICENTE B. SALAZAR**  
*Chairman and CEO*

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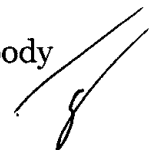
1. Attys. Francis Dino S. Antonio, Carmen Grace S. Ramos, Katherine Mari S. Garcia-Moreno, and Raymond B. Yap  
*Counsels for Applicant MERALCO*  
7<sup>th</sup> Floor, Lopez Building, Ortigas Avenue, Barangay Ugong, Pasig City
2. Panay Power Corporation (PPC)  
Barangay Ingore, La Paz, Iloilo City
3. Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village, Makati City
4. Commission on Audit  
Commonwealth Avenue, Quezon City
5. Senate Committee on Energy  
GSIS Bldg. Roxas Blvd., Pasay City
6. House Committee on Energy  
Batasan Hills, Quezon City
7. Philippine Chamber of Commerce and Industry (PCCI)  
Campus Avenue corner Park Avenue, McKinley Town Center, Fort Bonifacio, Taguig City
8. The City Mayor and the LGU legislative body  
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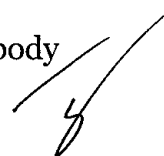
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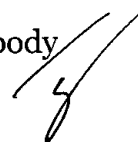
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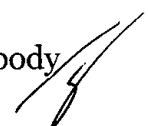


**ERC CASE NO. 2016-001 CF**  
**ORDER/ 23 MAY 2016**  
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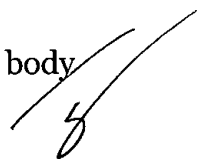
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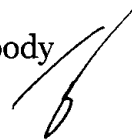
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Province of Quezon
128. Office of the Governor and the LGU legislative body  
Province of Bulacan
129. Investigation and Enforcement Division  
Energy Regulatory Commission, Pacific Center, Ortigas Avenue, Pasig City

