

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



**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
STAGGERED RECOVERY  
AND PAYMENT OF THE  
DIFFERENTIAL  
GENERATION CHARGE  
FOR THE FEBRUARY 2017  
SUPPLY MONTH, WITH  
PRAYER FOR  
PROVISIONAL  
AUTHORITY,**

**ERC CASE NO. 2017-008 RC  
(ERC CASE NO. 2017-002 CF)**

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

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**D O C K E T E D**  
Date: **FEB 13 2017**  
By: \_\_\_\_\_

**ORDER**

On 31 January 2017, Manila Electric Company (MERALCO) filed an *Application* seeking the Commission's approval of the staggered recovery and payment scheme for MERALCO's generation charge for the February 2017 supply month, including therein a prayer for provisional authority.

MERALCO alleged the following in its *Application*:

1. MERALCO is a private corporation existing under the laws of the Republic of the Philippines, with principal office located at Ortigas Avenue, Barangay Ugong, Pasig City. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.
2. MERALCO has 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 and barangays in Batangas, Laguna, Quezon and Pampanga, pursuant to Republic Act No. 9209, and is authorized to charge all its customers for their electric

consumption at the rates approved by this Honorable Commission.

3. This Application is being filed pursuant to the Guidelines for the Automatic Adjustment of Generation Rate and System Loss Rates by Distribution Utilities (“AGRA Rules”).<sup>1</sup> Article VIII, Section 1 thereof provides:

“Section 1. Exception Clause. Where good cause appears, the ERC may allow an exception from any provisions of these Guidelines, if such exception is found to be in the public interest and is not contrary to law or any other related rules and regulations.”

4. From 28 January to 16 February 2017, the Shell Philippines Exploration B.V. (“SPEX”)-Malampaya Natural Gas Facility is scheduled for maintenance shutdown (“SPEX-Malampaya Outage”), which will affect the supply of natural gas to the Ilijan, Sta. Rita, San Lorenzo, San Gabriel and Avion plants. These power plants supply an aggregate capacity of 3,211 MW to the Luzon Grid, 2,565 MW of which is supplied to MERALCO’s franchise area.
5. In addition, the SPEX-Malampaya Outage will coincide with the scheduled maintenance of the power plants of Sem-Calaca Power Corporation – Unit 1 and Quezon Power (Philippines), Limited, which plants collectively contribute 585 MW to meet MERALCO’s requirements.
6. To mitigate the impact of these outages on generation costs to be passed through to end-users, MERALCO has undertaken the following measures:
  - 6.1 MERALCO has coordinated with and advised FGP Corp. and First Gas Power Corporation (“FGPC”) to run San Lorenzo and Sta. Rita, respectively, on liquid fuel during the SPEX-Malampaya Outage.
  - 6.2 While Ilijan 1 will likewise be on maintenance shutdown, MERALCO has coordinated with South Premiere Power Corp. (“SPPC”) for use of bio-diesel by Ilijan 2, so it could continue to make available approximately 420 MW to meet MERALCO’s requirements during the SPEX-Malampaya outage.
  - 6.3 MERALCO has made necessary preparations for implementation of its Interruptible Load Program (“ILP”) should the Luzon Grid be placed on Red Alert during the SPEX-Malampaya Outage.

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<sup>1</sup> 13 October 2004 Order in ERC Case No. 2004-322, entitled, “In the Matter of the Adoption of the Guidelines for the Automatic Adjustment of Generation Rates and System Loss Rates by Distribution Utilities.”

- 6.4 MERALCO has negotiated with Power Suppliers for the supply of its peaking requirements during the SPEX-Malampaya Outage.
- a. MERALCO has signed an Interim Power Supply Agreement (“IPSA”) with Strategic Power Devt. Corp. (“SPDC”) for the supply of (i) 100 MW per hour from 0901H to 1000H and 2001H to 2100H and (ii) 150 MW per hour from 1001H to 2000H during the SPEX-Malampaya Outage. The IPSA was implemented starting 28 January 2017.
  - b. MERALCO and Panay Energy Development Corporation (“PEDC”) have agreed to increase the Contract Capacity under their Power Supply Agreement (“PSA”) dated 26 April 2016 to 70 MW (instead of 28MW) starting 28 January 2017. In an Order dated 11 July 2016, the ERC issued a provisional authority to implement the PSA in ERC Case No. 2016-114 RC.
  - c. MERALCO, Toledo Power Co. (“TPC”) and Panay Power Corporation (“PPC”) have entered into a Letter Agreement providing that beginning 28 January 2017, TPC and PPC shall provide replacement energy at reduced prices compared to the original ERC-approved tariff under their existing IPSAs. The parties have filed a Joint Manifestation in ERC Case No. 2016-009 RC to inform this Honorable Commission of said agreement.
- 6.5 MERALCO has proposed mitigating measures and actively participated in coordination meetings with industry stakeholders, including the Department of Energy (“DOE”), this Honorable Commission, National Grid Corporation of the Philippines (“NGCP”), Philippine Electricity Market Corporation (“PEMC”) and SPEX.
- 6.6 MERALCO has likewise written the DOE and this Honorable Commission to advise them of the mitigating measures being undertaken by MERALCO, as well as other proposed mitigating measures that may be pursued by other industry stakeholders. Copies of these letters are attached as Annexes “A” and “B”, and made an integral part hereof.
7. It should be noted, however, that while the use of alternative fuels allows the San Lorenzo, Sta. Rita and Ilijan plants to continue running, liquid fuels are more expensive than Malampaya gas. Thus, while the use of these alternative fuels assures continued supply of power from these plants and mitigates possible impact of the SPEX-Malampaya Outage on Wholesale Electricity Spot Market (“WESM”) prices, it is

expected to increase the blended generation rates to MERALCO's customers.

8. The incremental fuel costs due to the use of liquid fuel is expected to increase the overall rate of MERALCO for the March 2017 billing by about PhP0.9174 per kWh.
9. Under Article III, Section 2 of the AGRA Rules, MERALCO is authorized to automatically reflect the full generation cost in its March 2017 billing to its customers, as calculated in accordance with the adjustment formula laid down in Article III, Section 1 of the same Rules.
10. While MERALCO is prepared to reflect the true cost of generation in its billing to its customers pertaining to the period of the upcoming SPEX-Malampaya Outage, it is cognizant of the financial burden such rate spike will place on its customers.
11. To mitigate the effect of an abrupt increase in generation cost due to the use of liquid fuel, especially considering that the WESM prices may also increase during this period, MERALCO proposes that instead of reflecting the full incremental fuel cost component of the total generation cost in the March 2017 generation charge rate, it be allowed to implement the increase in three (3) billing months starting March until May 2017.
12. This would mean that of the estimated incremental fuel cost of PhP2.4 Billion to be incurred over the period of the SPEX-Malampaya Outage in the February 2017 supply month, only one third ( $\frac{1}{3}$ ), or around PhP791 Million (approximately PhP0.30 per kWh) will be included in each of the March and April 2017 billing months and the remainder to be included in the May 2017 generation charge rates.
13. With recovery of the incremental fuel costs for the March 2017 billing to customers pegged at PhP0.30 per kWh, the estimated generation charge to be deferred, which corresponds to the incremental fuel costs amounts to PhP0.6174 per kWh.
14. The foregoing calculations shall be without prejudice to adjustments that may be necessary as actually reflected in the power bills issued by the power suppliers for the February 2017 supply month.
15. Should the proposed change in the recovery of the generation cost for the billing month of March 2017 be approved, MERALCO is however required, under its power supply contracts, to pay its suppliers in full.
16. To ensure MERALCO's revenue-neutral position with regard to the pass-through of generation costs, MERALCO also proposes to defer payment to such power suppliers of the

respective amounts of generation charge owing to them for the February 2017 supply month.

17. It bears emphasis that MERALCO can only pay its power suppliers for the differential generation costs by recovering said costs from its customers. Accordingly, MERALCO proposes to defer payment to such power suppliers of the respective amounts owing to them for the February 2017 supply month, in accordance with the proposed recovery from customers of the differential generation costs at the rate of PhP0.30 per kWh, for each of the March and April 2017 billings, with the remaining balance of incremental fuel costs to be charged in the May 2017 billing. Additionally, these proposals are without prejudice to any application that may be subsequently filed for the recovery of any appropriate carrying charges.
18. Considering the pressing nature of the instant Application to allow MERALCO to stagger recovery of the incremental fuel costs and the corresponding payment to affected power suppliers, for a period of three (3) months starting from March to May 2017 billings, and therefore avoid any consequential financial prejudice to MERALCO, its suppliers, and most especially, the consumers, it is therefore urgent that a provisional authority be immediately issued upon filing and pending hearing of this Application. In support of this Application and the prayer for provisional authority, attached as Annex "C" and made an integral part hereof is the judicial affidavit of Ryan S. Morales, Officer of Energy Resource Planning, Energy Sourcing Office of MERALCO.

#### PRAYER

WHEREFORE, it is most respectfully prayed to this Honorable Commission that this Application be APPROVED allowing MERALCO to:

- i. impose a differential generation charge of PhP0.30 per kWh for each of the March and April 2017 billings, with the remaining balance of incremental fuel costs to be charged in the May 2017 billing, subject to adjustments that may be necessary as reflected by the power bills issued by FGP Corp., FGPC and SPPC for the February 2017 supply month; and
- ii. defer payment to such power suppliers of the respective amounts owing to them for the February 2017 supply month, in accordance with the proposed recovery from customers of the differential generation costs at the rate of PhP0.30 per kWh, for each of the March and April 2017 billings, with the remaining balance of incremental fuel costs to be charged in the May 2017 billing.

Pending hearing, it is further prayed that a Provisional Authority ("PA") be immediately issued to MERALCO to implement the foregoing.

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

Finding the said *Application* sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **14 March 2017 at two o'clock in the afternoon (2:00 P.M.), at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center, San Miguel Avenue, Pasig City.**

Accordingly, MERALCO is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, the reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, 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; and
- 5) Furnish with copies of the *Application* and the attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicant must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicant to inform of the filing of the *Application*, the reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application*, and the attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicant and all interested parties are also required 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:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;

- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.


Failure of Applicants to comply with the above requirements 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 the said date of cancellation.

MERALCO must also be prepared to make an expository presentation of the instant *Application* aided by whatever communication medium that they 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, 08 February 2017.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

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



LS: ICE/RAM/ APV

Copy furnished:

1. Attys. Francis Dino S. Antonio, Carmen Grace S. Ramos, Angelica Diane B. Monteza and Katherine Mari S. Garcia-Moreno  
Counsels for MERALCO  
7th Floor, Lopez Building, Ortigas Avenue,  
Barangay Dugong, Pasig City
2. Office of the Solicitor General (OSG)  
134 Amorsolo Street, Legaspi Village  
Makati City, Metro Manila
3. Commission on Audit (COA)  
Commonwealth Avenue



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- Quezon City, Metro Manila
4. Senate Committee on Energy  
GSIS Bldg. Roxas Blvd., Pasay City  
Metro Manila
  5. House Committee on Energy  
Batasan Hills, Quezon City, Metro Manila
  6. Philippine Chamber of Commerce and Industry (PCCI)  
Campus Avenue corner Park Avenue,  
McKinley Town Center, Fort Bonifacio, Taguig City
  7. The City Mayor  
City of Manila
  8. LGU Legislative Body  
City of Manila
  9. The City Mayor  
Quezon City
  10. LGU Legislative Body  
Quezon City
  11. The City Mayor  
City of Caloocan
  12. LGU Legislative Body  
City of Caloocan
  13. The City Mayor  
City of Makati
  14. LGU Legislative Body  
City of Makati
  15. The City Mayor  
City of Malabon
  16. LGU Legislative Body  
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  17. The City Mayor  
City of Mandaluyong
  18. LGU Legislative Body  
City of Mandaluyong
  19. The City Mayor  
City of Muntinlupa
  20. LGU Legislative Body  
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  23. The City Mayor  
City of Valenzuela
  24. LGU Legislative Body  
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  25. The City Mayor  
City of Pasig
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  27. The City Mayor  
Pasay City
  28. LGU Legislative Body  
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  29. The City Mayor  
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33. The City Mayor  
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Las Piñas City
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37. The City Mayor  
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City of Marikina
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53. The City Mayor  
Sta. Rosa, Laguna
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55. The City Mayor  
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56. LGU Legislative Body  
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General Aguinaldo, Cavite
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Magallanes, Cavite
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Noveleta, Cavite
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Bacoor, Cavite
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Tanza, Cavite
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Gen. Mariano Alvarez, Cavite
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234. LGU Legislative Body  
Apalit, Pampanga
235. Office of the Governor  
Province of Rizal
236. LGU Legislative Body  
Province of Rizal
237. Office of the Governor  
Province of Laguna
238. LGU Legislative Body  
Province of Laguna
239. Office of the Governor  
Province of Batangas
240. LGU Legislative Body  
Province of Batangas
241. Office of the Governor  
Province of Cavite
242. LGU Legislative Body  
Province of Cavite
243. Office of the Governor  
Province of Pampanga
244. LGU Legislative Body  
Province of Pampanga
245. Office of the Governor  
Province of Quezon
246. LGU Legislative Body  
Province of Quezon
247. Office of the Governor  
Province of Bulacan
248. LGU Legislative Body  
Province of Bulacan

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252. Investigation and Enforcement Division  
Energy Regulatory Commission  
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