

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



**IN RE: VIOLATION OF
RESOLUTION NO.21, SERIES
OF 2007 (NON/LATE
PAYMENT OF THE
SUPERVISION AND
REGULATION FEES)**

ERC CASE NO. 2016-018 SC

**TICAO ISLAND ELECTRIC
COOPERATIVE, INC.
(TISELCO)**

Promulgated:
SEP 10 2019

Respondent.

X ----- X

ORDER

Submitted for resolution before the Commission is the administrative case against Ticao Island Electric Cooperative, Inc. (TISELCO). The said case was initiated through the issuance of a Show Cause Order (SCO) dated 02 February 2016 for the non-payment of Supervision and Regulation Fees (SRF) for the years 2008 to 2012 and the corresponding penalties for the late payment of 2008 to 2011 SRF, in the total amount of PhP54,634.35 and PhP24,171.96, respectively.

On 17 July 2007, the Commission issued Resolution No. 21, Series of 2007, entitled "*A Resolution Approving the Revised Schedule of ERC Fees and Charges*".

Item IV of Resolution No. 21, Series of 2007 provides that the SRF shall be paid on or before September 30th of each year with a penalty of fifty per centum in case of delinquency. Provided, further, that if the fees or any balance thereof are not paid within sixty days from the said date, the penalty shall be increased one per centum for each month of delinquency thereafter.

On 12 August 2014, the Commission received a letter dated 08 August 2014 from Ms. Cecilia B. Camon, Director IV of the

Commission on Audit (COA), transmitting the “Annual Audit Report on the ERC for the Calendar Year 2013” (2013 AAR), prepared by the Audit Team assigned to the Commission.

In the said 2013 AAR, COA¹ recommended to the Commission to consider more stringent sanctions or adopt other strategies to enforce the payment of the long overdue obligations of the Distribution Utilities (DUs) and if warranted, institute legal actions/remedies relative to the unpaid SRF and penalties of the fifty-seven (57) DUs.

The COA Observations and Recommendations in its 2013 AAR show that TISELCO failed to pay the SRF for the years 2008 to 2012 and the corresponding penalties for 2008 to 2011, amounting to a total of PhP54,634.35 and PhP24,171.96, respectively, broken down as follows:

YEAR	SRF (PhP)	PENALTY (PhP)
2008	9,104.05	5,872.11
2009	11,334.63	6,630.75
2010	10,946.12	5,746.72
2011	11,280.72	5,922.38
2012	11,968.83	-

Acting on the recommendation of the COA, then Chairman and CEO Jose Vicente B. Salazar, for and in behalf of the Commission, issued an SCO on 02 February 2016 to TISELCO directing the latter to submit within fifteen (15) days from receipt thereof, its explanation under oath, why no administrative penalty should be imposed upon it, and/or criminal action be instituted against its directors and officers for its failure to comply with Resolution No. 21, Series of 2007, particularly for non-payment of SRF for the years 2008-2012.

Despite the lapse of a considerable length of time, TISELCO failed to comply with the SCO. Hence, on 29 September 2016, the Commission issued another *Order* directing it for the last time to submit its explanation, otherwise, the Commission shall be compelled to decide the case based on the evidence on record.

On 24 November 2016, the Commission received TISELCO's *Letter-Explanation* dated 04 July 2016 stating that based on its records, the SRF for 2008-2012 amounting to PhP54,634.35 and corresponding penalties for the late payment of 2008 to 2012 SRF amounting to PhP34,625.45 was already paid on 17 March 2014.

¹ Par. 2.8, page 25 of the Annual Audit Report

TISELCO then requested from the Commission a verification of the latter's record whether said payments were remitted or not.

In an *Order* dated 28 November 2016, the Commission took note of TISELCO's *Letter-Explanation* and set the case for conference on 14 December 2016.

ISSUE

The issue for resolution by the Commission is whether or not TISELCO should be held administratively liable under the *Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136*, as amended by Resolution No. 03, Series of 2009, and/or if criminal action should be instituted against its directors and officers for the non-payment of SRF for the years 2008 to 2012 and the corresponding penalties for the late payment of 2008 to 2011 SRF, in the total amount of PhP54,634.35 and PhP24,171.96, respectively, in violation of Item IV, Resolution No. 21, Series of 2007.

THE COMMISSION'S RULING

The Commission finds TISELCO's explanation with merit.

Item IV of Resolution No. 21, Series of 2007 states that:

IV. Supervision and Regulation Fee:

For annual reimbursement of the expenses incurred by the ERC in the supervision of electric utilities, transmission companies and/or in the regulation or fixing of their rates.

x x x

The said fees shall be paid on or before September 30th of each year with a penalty of fifty per centum in case of delinquency; Provided, further, that if the fees or any balance thereof are not paid within sixty days from the said date, the penalty shall be increased one per centum for each month of delinquency thereafter. (emphasis and underlining supplied)

Given the above-cited provision, there is no doubt that as an Electric Cooperative, TISELCO is mandated to pay its SRF on or before the 30th of September of each year.

Relative to the foregoing, records show that TISELCO paid the SRF for the years 2008 to 2012 in the total amount of PhP54,634.35, one of the subjects of the 2013 AAR, on 17 March 2014, as evidenced by ERC O.R. No. 6759319, to wit:

YEAR	SRF (PhP)	PENALTY (PhP)
2008	9,104.05	5,872.11
2009	11,334.63	6,630.75
2010	10,946.12	5,746.72
2011	11,280.72	5,922.38
2012	11,968.83	6,223.79

Having paid the 2008-2012 SRF beyond September 30th of each year thereafter, TISELCO clearly failed to comply with Item IV of Resolution No. 21, Series of 2007. Hence, the imposition of penalties on account of the said delay is proper.

The records further reveal that the above penalties for the late payment of 2008 to 2011 SRF, which is the other subject of the 2013 AAR, as well as the penalty for the late payment of the 2012 SRF, were all duly settled by TISELCO on even date, 17 March 2014, per ERC Receipt No. 6759319.

The Commission notes that TISELCO's payment for the subject SRF and penalties were made prior to the issuance of the SCO on 02 February 2016.

WHEREFORE, premises considered, this case is hereby declared **CLOSED AND TERMINATED**.

SO ORDERED.

Pasig City, 30 July 2019.

**FOR AND BY AUTHORITY
OF THE COMMISSION:**

[Signature]
AGNES VST DEVANADERA
Chairperson and CEO

[Handwritten initials]
bcrs/rdd/sov/jcd/bcs/fgbd



Copy Furnished:

Ticao Island Electric Cooperative, Inc. (TISELCO)
San Jacinto, Masbate

