

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



**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF  
ADJUSTMENT IN RATES ON  
THE FIRST TO THIRD  
REGULATORY YEARS OF  
THE SECOND REGULATORY  
PERIOD FOR THE THIRD  
ENTRANT GROUP  
PURSUANT TO THE TARIFF  
GLIDE PATH RULES (TGP),  
WITH PRAYER FOR  
PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2018-084 RC**

**LEYTE IV ELECTRIC  
COOPERATIVE, INC,  
(LEYECO IV)  
Applicant.  
x ----- x**

Promulgated:  
FEB 19 2019

**ORDER**

On 05 December 2018, Leyte IV Electric Cooperative, Inc. (LEYECO IV) filed an Amended Application dated 21 November 2018, seeking the Commission's approval of its adjustment in rates on the First to Third Regulatory years of the Second Regulatory Period for the Third Entrant Group pursuant to the Tariff Glide Path Rules (TGP), with prayer for provisional authority (Amended Application).

The pertinent provisions of the *Amended Application* are hereunder quoted as follows:

1. LEYECO IV is a non-stock, non-profit electric cooperative, duly organized and existing under and by virtue of Philippine laws, with principal office at Brgy. Lamak, Hilongos, Leyte;
2. It holds an exclusive franchise issued by the National Electrification Commission to operate an electric light and power distribution service in the City of Baybay and five (5) municipalities in the Province of Leyte, namely, Inopacan, Hindang, Hilongos, Bato and Matalom;

**NATURE OF THE APPLICATION**

3. The instant Application is being filed for the approval of Applicant’s proposed adjustment in its Distribution, Supply and Metering (DSM) Rates covering the First to Third Regulatory Years of the Second Regulatory Period for Electric Cooperatives belonging to the Third Entrant Group under Tariff Glide Path Rules (TGP Rules) and pursuant to said Rules, as well as other pertinent laws and rules.

**THE ANTECEDENT FACTS**

4. Sometime in June 2015, the Applicant filed with the Honorable Commission an application for approval of proposed adjustment in its DSM Rates pursuant to the TGP Rules, docketed as ERC Case No. 2015-143 RC.
5. In the said application, Applicant prayed for approval of either of the following two (2) proposed alternative new rates for Distribution, Supply and Metering (DSM) Charges, to wit:

**A. WITH PERFORMANCE INCENTIVE “S” AND UNDER NORMAL OPERATIONS**

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
<b>Distribution Charges:</b>				
Demand Charge	PhP/kW			<b>281.33</b>
Distribution System Charge	PhP/kWh	<b>0.8873</b>	<b>0.9723</b>	
<b>Supply Charges:</b>				
Retail Customer Charge	PhP/Customer/Mo.		<b>42.16</b>	<b>42.16</b>
Supply System Charge	PhP/kWh	<b>0.8120</b>		
<b>Metering Charges:</b>				
Retail Customer Charge	PhP/Meter/Mo.	<b>5.25</b>	<b>30.16</b>	<b>30.16</b>
Metering System Charge	PhP/kWh	<b>0.4798</b>		

**B. EXCLUDING PERFORMANCE INCENTIVE “S” AND UNDER  
 NORMAL OPERATIONS**

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
<b>Distribution Charges:</b>				
Demand Charge	PhP/kW			<b>267.67</b>
Distribution System Charge	PhP/kWh	<b>0.8442</b>	<b>0.9251</b>	
<b>Supply Charges:</b>				
Retail Customer Charge	PhP/Customer/Mo.		<b>40.12</b>	<b>40.12</b>
Supply System Charge	PhP/kWh	<b>0.7725</b>		
<b>Metering Charges:</b>				
Retail Customer Charge	PhP/Meter/Mo.	<b>5.00</b>	<b>28.70</b>	<b>28.70</b>
Metering System Charge	PhP/kWh	<b>0.4565</b>		

6. Foregoing application was Applicant's initial application for DSM rate adjustment pursuant to the TGP Rules, under which electric cooperatives are given an opportunity to adjust their rates once every three (3) years, which may occur at the start of the fourth year of the First Regulatory Period and every three years thereafter.
7. Applicant belongs to the Third Entrant Group whose first regulatory period is from January 1, 2013 to December 31, 2018. Having filed its initial application for DSM rate adjustment in 2015 which is the third regulatory year of the First Regulatory Period, the cooperative is filing the instant application for the proposed adjustment of its DSM rates covering the first to third regulatory years of the Second Regulatory Period for the Third Entrant electric cooperatives under the TGP Rules;

**LEGAL BASES FOR THE APPLICATION**

8. On May 2, 2011, the Honorable Commission promulgated the Tariff Glide Path (TGP) Rules pursuant to Article 7 of the RSEC-WR;
9. The TGP is a rate adjustment mechanism which provides an opportunity for the ECs to adjust their rates once every three (3) years. The rate

adjustments may occur at the start of the fourth year of the first Regulatory Period and every three years thereafter;

10. Under the TGP, the regulatory period is six (6) years for each entry group. For the Third Entrant Group, the second regulatory period is from January 1, 2016 to December 31, 2018. LEYECO IV belongs to the Third Entrant Group;
11. It is provided under Article 7 of the RSEC-WR that during the regulatory period, the rate of the ECs per group shall be adjusted using the following formula, to wit:

Tariff x (1+ index "I"-Efficiency Factor "X" + Performance Incentive "S")

The Index "I", shall be an escalation factor to be used in adjusting the rates to reflect the combined impact of inflation and load factor. There shall be an efficiency factor "X" to account for the operational efficiency of the ECs in setting their rates. There shall be a performance incentive "S" which shall reward or penalize the EC for above or below standard performance, respectively.

The TGP is intended as a cap and the EC may move up to the cap, if it is a positive adjustment. If the cap is lower than the current average tariff, a reduction may be implemented.

12. Further under the TGP Rules, the concerned EC shall use the following formula in determining the TGP for the first to third years of the Regulatory Period, to wit:

$TGP_A = TGP_n + TGP_{n+1} TGP_{n+2}$  where

$TGP_n = I_n - X_n + S_n$

n= the fourth year of their Regulatory Period and succeeding Regulatory Periods

The TGP calculated for each of the three years will be summed to determine the possible rate adjustment starting on the First Year of the current Regulatory Period.

#### **THE PROPOSED RATE ADJUSTMENT**

13. Applying the methodology embodied in the TGP Rules, herein Applicant calculated the values of the "I", "X" and "S" and came up with the following results, to wit:

	"I"	"X"	"S"	TGP B	TGP B (excluding S)
<b>YEAR 2016</b>	<b>0.00%</b>	<b>0.00%</b>	<b>2.10%</b>	<b>2.10%</b>	<b>0.00%</b>
<b>YEAR 2017</b>	<b>0.00%</b>	<b>0.00%</b>	<b>1.70%</b>	<b>1.70%</b>	<b>0.00%</b>
<b>YEAR 2018</b>	<b>1.58%</b>	<b>1.33%</b>	<b>0.90%</b>	<b>1.15%</b>	<b>0.25%</b>
<b>TOTAL</b>				<b>4.94%</b>	<b>0.25%</b>

14. Utilizing the above values will result an adjustment in the cooperative's DSM Rates covering the first to third years of the Second Regulatory Period for electric cooperatives belonging to the Third Entrant Group, as follows:

**A. WITH PERFORMANCE INCENTIVE "S"**

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
<b>Distribution Charges:</b>				
Demand Charge	PhP/kW			<b>295.24</b>
Distribution System Charge	PhP/kWh	<b>0.9311</b>	<b>1.0204</b>	
<b>Supply Charges:</b>				
Retail Customer Charge	PhP/Customer/Mo.		<b>44.25</b>	<b>44.25</b>
Supply System Charge	PhP/kWh	<b>0.8521</b>		
<b>Metering Charges:</b>				
Retail Customer Charge	PhP/Meter/Mo.	<b>5.51</b>	<b>31.65</b>	<b>31.65</b>
Metering System Charge	PhP/kWh	<b>0.5035</b>		

**B) EXCLUDING PERFORMANCE INCENTIVE “S”**

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
<b>Distribution Charges:</b>				
Demand Charge	PhP/kW			<b>268.32</b>
Distribution System Charge	PhP/kWh	<b>0.8462</b>	<b>0.9274</b>	
<b>Supply Charges:</b>				
Retail Customer Charge	PhP/Customer/Mo.		<b>40.21</b>	<b>40.21</b>
Supply System Charge	PhP/kWh	<b>0.7744</b>		
<b>Metering Charges:</b>				
Retail Customer Charge	PhP/Meter/Mo.	<b>5.01</b>	<b>28.77</b>	<b>28.77</b>
Metering System Charge	PhP/kWh	<b>0.4576</b>		

15. Consequently, applicant respectfully prays of the Honorable Commission for the approval of either of the foregoing calculated DSM rates.

**SUPPORTING DATA AND DOCUMENTS**

16. In support of the foregoing computations, the cooperative is submitting herewith the following data and documents, which are being made integral parts hereof, to wit:

Annex	Nature of Document
A A-1	Proposed TGP Calculation and supporting documents using the prescribed templates: Index “I” Calculation Efficiency Factor “X” Calculation

A-2	Performance Incentive "S" Calculation
B	Monthly Financial and Statistical Report (MFSR) – Sections B and E (2014-2017)
C	Billing Determinants Template (kWh Sales, Number of Customers, kW Demand) (2014-2017)
D	Sample Bills (per customer type) (2014-2017)
E	Regional CPI (2014-2017)
F	RFSC/Reinvestment Fund Utilization (2015-2017)
G	Consumer Complaints (Summary or Tracking Form) (2015-2017)
H	Audited Financial Statements (2015-2017)

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

17. Applicant repleads the foregoing allegations as may be material herein;
18. Applicant's current DSM rates which were granted by the Honorable Commission provisionally, were implemented in three – year tranches starting way back January 2010, with the rate caps or initial tariffs being implemented only starting at the end of the three-year transition period;
19. Applicant respectfully prays that it be allowed to implement the proposed rate adjustment effective January 1, 2019, considering that it is expressly prescribed under the TGP Rules provision on Regulatory Period and Process, which provides in part, as follows:

"2. Regulatory Period and Process

- 2.1 On or before each Fourth month of the Third and Sixth regulatory year of their respective Regulatory Periods, the electric cooperative may file before the Commission an application for a rate adjustment reflecting the values for the "I", "X" and "S" as determined in accordance with these rules. ***The initial tariff caps of the respective ECs shall be adjusted by the "I, 'X" and "S" effective at the start of the Fourth Regulatory Year of the First Regulatory Period x xx"*** (Emphasis ours)
20. Further, based on the provisions of the TGP Rules, the regulatory period is six (6) years for each entry Group. For the Third Entrant Group, the first regulatory period is from January 1, 2013 to December 31, 2018 and the start of the Fourth Regulatory Year is January 1, 2016. Applicant belongs to the Third Entrant Group, accordingly, its initial DSM Rates under the TGP Rules should be adjusted through the proposed TGP B Rates starting January 1, 2019;
21. Over the years, the cost of its operations has significantly increased, not only as a logical effect of inflation as well as certain governmental requirements, but likewise due to the inevitable expansion of its distribution network brought about by the extension of its services to remote areas. More significantly, the cooperative has been implementing the Sitio Energization Program (SEP) and National Intensification of Household Electrification Program (NIHE) of the government, such that the massive expansion of its distribution lines up to the remotest areas has considerably increased its operational and maintenance costs, not to mention the increased system loss which the cooperative is likely to absorb. All these operational and maintenance costs were not duly provided for in its current rates and the general funds being generated from its DSM revenues as granted under the RSEC-WR are no longer sufficient to cover these inevitable costs;
22. Thus, the cooperative urgently needs additional funds to be able to cope with the rising costs of its operations;
23. Considering the foregoing, applicant respectfully prays that while the instant application is pending, it be granted a provisional authority to implement either of the two (2) proposed rates effective January 1, 2019.

**COMPLIANCE WITH PRE-FILING REQUIREMENT**

24. Finally, in compliance with the ERC Rules of Practice and Procedure, applicant is likewise submitting herewith the following documents, which are being made integral parts hereof, to wit:



Annex	Nature of Document
I	Judicial Affidavit in Support of the Prayer for Provisional Authority
J to J-1	Proof of furnishing copies of the Application to the Sangguniang Bayan of Hilongos and Sangguniang Panlalawigan of Leyte
K and series	Proof of publication of the Application in a newspaper of general circulation in LEYECO IV's franchise area or where it principally operates, with Affidavit of Publication

**PRAYER**

**WHEREFORE**, premises considered, it is most respectfully prayed of this Honorable Commission that pending evaluation of the instant application or after due notice and hearing, as the case may be, LEYECO IV be allowed to implement effective January 1, 2019 **either of the following two (2) alternative proposed new rates** for Distribution, Supply and Metering (DSM) Charges, to wit:

**A. WITH PERFORMANCE INCENTIVE "S"**

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
<b>Distribution Charges:</b>				
Demand Charge	PhP/kW			<b>295.24</b>
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<b>Metering Charges:</b>				
Retail Customer Charge	PhP/Meter/Mo.	<b>5.01</b>	<b>28.77</b>	<b>28.77</b>
Metering System Charge	PhP/kWh	<b>0.4576</b>		

Other reliefs, just and equitable in the premises are likewise prayed for.

Respectfully submitted. Matalom, Leyte, November 21, 2018.

It must be noted that on 26 July 2018, LEYECO IV filed an *Application* dated 11 July 2018 seeking the Commission’s approval of its adjustment in rates on the First to Third Regulatory years of the Second Regulatory Period for the Third Entrant Group pursuant to the Tariff Glide Path Rules (TGP), with prayer for provisional authority (*Application*).

Having found the said *Application* to be sufficient in form and in substance, with the required fees having been paid, the Commission issued an *Order* and a corresponding *Notice of Public Hearing* dated 01 August 2018 setting the *Application* for hearing on 15 November 2018 at LEYECO IV’s principal office located at Brgy. Lamak, Hilongos, Leyte.

However, on 23 October 2018, LEYECO IV filed a *Motion to Cancel and Reset the November 15, 2018 Schedule* dated 18 October 2018 (*Motion*) requesting the Commission to reset the initial hearing as it was in the process of amending the *Application*.

On 04 December 2018, LEYECO IV underwent the mandatory pre-filing requirement for its *Amended Application*. Finally, on 05 December 2018, LEYECO IV filed the *Amended Application* dated 21 November 2018. Simultaneous with the filing of the said *Amended Application*, LEYECO IV filed *Motion for Leave to File and Admit Amended Application* dated 10 October 2018.

Finding the said *Motion* and the *Motion for Leave to File and Admit Amended Application* to be meritorious, the Commission hereby grants the same. Thus, the hearing for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence, is hereby reset on **28 March 2019 (Thursday) at ten o'clock in the morning (10:00 A.M.) at LEYECO IV's Principal Office located at Brgy. Lamak, Hilongos, Leyte.**

Accordingly, LEYECO IV is hereby directed anew 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 Governor, the City and Municipal Mayors, and the Local Government Units (LGUs) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, 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 its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, LEYECO IV 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* were 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 Governor, City and Municipal Mayors, and the LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by LEYECO IV to inform the consumers within the affected franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 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 its attachments by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

LEYECO IV and all interested parties are also required to submit, at least five (5) days before the date of the 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 therefor; 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 LEYECO IV 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.

LEYECO IV 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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

**SO ORDERED.**

Pasig City, 12 February 2019.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Oversight Commissioner for Legal Service*

LS: BJVG/BSA/GLO  


**Copy Furnished:**

1. Atty. Emmanuel G. Golo  
*Counsel for Applicant LEYECO IV*  
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2. Leyte IV Electric Cooperative, Inc. (LEYECO IV)  
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4. Commission on Audit (COA)  
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Quezon City, Metro Manila
5. Senate Committee on Energy  
GSIS Bldg. Roxas Blvd., Pasay City  
Metro Manila
6. House Committee on Energy  
Batasan Hills, Quezon City, Metro Manila
7. Philippine Chamber of Commerce and Industry (PCCI)  
Campus Avenue corner Park Avenue,  
McKinley Town Center, Fort Bonifacio, Taguig City
8. Office of the Governor  
Province of Leyte
9. LGU Legislative Body  
Province of Leyte
10. Office of the Mayor  
Hilongos, Leyte
11. LGU Legislative Body  
Hilongos, Leyte
12. Office of the Mayor  
Baybay City, Leyte
13. LGU Legislative Body  
Baybay City, Leyte
14. Office of the Mayor  
Inopacan, Leyte
15. LGU Legislative Body  
Inopacan, Leyte
16. Office of the Mayor  
Hindang, Leyte
17. LGU Legislative Body  
Hindang, Leyte
18. Office of the Mayor

Bato, Leyte

19. LGU Legislative Body  
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20. Office of the Mayor  
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21. LGU Legislative Body  
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17/F, Energy Regulatory Commission, Pacific Center Bldg.,  
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