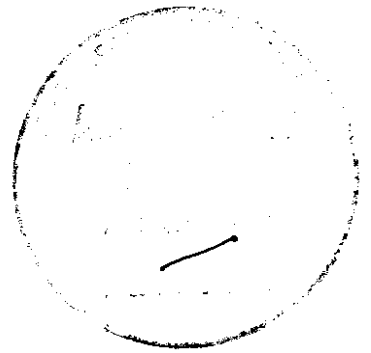


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



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

**ERC CASE NO. 2005 – 024 MC  
For: Non-inclusion of Pilferage  
Recovery in Purchased Power  
Adjustment (PPA) Computation**

**MASBATE ELECTRIC COOPERATIVE,  
INC. (MASELCO),**

**Respondent.**

x ----- x

**DOCKETED**  
Date: **APR 29 2009**  
By: \_\_\_\_\_

**D E C I S I O N**

On January 28, 2005, the Commission issued a Show Cause Order directing Masbate Electric Cooperative, Inc. (MASELCO) to explain why no administrative penalty and/or criminal action should be imposed upon it, and/or criminal action instituted against its directors and officers, for not including the pilferage recoveries in the computation of its monthly Purchased Power Adjustment (PPA) charges.

On July 30, 2008, the Commission conducted a conference to give MASELCO an opportunity to explain. At the said conference, MASELCO was informed of the penalty that may be imposed upon it and its right to enter into an amicable settlement. MASELCO committed to file a Manifestation/Offer of Settlement within twenty (20) days from the date of the conference.

On September 1, 2008, MASELCO submitted its "Manifestation" stating that:  
a) it has been gradually refunding the amount representing the over-recovery in the PPA; and b) it has not recovered an amount resulting from the violation of anti-pilferage law, which it is obliged to include in the refund.

## DISCUSSION

Section 12 of Republic Act No. 7832 (R.A. No. 7832), as well as Sections 1 and 2, Rule X of its Implementing Rules and Regulations (IRR) clearly provide that pilferage recoveries shall be reflected as a reduction in the customer's bill through the automatic cost adjustment formula. Said formula was submitted to public consultations prior to its approval wherein each and every component was explained to all distribution utilities (DUs) and the general public. Even after its approval by the then Energy Regulatory Board (ERB), several rate consultations were held to ensure that all DUs were sufficiently apprised thereof including the concept of pilferage recoveries.

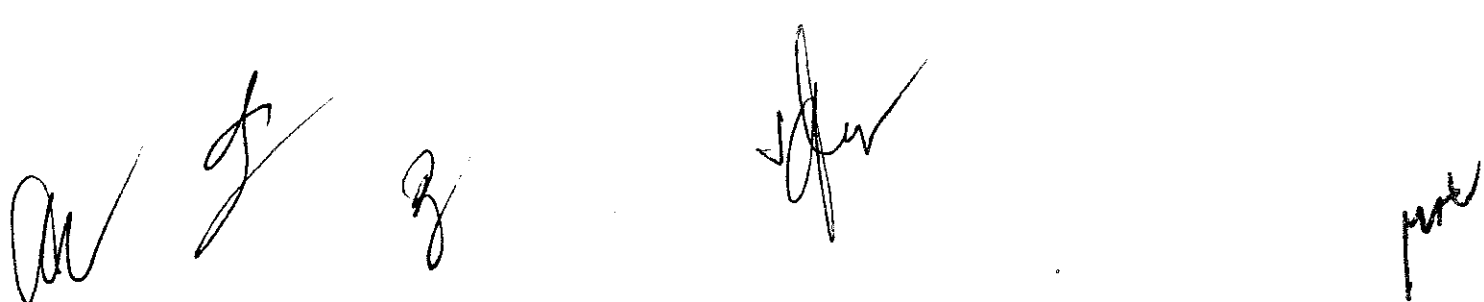
The fact that MASELCO has implemented the refund as directed by the Commission in its Order dated November 25, 2005 in ERC Case No. 2001-338 (ERB Case No. 96-35) does not exonerate it from the said violation. Furthermore, its allegation that it has not recovered any amount resulting from the violation of anti-pilferage law is negated by the fact that it actually has submitted in the past a report of its pilferage recoveries.



As confirmed by the Commission, the total amount of pilferage recoveries which MASELCO failed to include in its PPA computation is as follows:

Period	Pilferage Recoveries (PhP)
January to December 1999	1,421,436.00
January to December 2000	315,416.00
January to December 2001	312,393.00
January to December 2002	385,517.00
January, July to December 2003	1,176,434.00
January to May 2004	2,208,268.00
<b>TOTAL</b>	<b>5,819,464.00</b>

**WHEREFORE**, the foregoing premises considered and pursuant to Section 5 of 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 or the Electric Power Industry Reform Act of 2001"*, respondent Masbate Electric Cooperative, Inc. (MASELCO) is hereby declared to have committed the violation as charged. Accordingly, it is hereby directed to pay, within fifteen (15) days from receipt hereof, the fine of **FOUR HUNDRED NINETY FOUR THOUSAND ONE HUNDRED PESOS (PhP494,100.00)**, computed as follows:



PARTICULARS	AMOUNT (PhP)
<b>Non-Inclusion of Pilferage Recoveries in PPA Computation</b>	
Under C.A. 146 PhP200 per day of violation (January 1999 up to June 17, 2002) (PhP200 x 1,264 days) Sub-Total	252,800.00
Under R.A. 9136 Initial Amount Plus: PhP100 a day for every day of violation (June 18, 2002 up to April 30, 2006) (PhP100 x 1,413 days) Sub-Total	100,000.00 141,300.00 241,300.00
<b>TOTAL</b>	<b>494,100.00</b>

SO ORDERED.

Pasig City, April 15, 2009.

  
ZENAIDA G. CRUZ-DUCUT  
Chairperson

  
RAUF A. TAN  
Commissioner

  
ALEJANDRO Z. BARIN  
Commissioner

  
MARIA TERESA A.R. CASTAÑEDA  
Commissioner

  
JOSE C. REYES  
Commissioner

Reference: No. 2009-D1-D028

NGC/WSB/RIR/ *pirferage* *ly*

Copy furnished:

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