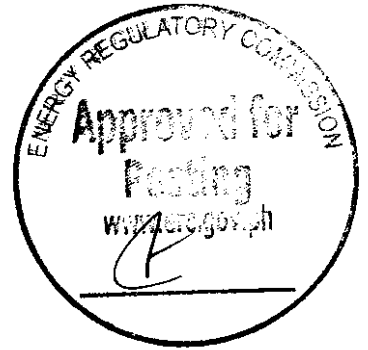


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



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

**ERC CASE NO. 2007 – 299 MC  
For: Failure to Implement the  
Energy Regulatory Board  
(ERB) Order on Purchased  
Power Adjustment (PPA)**

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

**Respondent.**

x ----- x

**D O C K E T E D**  
Date: APR 29 2008  
By: [Signature]

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

On May 2, 2007, 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 its failure to implement the Order of the then Energy Regulatory Board (ERB) relative to the Purchased Power Adjustment (PPA).

On October 12, 2007, MASELCO submitted its "Manifestation" stating, among others, that a) there was no proper turn-over of documents from the previous officers; b) the first Order confirming the over/under recoveries for the period February 1996 to December 1998 has been incorporated by the

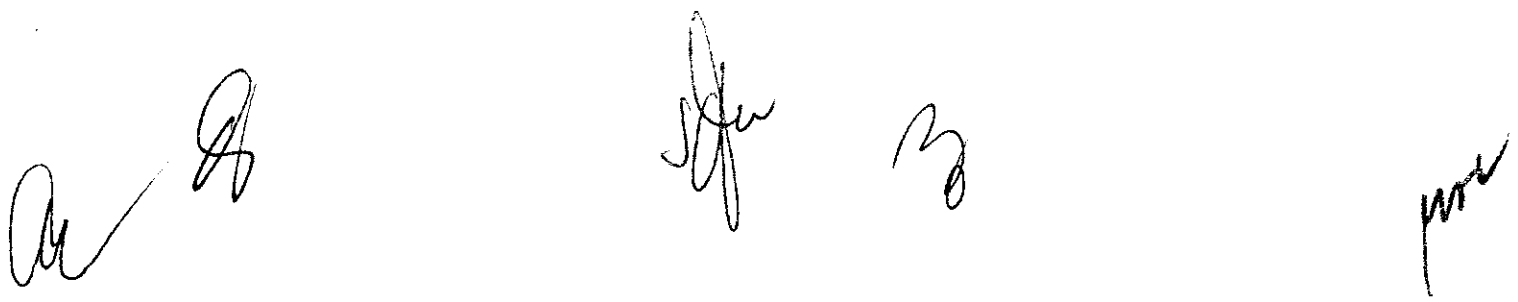
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Commission in its second Order of confirmation which covered the period January 1999 to May 2004 and has been implemented since February 2006; and c) the issuance of the second Order by the Commission superseded the first Order.

On July 30, 2008, the Commission conducted a conference to give MASELCO an opportunity to expound its explanation. At the said conference, MASELCO was informed of the amount of penalty that may be imposed by the Commission 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 said conference.

On September 1, 2008, MASELCO submitted its "Manifestation" reiterating its position contained in its "Manifestation" submitted on October 12, 2007.

On March 2, 2009, MASELCO submitted another "Manifestation" stating, among others, that a) it has been suffering from the serious effects of distribution line damages caused by typhoons Caloy, Reming, Seniang, and Frank which brought an estimated losses of more or less Fifty Million Pesos (PhP50M); b) it has outstanding accounts with the National Power Corporation (NPC) amounting to more or less One Hundred Ten Million Pesos (PhP110M) resulting from the non-payment of its power bills due to the above circumstances, among others; and c) it is presently financially crippled and has been encountering difficulty in complying with its current obligations with NPC, and the payment of salaries and benefits of employees.

The bottom of the page contains several handwritten signatures and initials. From left to right, there is a large, stylized signature, followed by a smaller signature, then a signature that appears to be 'Sfor', followed by a signature that appears to be 'B', and finally a signature that appears to be 'pnc' on the far right.

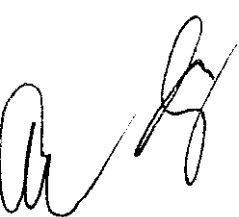
## DISCUSSION

Management inefficiency is not an acceptable justification for not implementing a valid directive of the Commission. Every electric utility is duty bound to observe and comply with laws, rules, regulations and other issuances, including the Orders/Decisions of the Commission to ensure that it can provide fair, efficient and sustained service.

Likewise, the incorporation of the previously confirmed PPA charges in the newly confirmed PPA charges made by the Commission in its Order dated November 25, 2005 in ERC Case No. 2001-338 (ERB Case 96-35), does not excuse MASELCO from properly implementing such refund.

Finally, MASELCO's arrearages with the NPC as well as its current financial requirements to rehabilitate damages in its distribution system caused by several typhoons which hit the Province of Masbate cannot also be a sufficient justification for it not to comply with the Commission's directives. The funds for the rehabilitation of the distribution system damaged by typhoons should emanate from the Reinvestment Fund and thus, should not have an impact on matters pertaining to generation.

**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"*, 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 FIFTY ONE THOUSAND SEVEN HUNDRED PESOS (PhP451,700.00)** computed as follows:

PARTICULARS	Amount (PhP)
<b>Failure to implement the Energy Regulatory Board Order on Purchased Power Adjustment (PPA)</b>	
Under C.A. 146 PhP200 per day of violation (August 1999 up to June 17, 2002) (PhP200 x 1,052 days) Sub-Total	210,400.00
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>451,700.00</b>

**SO ORDERED.**

Pasig City, April 13, 2009.

  
**ZENAIDA G. CRUZ-DUCUT**  
 Chairperson *plabe*

  
**RAUF A. TAN**  
 Commissioner

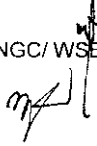
  
**MARIA TERESA A.R. CASTAÑEDA**  
 Commissioner

  
**ALEJANDRO Z. BARIN**  
 Commissioner

  
**JOSE C. REYES**  
 Commissioner

Reference: No. 2009-D1-D029

NGC/ WSB/ RIR/ *maseico*



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Copy furnished:

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