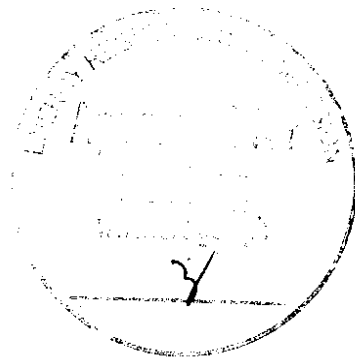


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



IN THE MATTER OF THE
APPLICATION FOR AUTHORITY TO
DISPOSE BY WAY OF DONATION
OF A PROPERTY LOCATED AT
BARANGAY EVANGELISTA,
MUNICIPALITY OF BARAS,
PROVINCE OF RIZAL, WITH
PRAYER FOR PROVISIONAL
AUTHORITY

ERC CASE NO. 2007-481 MC

MANILA ELECTRIC COMPANY
(MERALCO),

Applicant.

X-----X

DOCKETED

Date: OCT. 14, 2008

By: 

DECISION

Before the Commission for resolution is the application filed by Manila Electric Company (MERALCO) on September 19, 2007 for authority to dispose, by way of donation, its property located at Barangay Evangelista, Municipality of Baras, Province of Rizal.

In the said application, MERALCO alleged, among others, that:

1. it is a private corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal address at the Lopez Building, Ortigas Avenue, Pasig City and has a valid subsisting Certificate of Public Convenience and Necessity (CPCN) in the Municipality of Baras, Province of Rizal, as well as a legislative franchise to construct, operate and maintain a distribution system for the conveyance of electric power to the end-users in various cities and municipalities of Metro Manila, Bulacan, Cavite, Rizal, and certain cities, municipalities, and barangays in the provinces of Batangas, Laguna, Quezon and Pampanga;
2. it is the absolute and registered owner of a certain parcel of land located at Barangay Evangelista, Municipality of Baras, Province of Rizal under Transfer Certificate of Title No. M-68784 containing an area of THREE THOUSAND square meters (3,000 SQ. M.) more or less;

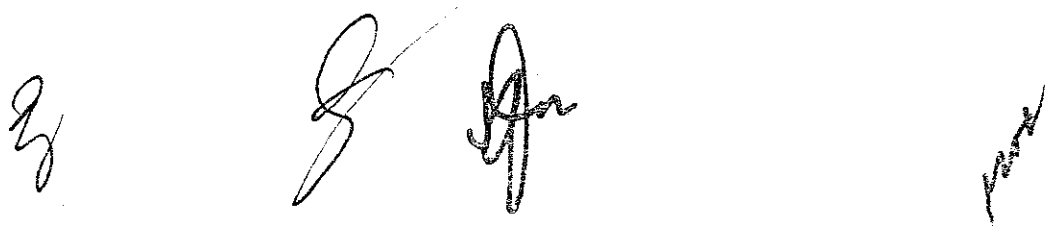


3. the local government of Barangay Evangelista had been using and occupying said parcel of land for its multi-purpose hall, day-care center, and multi-purpose covered court, and further plans to build a six-classroom elementary school building therein;
4. the local government officials of the said Barangay have earnestly requested the applicant for the donation and transfer of ownership of the parcel of land in its favor;
5. consonant with its corporate social responsibility program, it has agreed to donate said parcel of land in favor of Barangay Evangelista with full rights of possession and ownership;
6. MERALCO (the Donor) represented by its Executive Vice-President and Head of Finance, Daniel D. Tagaza and Barangay Evangelista, Municipality of Baras (the Donee) represented by the incumbent municipal mayor, Wifredo C. Robles and Barangay Captain Ernesto E. Valletero, executed a Deed of Donation on February 12, 2007; and
7. the transfer and conveyance of the ownership, administration and possession of the said property would require as a condition precedent, the approval of the Commission pursuant to Section 20 (g) of Commonwealth Act No. 146, as amended and paragraph No. 4 of the Deed of Donation.

Having found the said application sufficient in form and in substance with the required fees having been paid, the Commission issued an Order and a Notice of Public Hearing both September 28, 2007, setting the same for initial hearing and pre-trial conference on October 19, 2007.

MERALCO was directed to cause the publication of the Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, at least ten (10) days before the scheduled date of initial hearing and pre-trial conference.

The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished copies of the Order and the Notice of Public Hearing and were

The block contains four handwritten signatures in black ink. From left to right: a signature that appears to be 'Gy', a signature that appears to be 'S', a signature that appears to be 'An', and a signature that appears to be 'M'. The signatures are written in a cursive, stylized manner.

requested to have their respective duly authorized representatives present at the aforesaid initial hearing.

Likewise, the Offices of the Mayors of the Cities and Municipalities within the franchise area of MERALCO were furnished copies of the Order and the Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

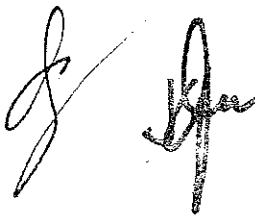
MERALCO was also directed to submit to the Commission on the date of the initial hearing, evidence of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Mayors or their duly authorized representatives bearing the seals of their offices and the affidavit of the Editor or Business Manager of the newspaper wherein the said Notice of Public Hearing was published, together with the complete copy of the issue of the said newspaper.

On October 11, 2007, the National Association of Electricity Consumers for Reforms, Inc. (NASECORE) filed its "*Petition For Intervention.*"

On October 15, 2007, MERALCO filed its "*Pre-trial Brief for the Applicant.*"

On October 17, 2007, the Federation of Village Association (FOVA) filed its "*Petition to Intervene.*"

On even date, the Commission issued an Order directing MERALCO to furnish NASECORE copies of its application with all its annexes and attachments.



On October 18, 2007, MERALCO filed a "*Motion to Admit Amended Pre-trial Brief for the Applicant*" and "*Compliance with the Jurisdictional Requirements.*"

On October 19, 2007, the Federation of Las Piñas Village Association (FOLPVA) filed its "*Motion for Intervention.*"

During the October 19, 2007 initial hearing of this case, MERALCO and intervenor FOVA appeared while FOLPVA failed to appear.

At the said hearing, MERALCO presented proofs of its compliance with the Commission's posting and publication of notice requirements which were duly marked as Exhibits "A" to "H-1", inclusive. Thereafter, MERALCO moved that it be given a period of five (5) days within which to file its comment or opposition to the Petition to Intervene filed by FOVA. Said motion was granted.

During the pre-trial on November 16, 2007, MERALCO and interveners NASECORE and FOVA appeared while FOLVA failed to appear. The Interveners moved for the dismissal of the instant application on the ground that it has no established benefit to MERALCO's customers. MERALCO objected to the motion since the case is merely at the pre-trial stage and such issue is not proper for pre-trial, but should be submitted to the Commission through a formal motion. Thereafter, MERALCO was directed to submit various documents and the location plan of the property subject of the application. NASECORE and FOVA moved that they too be furnished with a copy of the said documents. Said motion was granted.



At the continuation of hearing on December 10, 2007, MERALCO and interveners NASECORE and FOVA appeared while FOLVA failed to appear. MERALCO presented its lone witness, Mr. Caesar U. Dacanay, Team Leader of Realty Services, who testified on the following; 1) the existence and due execution of the Deed of Donation dated February 12, 2007; 2) that the parcel of land to be donated is covered by Transfer of Certificate of Title No. M-68784; 3) that the parcel of land to be donated does not form part of MERALCO's rate base; and 4) that the donation will redound to the benefit of the people in Barangay Evangelista, Baras, Rizal and, ultimately, the province of Rizal as the same will contribute to the promotion and advancement of the education and well-being of the people in Baras, Rizal. The direct examination having been terminated, NASECORE and FOVA cross-examined the said witness.

On February 6, 2008, the Commission issued an Order denying the Petition for Intervention by FOVA for being filed out of time.

On February 12, 2008, MERALCO filed a "*Motion for Extension of Time*" while on February 22, 2008, it filed a "*Motion to Cancel Hearing*" and "*Compliance with Motion.*"

On March 26, 2008, the Commission issued an Order granting said motion to cancel hearing and resetting the same to April 15, 2008.

During the April 15, 2008 hearing of this case, MERALCO and intervenor NASECORE appeared while FOLVA failed to appear. NASECORE continued its cross-examination of MERALCO's witness, Mr. Dacanay. Thereafter, the Commission propounded clarificatory questions on the said witness.



Team Leader of Realty Services, who was cross-examined by the representative of NASECORE. After having been cross-examined, the Commission propounded questions on witness.

At the continuation of hearing of this case on April 24, 2008, MERALCO and Intervenor NASECORE appeared while FOLVA failed to appear. The intervenor continued his cross-examination on witness, Mr. Caesar U. Dacanay, who testified in support of the application. Thereafter, MERALCO was directed to submit its Formal Offer of Evidence (FOE) within fifteen (15) days from today's hearing.

On May 19, 2008, MERALCO filed its "*Compliance with Motion.*"

On May 20, 2008, MERALCO filed its Formal Offer of Evidence (FOE) which was admitted for being relevant and material to the final resolution of this application.

DISCUSSION

On April 15, 1988, the MERALCO filed with the then Energy Regulatory Board (ERB) for authority to sell, donate, and dispose two (2) parcels of land located at the Municipality of Baras, Province of Rizal. The application was subsequently approved by the ERB on August 23, 1988. After the acquisition of the authority to sell, donate, and dispose, MERALCO sold the two thousand four hundred fifty-two square meters (2,452 sq. m.) to other parties from the original land area of five thousand four hundred fifty-two square meters (5,452 sq. m.) under Transfer Certificate of Title No. (395382 M-1601). Subsequently, a new Transfer Certificate of Title No. (M-68784) was issued covering an area of three



thousand square meters (3,000 sq. m.) which is the subject of donation to Barangay Evangelista.

During the hearings on this case, interveners NASECORE, FOVA and FOLVA moved for the dismissal of this case considering that the donation will not benefit MERALCO's customers or its employees neither will it improve MERALCO's services. The interveners further questioned the effect of the donation on MERALCO's fees and rates.

MERALCO claimed that the proposed substation on the subject property did not push through after considering the danger that might arise since the site is always flooded by water coming from Laguna Bay during high tide. MERALCO further claimed that the disposition of the property would free them from the cost of maintenance.

Records reveal that the subject property was excluded from MERALCO's rate base in its unbundling of rates application under ERC Case No. 2001-900 and that the subject property does not form part of MERALCO's approved Regulatory Asset Base (RAB) under ERC Case No. 2006-045 RC.

Considering that the same is no longer part of MERALCO's rate base in the unbundling and RAB under Performance Based Regulation, the donation of the subject property has no effect or impact on the electric bill of its customers.

Moreover, the disposition of the property subject of donation will not in any way prejudice or affect the operation of MERALCO's distribution system.



Finally, the Commission considers this donation as a gratuitous act by MERALCO, hence, commendable.

WHEREFORE, the foregoing premises considered, the application for authority to dispose by way of donation of a property located at Barangay Evangelista, Municipality of Baras, Province of Rizal, with prayer for provisional authority, is hereby **APPROVED**.

MERALCO and Barangay Evangelista, Municipality of Baras, Province of Rizal are hereby directed to submit, within thirty (30) days from receipt hereof, a certified true copy of the new Transfer Certificate of Title (TCT) covering the property subject of the donation, for records purposes.

SO ORDERED.


Pasig City, September 22, 2008.


ZENNAIDA G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner

(On Official Travel)
MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner

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Baras, Rizal