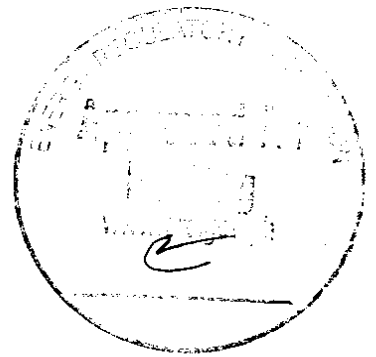


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



IN THE MATTER OF THE
APPLICATION FOR AUTHORITY TO
RECOVER LIFELINE SUBSIDY
UNDER-RECOVERIES INCLUDING
CARRYING COST, WITH PRAYER
FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2008- 008 RC

MANILA ELECTRIC COMPANY
(MERALCO),

Applicant.

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DECISION

Before the Commission for resolution is an application for authority to recover lifeline subsidy under-recoveries including carrying cost, with prayer for provisional authority, filed by Manila Electric Company (MERALCO) on February 19, 2008.

Having found said application sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated February 22, 2008, were issued setting the same for hearing on April 14, 2008.

In the same Order, MERALCO was directed to cause the publication of the Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines,

with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing.

The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the aforesaid initial hearing.

On April 7, 2008, the Federation of Village Associations (FOVA) filed a "Motion for Intervention" while on April 8, 2008, MERALCO filed its "Pre-Trial Brief".

On April 9, 2009, the National Association of Electricity Consumers for Reforms, Inc. (NASECORE), Mr. William Espiritu and Mr. Amado Soliman filed their respective "Motions for Intervention".

On April 10, 2008, MERALCO filed an "Urgent Motion for Issuance of Provisional Authority".

During the April 14, 2008 initial hearing, the following entered their appearances: 1) Attys. Rommel Yap, Francis Dino Antonio and Hazel Rose See, for MERALCO; 2) Mr. Pete Ilagan for NASECORE; 3) FOVA; 4) Mr. Espiritu; and 5) Mr. Soliman.

At the said hearing, MERALCO presented its proofs of compliance with the Commission's posting and publication of notice requirements which were duly

marked as exhibits. Thereafter, it conducted an expository presentation of its application.

On April 18, 2008, NASECORE filed its "Compliance".

At the continuation of the hearing on May 6, 2008, MERALCO, NASECORE, FOVA, Mr. Espiritu and Mr. Soliman appeared. MERALCO presented its witness, Ms. Anna Maria Reodica, its Manager of the Utility Economics, who testified that: 1) the Commission-approved lifeline subsidy rates of MERALCO did not provide for a revenue neutral implementation; 2) the subsidy collected from the subsidizing segments was not sufficient to cover the discount provided to the subsidized customers, thus, resulting in under-recoveries; 3) the under-recoveries resulted in an additional financial burden on MERALCO in terms of carrying costs; and 4) based on the total lifeline subsidy under-recovery and carrying cost, MERALCO proposes a one-year recovery using the projected kWh sales for the period of recovery.

The direct examination having been terminated, NASECORE, FOVA, Mr. Espiritu and Mr. Soliman cross-examined the said witness. Thereafter, the Commission propounded clarificatory questions. MERALCO was, then, directed to submit additional documents.

Several hearings were conducted by the Commission on various dates.

In the meantime, the Commission took note of the following submissions of the parties:

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1. The "Manifestation" filed on May 8, 2008 by Mr. Soliman informing the Commission that he would not be able to attend the May 8, 2008 hearing;
2. The "Compliance with Manifestation" filed on May 8, 2008 by NASECORE designating Atty. Leonardo Aurelio as its Legal Counsel;
3. The "Opposition" filed on May 8, 2008 by Atty. Ruperto J. Estrada;
4. The "Compliance" filed on May 8, 2008 by MERALCO submitting to the Commission the following: a) Summary of Accumulated under-recovery in the lifeline rate subsidy; and b) Documents showing that it has advised the Commission on several occasions that it has been incurring under-recoveries as a result of the implementation of the lifeline rate subsidy;
5. The "Compliance" filed on May 12, 2008 by MERALCO informing the Commission that it furnished copies of the application to all parties requesting for copies thereof;
6. The "Compliance" filed on May 19, 2008 by MERALCO responding to FOVA's request to submit the impact and treatment of the lifeline subsidy under-recoveries on its financial statements;
7. The "Motion for Extension of Time (to File Comment to Opposition)" filed on May 19, 2008 by MERALCO;
8. The "Compliance with Motion" filed on May 19, 2008 by MERALCO completing the jurisdictional requirements comprising of certifications issued by Bocaue, Antipolo, Caloocan and Navotas;
9. The "Formal Offer of Evidence" filed on May 19, 2009 by MERALCO;
10. The "Comment (to Opposition filed by Atty. Estrada)" filed on June 2, 2008 by MERALCO;
11. The "Comments to MERALCO's Compliance Dated 16 May 2008 and Motion for the Production of Applicant's 2007 Annual Report" filed on June 5, 2008 by NASECORE;
12. The "Comment to MERALCO's FOE" filed on June 10, 2008 by FOVA;
13. The Letter filed on June 11, 2008 by Atty. Estrada requesting for data;
14. The "Reply/Opposition (to NASECORE's Comments and Motion)" filed on June 12, 2008 by MERALCO;
15. The "Compliance and Motion" filed on June 16, 2008 by FOVA providing list of interrogatories for MERALCO;
16. The "Reply (to FOVA's Comment Dated June 10, 2008)" filed on June 20, 2008 by MERALCO;

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17. The "Memorandum" filed on July 1, 2008 by NASECORE;
18. The "Compliance with Manifestation" filed on July 1, 2008 by MERALCO attaching therewith in a judicial affidavit form the answers to the interrogatories submitted by FOVA; and
19. The "Comment (to NASECORE's Memorandum Dated June 27, 2008)" filed on July 16, 2008 by MERALCO.

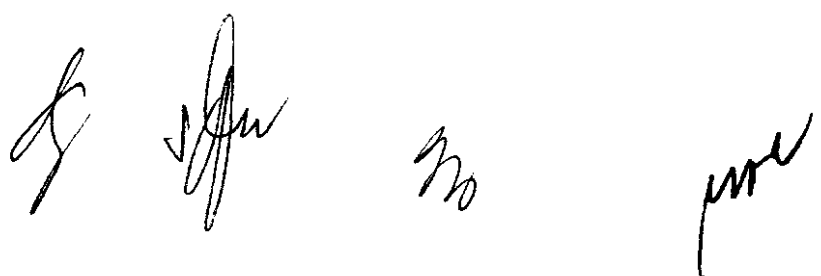
Acting on the "Formal Offer of Evidence" filed by MERALCO, the Commission hereby admits the same for being relevant and material in the resolution of this application.

DISCUSSION

Pursuant to Section 43 (f) of Republic Act No. 9136 (R.A. 9136), the Commission promulgated on July 8, 2005 the "*Guidelines for the Calculation of the Over or Under-Recovery in the Implementation of Lifeline Rates by Distribution Utilities (DUs)*" to establish a process for a revenue neutral implementation of the Lifeline Rates and Discounts by Distribution Utilities (DUs).

Section 2.2 of Article II of the said Guidelines requires all DUs to calculate the over or under-recovery in the implementation of the lifeline rate for the previous month based on the prescribed adjustment formula. Section 2.3 Article II requires all DUs to calculate the over or under-recovery incurred in the implementation of their lifeline rates from the time they first implemented their unbundled rates up to June 2005. Section 4.2 Article IV provides that prior verification of the lifeline rate adjustment from the implementation of the

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Particulars	Amount (PhP)	kWh Sales	PhP/kWh
Under-recovery	863,956,786.20	26,204,065,529	0.0330
Carrying cost	134,565,429.86	26,204,065,529	0.0051
Total	998,522,216.06	26,204,065,529	0.0381

Based on the evidence presented, MERALCO incurred said under-recoveries due to the following reasons:

1. The lifeline subsidy rates were pegged starting June 2003, when it implemented its unbundled rates, to July 2005 or a month prior to the effectivity of the Guidelines. There were also continuing changes in the kWh sales and number of subsidized customers (lifeliners) as well as the subsidizing customers (non-lifeliners); and
2. Utilization of two (2) months kWh sales in the computation of lifeline subsidy rates and the discount given to the lifeliners from August 2005 to December 2007.

In the confirmation of the lifeline subsidy over/under-recovery of MERALCO, the Commission was guided by the formula provided for under Article IV of Resolution No. 16, Series of 2009 entitled "Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities" (Rules), as follows:

$$LSOUR = \frac{LD}{S_{LSOUR\ NL-TOTAL}}$$

Where:

LSOUR = Refers to over/under recoveries on lifeline subsidy during the recovery period expressed in Peso/kWh

LD = Difference between the Total Discounts given to lifeline customers and Total Subsidy collected from non-lifeline customers, computed as follows:

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$$LD = \sum_{i=1}^m (TS - TD)$$

Where:

TS = Lifeline subsidy amount collected from non-lifeline customers for month 1 to m , computed as follows:

$$TS = S_{LSOUR_{NL}} \times LSR$$

Where:

$S_{LSOUR_{NL}}$ = total kWh consumption of non-lifeline customers for the month; and

LSR = lifeline subsidy rate per kWh collected from non-lifeline customers for the month.

TD = total discount amount given to lifeline customers for month 1 to m , computed as follows:

$$TD_i = \sum_{j=1}^n [(S_{LSOUR_{LL}} \times TRate) + (NCust_{LL} \times Fixed / Cust)] \times D$$

Where:

j = Lifeline level bracket 1 to lifeline bracket n ;

$S_{LSOUR_{LL}}$ = Total kWh consumption of lifeline customers for the month of lifeline bracket j ;

$TRate$ = Total PhP/kWh rate subject to lifeline discount which includes generation, transmission, system loss, distribution, supply, metering and loan condonation;

$NCust_{LL}$ = Total number of customers for the month for lifeline bracket j ;

$Fixed/Cust$ = Fixed metering charge for residential customers; and

D = Discount rate for lifeline bracket j .

$S_{LSOUR_{NL-TOTAL}}$ = Total kWh consumption of non-lifeline customers for the recovery period.

The Commission compared the actual subsidy collected from the subsidizing customers (non-lifeliners) and the actual discount granted to the subsidized customers (lifeliners). It, likewise, verified the submitted documents such as the actual consumer bills from June 2003 to December 2007 to check the lifeline subsidy rates collected from the subsidizing consumers and the discount rate granted to the subsidized consumers. Said discount was computed using the actual generation, transmission, system loss, distribution charges, current kWh sales and number of subsidized customers. Accordingly, it was found that the discount granted to the subsidized customers covering the period June 2003 to December 2007 amounted to PhP10,764,277,300.00 while the proposed under-recoveries amounted PhP10,771,861,277.00.

The subsidy collected by MERALCO from the subsidizing consumers, as shown in its application, was found to be in order and in accordance with the lifeline rate as reflected in the consumers' bills for the period June 2003 to December 2007.

MERALCO stated that it incurred an additional financial burden in terms of carrying cost since it was not able to recover in full the discounts that should have been recovered from the subsidizing consumers. Thus, it prayed that it also be allowed to include a carrying cost.

Section 4.3 of Article IV of the Guidelines only states that a verification resulting to over-recoveries shall be subject to a carrying charge. Thus,

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MERALCO cannot recover a carrying cost for such under-recovery absent any provision allowing the same.

With the said disallowance, the Commission arrived at the lifeline subsidy under-recovery amounting to PhP856,367,808.00

Shown below is the comparison of the proposed under-recovery and the Commission's evaluation:

Billing Period Jun. 2003 – Dec. 2007	MERALCO (PhP)	Commission (PhP)
Total Discount	(10,771,861,277.02)	(10,764,272,300.00)
Total Subsidy	9,907,904,490.87	9,907,904,490.87)
Over/(Under) Recovery	(863,956,786.20)	(856,367,808.00)

In accordance with Section 3.2 of Article III of the Guidelines, the under-recoveries shall only be collected from the subsidizing consumers (non-lifeline).

WHEREFORE, the foregoing premises considered, the application for authority to recover lifeline subsidy under-recovery including carrying cost, with prayer for provisional authority, filed by Manila Electric Company (MERALCO) is hereby **APPROVED with MODIFICATION**. Accordingly, MERALCO is hereby authorized to recover the total lifeline subsidy under-recovery covering the period June 2003 to December 2007 amounting to **EIGHT HUNDRED FIFTY-SIX MILLION THREE HUNDRED SIXTY-SEVEN THOUSAND EIGHT HUNDRED EIGHT PESOS (PhP856,367,808.00)**, equivalent to PhP0.0068/kWh, until such time that the said amount shall have been fully recovered.

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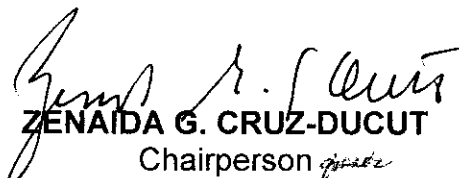
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MERALCO is hereby directed to: (a) submit, within ten (10) days from its initial implementation, a sworn statement indicating its compliance with the Order; (b) incorporate the Other Lifeline Rate Adjustment (OLRA) in the computed Lifeline Rate; and (c) accomplish and submit a report in accordance with the attached prescribed format, on or before the 30th day of every month until the amount shall have been fully collected.

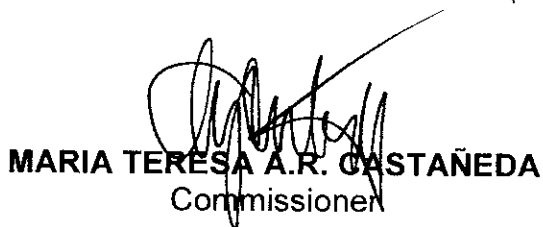
SO ORDERED.

Pasig City, November 16, 2009.


ZENAIDA G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner

Copy Furnished:

1. **Atty. Jose Ronald V. Valles**
Atty. Rommel L. Yap
Atty. Francis Dino Antonio
Atty. Hazel Rose See
Counsels for the Applicant MERALCO
Manila Electric Company (MERALCO)
7th Floor, Lopez Building,
Ortigas Avenue, Pasig City

2. **Mr. Pete Ilagan**
Intervenor National Association of Electricity Consumers for
Reforms, Inc. (NASECORE)
No. 10 Bayside Court Compound,
680 Quirino Avenue, Tambo, Parañaque City

3. **Engr. Siegriedo A. Veloso**
Federation of Village Associations (FOVA)
Don Jesus Blvd., Alabang Hills Village, Muntinlupa City

4. **Mr. Amado Soliman**

5. **Mr. William Espiritu**