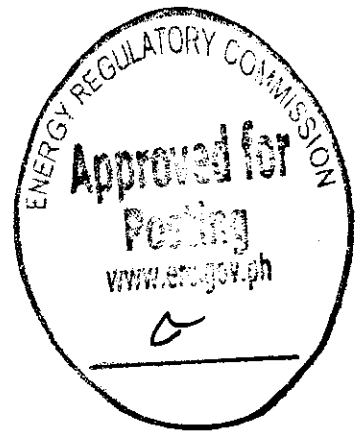


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



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

ERC CASE NO. 2009 – 021 MC
RE: For Erroneously Implementing
the PPA Refund Order of the
Commission Dated May 25, 2005

ILOCOS NORTE ELECTRIC
COOPERATIVE, INC. (INEC),
Respondent.

x ----- x

DOCKETED
Date: FEB 05 2010
By: _____

DECISION

On May 25, 2005, the Commission issued an Order directing Ilocos Norte Electric Cooperative, Inc. (INEC) to refund the amount of Php102,251,151.00 representing its over-recovery in the Purchased Power Adjustment (PPA), starting the next billing cycle from receipt of the said Order until such time that the full amount shall have been refunded.

On December 6, 2006, the Commission issued another Order directing INEC to refund the amount based on the approved refund scheme starting the billing month of January 2007. The said scheme provided that the refund should apply to the monthly billings of all its existing customers

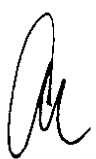
regardless of whether or not they consumed power from February 1996 to October 2004. The refund of PhP0.1045/kWh shall be multiplied by the customers' current kWh consumptions reflected as reductions in their current billing statements until the amount of PhP102,251,151.00 shall have been fully refunded.

For failure of INEC to correctly implement the said refund, the Commission issued a Show Cause Order on February 17, 2009 directing it to submit an explanation under oath why no administrative penalty should be imposed upon it and/or criminal action instituted against its directors and officers.

On March 23, 2009, INEC submitted its "Manifestation and Motion".

Subsequently, on April 1, 2009, the Commission issued an Order setting a conference on April 22, 2009, to give INEC an opportunity to amplify its position or avail of its right to make an offer of settlement before said case is finally resolved. During the said conference, only the counsel for INEC appeared. The said counsel requested that another conference be set to enable the General Manager and/or any other authorized representatives of INEC to attend the same. Said request was granted.

At the scheduled conference on July 30, 2009, Mr. Lorenzo Rey Ruiz, the Board of Directors' President, Engr. Renato A. Balintec, the General Manager, together with the other officers of INEC, appeared. In the said



conference, it was admitted that INEC failed to implement the approved refund scheme as embodied in the Commission's Order dated December 6, 2006 and instead, implemented a quarterly refund based on a pre-determined amount and granted the same to customers at the time the said PPA over-recoveries were incurred. Nevertheless, INEC manifested that it would submit an offer for the amicable settlement of the case within seven (7) days from the date of said conference. However, to date, INEC has not submitted said offer.

Relative thereto, the Commission took note of the "Petition" filed by the Ilocos Norte Power Consumers Association, Inc. (CONSUMERS' GROUP) on September 15, 2009 praying that it be allowed to participate in the proceedings, hearings or conferences as an intervenor.

From the record of this case, it is very clear that INEC has failed to comply with the Commission's directive to implement the refund based on its approved scheme. As categorically stated in the Order dated December 6, 2006, the refund should have been applied to the monthly billings of all its existing customers regardless of whether or not they consumed power from February 1996 to October 2004.

WHEREFORE, the foregoing premises considered, Ilocos Norte Electric Cooperative, Inc. (INEC) is hereby declared to have committed the violation as charged.



Accordingly, 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" dated May 17, 2002 and Resolution No. 03, Series of 2009 dated February 23, 2009, INEC is hereby meted an initial fine in the amount of **TWO HUNDRED EIGHTY ONE THOUSAND TWO HUNDRED PESOS (PHP281,200.00)** computed as follows:

Particulars	Amount (PhP)
Initial Amount	100,000.00
Pursuant to 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" dated May 17, 2002: Plus: PhP100 a day for every day of violation (January 1, 2007 to March 22, 2009) (PhP100 x 812 days)	81,200.00
Pursuant to Resolution No. 03, Series of 2009 dated February 23, 2009: Additional Penalty for Any Willful Delay in the Implementation: (100% of the Basic Amount of Penalty – 3 months and above delay)	100,000.00
Total	281,200.00

Additional penalty shall be imposed upon INEC for its continued failure to implement the said refund scheme.



The said administrative fine should be remitted to the Energy Regulatory Commission, within fifteen (15) days from receipt hereof.

SO ORDERED.

Pasig City, January 11, 2010.


ZENAIDA G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner

(On Leave)
ALEJANDRO Z. BARIN
Commissioner


JOSE C. REYES
Commissioner

Copy furnished:

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