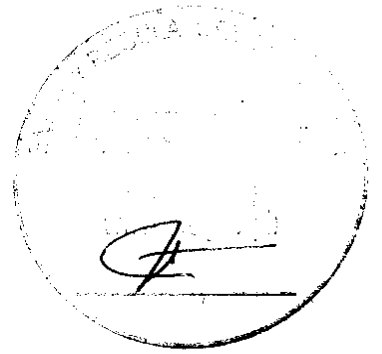


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



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

**ERC CASE NO. 2009- 107 MC
RE: Inclusion of Cost
Incurred from an Expired
Power Supply Contract Cost
in the Retail Rates**

TARLAC ELECTRIC, INC. (TEI),

Respondent.

x-----x

D O C K E T E D
Date: JUL 27 2010
By: [Signature]

D E C I S I O N

On November 12, 2009, the Commission issued a Show Cause Order directing Tarlac Electric, Inc. (TEI), 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 inclusion of cost incurred from an expired power supply contract cost in its retail rates.

On December 8, 2009, TEI submitted its "Manifestation" stating that: a) it filed its Electricity Power Purchase Agreement (EPPA) with TPC for approval on June 14, 2007, seven (7) months before its expiration on December 31, 2007; b) the "Motion for Leave to File Amended Application for EPPA" is no longer applicable due to sudden increases in the cost of fuel and lube oil; c) pending approval of its amended EPPA, TEI and TPC, informed the Commission of its intention to temporary use its previous PPA charges; and d)

the extension of previous PPA is essential due to existing transformer constraint at the National Grid Corporation of the Philippines' (NGCP's) Concepcion Substation.

Further, during the conference conducted on January 14, 2010, TEI argued that it should not be held liable on the alleged violation considering that the filing of application prior to the expiration is guaranteed by Section 18, Chapter III, Book VII of the Administrative Code of 1987, quoted as follows:

"Section 18. Non- expiration of License. – Where the licensee has made timely and sufficient application for the renewal of a license with reference to any activity of a continuing nature, the existing license shall not expire until the application shall have been finally determined by the agency."

Considering TEI's compliance with the filing requirement under the Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' rates as well as the Administrative Code of 1987, the imposition of penalty against it is unwarranted.

WHEREFORE, the foregoing premises considered, Tarlac Electric, Inc. (TEI) is hereby **EXONERATED** from any administrative liability.

SO ORDERED.

Pasig City, July 19, 2010.

FOR AND BY AUTHORITY
OF THE COMMISSION


ALEJANDRO Z. BARIN
Commissioner 

Copy furnished:

1. **MR. VIVENCIO M. ROMERO**
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Reference: No. 2010-D1-O69


FSCJ/NBC/FPG/rma