

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



**IN THE MATTER OF THE PETITION
 FOR APPROVAL OF THE
 AGREEMENT ON THE INTERIM
 RATE BETWEEN CEBECO III
 ELECTRIC COOPERATIVE,
 INCORPORATED AND TOLEDO
 POWER COMPANY, WITH PRAYER
 FOR PROVISIONAL AUTHORITY**

ERC CASE NO. 2009-010 RC

**CEBECO III ELECTRIC
 COOPERATIVE, INCORPORATED
 (CEBECO III) AND TOLEDO POWER
 COMPANY (TPC),**

Petitioners.

X-----X

D O C K E T E D

Date: JAN 07 2010

By: _____

ORDER

On August 10, 2009, the Commission issued a Decision in the above-captioned case, the dispositive portion of which is as follows:

"WHEREFORE, the foregoing premises considered, the joint petition for approval of the agreement on the interim rate, with prayer for provisional authority, filed by Cebu III Electric Cooperative, Incorporated (CEBECO III) and Toledo Power Company (TPC) is hereby **APPROVED WITH MODIFICATION**, subject to the following conditions:

- a. The interim rates between CEBECO III and TPC shall be as follows:

Particular	Approved (PhP/kWh)
Capacity Fee	0.3832
Fixed O&M Fee *	0.4546
Variable O&M Fee *	0.1652
Fuel Cost	Pass through of fuel costs

Note: * Subject to monthly Philippine Consumer Price Index (CPI) adjustment with a base CPI of 154.98 average for 2008

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- b. The actual fuel cost shall be a pass-on cost, subject to a fuel consumption rate of 1.00kg/kWh, or actual, whichever is lower;
- c. The fuel procurement process shall undergo bidding and CEBECO III shall actively participate in the said procurement process. Further, CEBECO III and TPC shall submit to the Commission the procedure undertaken in procuring such fuel and the results thereof; and
- d. The interim rate shall take effect on August 26, 2009 and the same shall be valid until CEBECO III and TPC are able to file an application or petition for approval of a new independent tariff rate for their EPPA dated August 9, 2002.

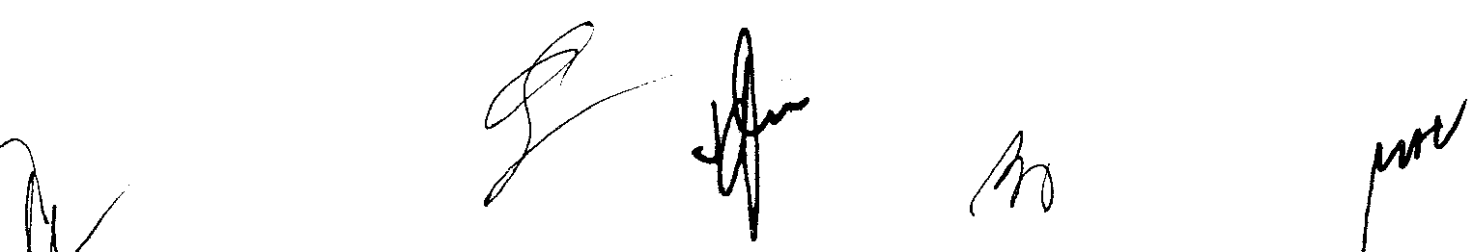
TPC is hereby authorized to **COLLECT** the difference between the approved interim rate and the EPPA rate for the period February 2008 to August 25, 2009. Relative thereto, it is hereby directed to **SUBMIT**, within fifteen (15) days from receipt hereof, the amount of under-recoveries and its proposed collection scheme in mitigating the impact of the said interim rate on CEBECO III's consumers."

Relative thereto, on October 8, 2009, TPC filed its "Compliance".

In the said compliance, TPC proposed the following amounts and recovery periods for retroactive adjustment:

Recovery Period (in Years)	Monthly Amortization (PhP)	Average kWh Sales	Rate (PhP/kWh)
1	20,038,012.11	10,800,000	1.86
2	10,019,006.06	10,800,000	0.93
3	6,679,337.37	10,800,000	0.62
4	5,009,503.03	10,800,000	0.46
5	4,007,602.42	10,800,000	0.37
6	3,339,668.69	10,800,000	0.31

TPC, likewise, proposed to collect the foregoing under-recoveries for a period of five (5) years or in sixty (60) monthly equal installments of PhP4,007,602.42.



For purposes of determining the reasonableness and validity of the proposed retroactive adjustments, the Commission considered the following factors: a) relevant period covered by the adjustment; b) costs allowed under the aforementioned Decision [Capacity Fee, Operation and Maintenance (O&M) Fee and Fuel Cost]; c) actual amount billed to CEBECO III; and d) recovery period and kWh sales.

1. Relevant Period

As proposed by TPC, the period February 2008 to August 2009, which was used as basis for the computation of its under-recoveries, is consistent with the aforesaid Decision, meaning only this period should be given a retroactive effect.

2. Allowable Cost

2.1 Capacity Fee

With regard to the allowable costs, the Commission computed the total allowable Capacity Fee based on the following conditions:

- a. Capacity fee shall be PhP0.3290/kWh;
- b. Capacity fee shall not be subject to market price changes; and
- c. Capacity fee shall not be charged beyond the annual 111,006,720 kWh.

From the foregoing, the Commission derived a total allowable Capacity Fee of PhP67,351,477.25, which is lower than TPC's proposal of PhP73,895,9778.39.



TPC's proposal to charge a Capacity Fee beyond the annual 111,006,720 kWh is inconsistent with the Commission's directive that the Capacity Fee should not be charged to the quantity purchased beyond the annual kWh.

2.2 Fixed and Variable O&M

The Commission, likewise, considered the following conditions in computing the total allowable Capacity Fee:

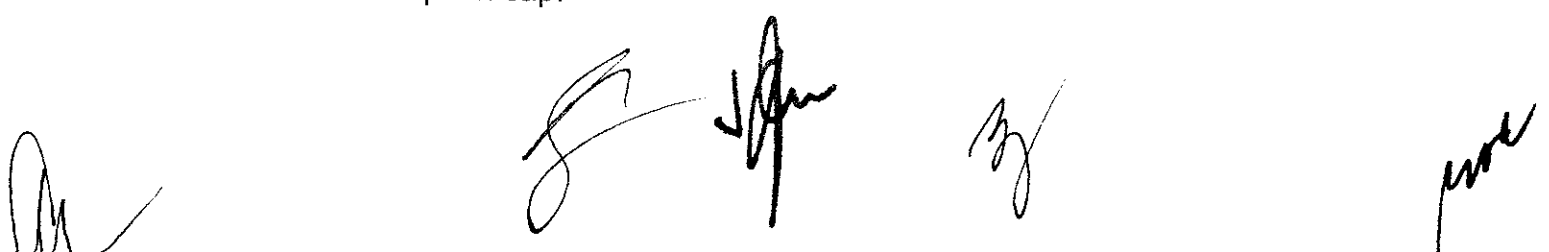
- a. Fixed O&M Fee of PhP0.4546/kWh and Variable O&M fee of PhP0.1652/kWh;
- b. O&M Fee shall be subject to Consumer Price Index (CPI) with a base CPI of 154.98; and
- c. Fixed O&M Fee shall not be charged beyond the annual 111,006,720 kWh.

The Commission thoroughly verified the proposed calculations and found that TPC utilized the approved Fixed and Variable O&M Fee. Moreover, the calculation of the CPI adjustment was found to be reasonable. However, TPC failed to consider the Commission's directive on the quantity in excess of the annual kWh.

Thus, the Commission is constrained to recompute the same and arrived at a total O&M fee of PhP112,943,692.28, which is lower than TPC's proposal of PhP120,747,796.87.

2.3 Fuel Cost

TPC proposed a Fuel Cost in the amount of PhP601,150,514.07 for all fuel consumed during the relevant period. This was subjected to a consumption cap.

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In evaluating the same, the Commission considered the supporting evidence submitted by TPC, particularly, the fuel supplier bills and its disbursement vouchers as these are reflective of the actual costs it incurred.

Upon verification, the Commission found that TPC used a different methodology in determining whether or not the actual consumption rate is within the limit. It computed its consumption rate by dividing the fuel consumed over the gross kWh generation instead of the generation net of in-house consumption.

It is worth reiterating that in its Decision, the Commission provided that the kWh to be used shall only be the kWh consumed by the off-takers, to wit:

“The Commission deems it necessary to approve a consumption rate cap of PhP1.00kg/kWh or actual, whichever is lower. To test whether the actual consumption is within the limit, consumption rate shall be computed based on the actual fuel cost and on the kWh delivered to the off-taker (CEBECO III and VECO).”

Thus, the formula for computing the actual consumption rate to determine whether or not the actual consumption is within the limit shall be fuel consumption over kWh sales.

Granting *arguendo* that TPC's methodology can be used, the Commission believes that the consumption rate cap should be adjusted accordingly to 0.8309kg/kWh pursuant to the aforesaid Decision, which provides that:



“TPC’s average consumption rate for the period 2005 to 2008 is 0.8309 kg/kWh based on the actual fuel cost (fuel used to generate energy for CEBECO III, VECO and TPC’s own consumption) over the kWh generated or 1.00kg/kWh based on actual fuel cost over the kWh generated and delivered to the grid. The 1.00kg/kWh shall include the fuel cost attributed to the kWh consumed by TPC.”

From the foregoing, it can be ascertained that the consumption rates should be 0.8309kg/kWh if the gross generation (inclusive of TPC’s own consumption) will be used or 1.00kg/kWh if the net generation (excluding TPC’s own consumption) will also be used.

It is worth mentioning that the consumption cap of 1.00kg/kWh is attainable by TPC’s power plant based on its historical operation including operations in 2009.

Shown below is a comparison between TPC proposed Fuel Cost and the Commission’s computation:

TPC Computation (PhP)	Commission’s Computation (PhP)	Difference (PhP)
601,150,514.07	554,297759.32	46,852,754.75

To summarize, the table below is a comparison between the computations made by the Commission pursuant to its Decision and the proposal submitted by TPC:

Rate Component	TPC (PhP)	Commission (PhP)	Difference (PhP)
Capacity Fee	73,895,978.39	67,351,477.25	6,544,501.14
Fixed O&M	88,563,969.76	80,759,865.17	7,804,104.59
Variable O&M	32,183,827.11	32,183,827.11	-
Fuel Cost	601,150,514.07	554,297759.32	46,852,754.75
Total	795,794,289.33	734,592,928.85	61,201,360.48

3. Amount Billed to CEBECO III

In validating the amount billed by TPC to CEBECO III, the Commission made reference to its power bills.

It was found that the discounts granted to CEBECO III were excluded in the amount billed by TPC. The Commission finds the approach to be reasonable and consistent with its policy on the allowed return on capital to TPC since the authorized interim rate would be reduced by the said discounts. Thus, the Commission believes that the amount of PhP555,338,143.94, which was net of discount and collected by TPC, should be used in computing the amount billed to CEBECO III.

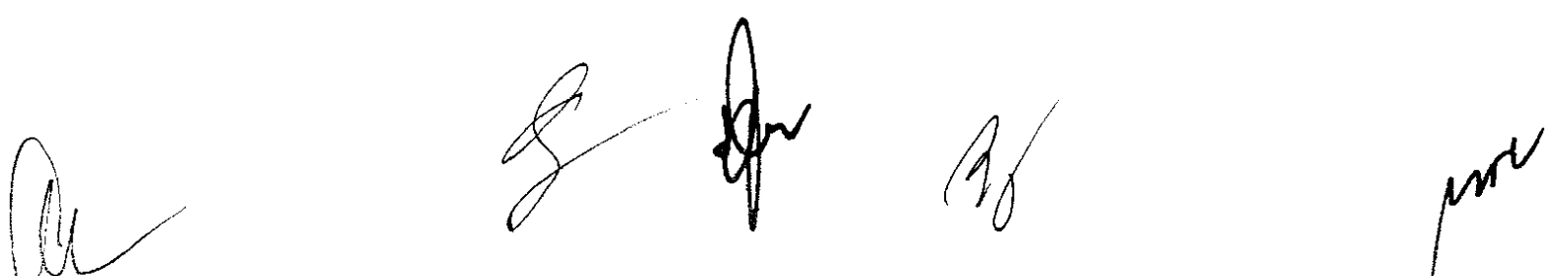
Taking into consideration the foregoing, the Commission computed the total amount billed by TPC to CEBECO III as follows:

Particulars	Amount Billed (PhP)
Net of discount	555,338,143.94
Add: Discount	38,606,395.04
Total Amount Billed	593,944,538.98

4. Total Retroactive Adjustment and Rates

The table below is a comparison between TPC's and the Commission's proposed retroactive adjustment:

Particulars	TPC (PhP)	Commission (PhP)	Difference (PhP)
Total Allowable Cost	795,794,289.33	734,592,928.85	61,201,360.46
Less: Total Billed	555,338,143.94	555,338,143.94	-
Total Adjustment	240,456,145.37	179,254,784.91	61,201,360.46



From the foregoing, it can be gleaned that the recoverable amount as computed by the Commission is lower than TPC's proposal by PhP61,201,360.46.

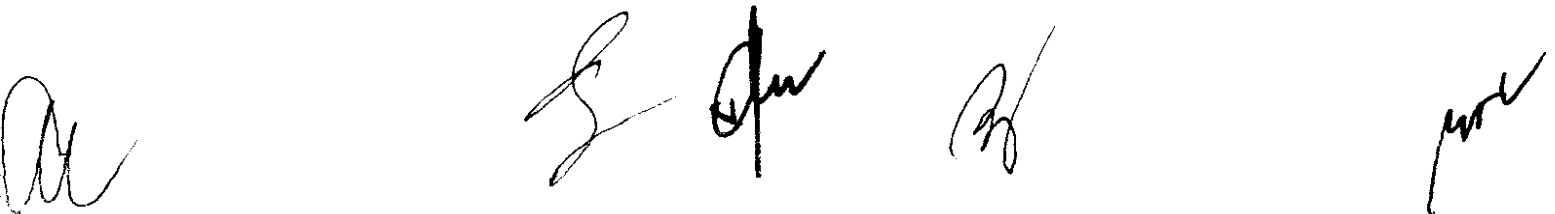
For purposes of translating the said recoverable amount into rates for CEBECO III, the Commission made a simulation thereof by using different recovery periods, to wit:

Recovery Period (Year)	Projected Monthly Sales* (kWh)	Retroactive Adjustment Rate (PhP/kWh)
2	10,800,000	0.6916
3	10,800,000	0.4610
4	10,800,000	0.3458
5	10,800,000	0.2766
6	10,800,000	0.2305
7	10,800,000	0.1976
8	10,800,000	0.1729
9	10,800,000	0.1537
10	10,800,000	0.1383

* TPC Sales to CEBECO III

To mitigate the impact on CEBECO III's consumers of the approved interim rate as well as the previous rate increases by TPC and National Power Corporation, the Commission deems it prudent to approve a recovery rate of **PhP0.1729/kWh** for a period of eight (8) years. Said rate is lower compared to TPC's proposed rate of PhP0.37/kWh recoverable for a period of five (5) years.

WHEREFORE, the foregoing premises considered, Cebu III Electric Cooperative, Incorporated (CEBECO III) is hereby directed to **REFUND** to Toledo Power Company (TPC) the amount of **One Hundred Seventy-Nine Million Two Hundred Fifty-Four Thousand Seven Hundred Eighty-Four Pesos and Ninety-One Centavos (PhP179,254,784.91)**, equivalent to an

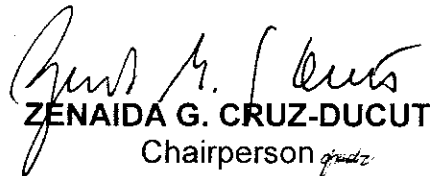


average rate of **PhP0.1729/kWh**, within eight years (8) years from receipt hereof or until such time said amount has been fully refunded.

In connection therewith, CEBECO III is hereby authorized to **COLLECT** from its consumers the same amount within the above-prescribed period.

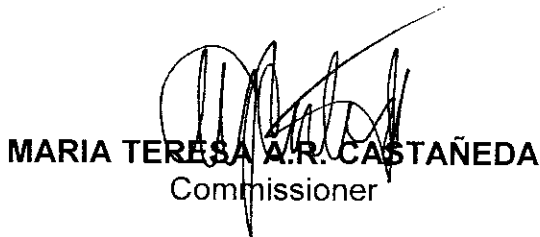
SO ORDERED.

Pasig City, December 14, 2009.


ZENAIDA G. CRUZ-DUCUT
Chairperson *gcrdz*


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Commissioner


ALEJANDRO Z. BARIN
Commissioner


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