

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



IN THE MATTER OF THE URGENT
 REQUEST FOR APPROVAL OF THE
 AGREEMENT ON THE INTERIM
 RATE BETWEEN VISAYAN
 ELECTRIC COMPANY, INC. AND
 TOLEDO POWER COMPANY, WITH
 PRAYER FOR PROVISIONAL
 AUTHORITY

ERC CASE NO. 2009-013 RC

VISAYAN ELECTRIC COMPANY,
 INCORPORATED (VECO) AND
 TOLEDO POWER COMPANY (TPC),
 Petitioners.

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DOCKETED
 Date: JAN 12 2010
 By:

ORDER

On August 10, 2009, the Commission issued a Decision in the above-captioned case, the dispositive portion of which reads 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 Visayan Electric Company, Incorporated (VECO) and Toledo Power Company (TPC) is hereby **APPROVED WITH MODIFICATION**, subject to the following conditions:

- a. The interim rates between VECO 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

- 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 VECO shall actively participate in the said procurement process. Further, VECO 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 VECO and TPC are able to file an application or petition for approval of a new independent tariff.

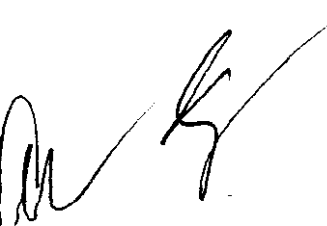
TPC is hereby authorized to **COLLECT** the difference between the approved interim rate and the EPPA rate for the period February 2008 to August 25, 2009. Relative thereto, it is hereby directed to **SUBMIT**, within fifteen (15) days from receipt hereof, the amount of under-recoveries and its proposed collection scheme in mitigating the impact of the said interim rate on VECO'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	21,401,152.06	155,000,000	0.14
2	10,700,576.03	155,000,000	0.07
3	7,133,717.35	155,000,000	0.05

TPC, likewise, proposed to collect the foregoing under-recoveries for a period of two (2) years or in twenty-four (24) equal monthly installments of PhP10,700,576.35.



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 VECO; 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 259,0158,680 kWh.

Based on the foregoing conditions, the Commission finds TPC's calculation of the allowable Capacity Fee of PhP106,805,206. 41 to be consistent with the Decision dated August 10, 2009.

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 259,0158,680 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. Thus, the Commission concurs with the proposal of TPC for an O&M Fee of PhP174,599,634.99.

2.3 Fuel Cost

TPC proposed a Fuel Cost in the amount of PhP879,091,216.58 for all fuel consumed during the relevant period. This was subjected to a consumption cap.

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.

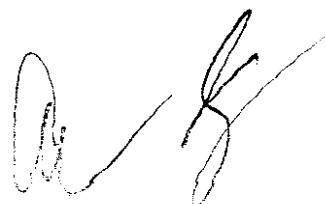
It is worth reiterating that in its Decision, the Commission provided that the kWh to be used shall only be the kWh consumed by the off-takers, to wit:

"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 (VECO and CEBECO III)."

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 VECO, CEBECO III 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 its operation in 2009.

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

TPC Computation (PhP)	Commission's Computation (PhP)	Difference (PhP)
879,091,216.58	809,808,831.61	69,282,384.97

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

Rate Component	TPC (PhP)	Commission (PhP)	Difference (PhP)
Capacity Fee	106,805,206.41	106,805,206.41	-
O&M	174,599,634.99	174,599,634.99	-
Fuel Cost	879,091,216.58	809,808,831.61	69,282,384.97
Total	1,160,496,057.99	1,091,213,673.00	69,282,384.97

The bottom of the page contains several handwritten signatures and marks. On the left, there are two distinct signatures. In the center, there is a large, faint, circular stamp or mark. On the right side, there is a signature that appears to be 'JMC'.

3. Amount Billed to VECO

In validating the amount billed by TPC to VECO, the Commission made reference to its power bills. Based on the said power bills, it was disclosed that the amount billed and presumed to be collected by TPC from VECO is PhP906,682,233.33.

4. Total Retroactive Adjustment and Rates

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

Particulars	TPC (PhP)	Commission (PhP)	Difference (PhP)
Total Allowable Cost	1,160,496,057.99	1,091,213,673.00	61,201,360.46
Less: Total Billed	903,682,233.33	903,682,233.33	-
Total Adjustment	256,813,824.69	187,531,439.68	61,201,360.46

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 VECO, the Commission made a simulation thereof by using different recovery periods, to wit:

Recovery Period (Year)	Monthly Amortization (PhP)	Average kWh Sales	Retroactive Adjustment Rate (PhP/kWh)
1	12,807,194.04	157,146,765	0.0815
2	6,403,597.02	157,146,765	0.0407
3	4,269,064.68	157,146,765	0.0272
4	3,201,798.51	157,146,765	0.0204

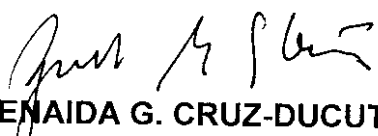
To mitigate the impact on VECO's consumers of the approved interim rate, the Commission deems it prudent to approve a recovery rate of **PhP0.0204/kWh** for a period of four (4) years or forty-eight (48) equal monthly installments of PhP3,201,798.51. Said rate is lower compared to TPC's proposed recovery period of two (2) years with a monthly amortization of PhP10,700,798.51.

WHEREFORE, the foregoing premises considered, Visayan Electric Company, Incorporated (VECO) is hereby directed to **REFUND** to Toledo Power Company (TPC) the amount of **One Hundred Eighty-Seven Million Five Hundred Thirty-One Thousand Four Hundred Thirty-Nine Pesos and Sixty-Eight Centavos (PhP187,531,439.68)**, equivalent to an average rate of **PhP0.0204/kWh**, within four years (4) years from receipt hereof or until such time said amount has been fully refunded.

In connection therewith, VECO 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 *note*


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
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