

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

IN THE MATTER OF THE APPLICATION
FOR APPROVAL OF A REDUCTION IN
RATES IN COMPLIANCE WITH SECTION
60 OF REPUBLIC ACT NO. 9136 AND
EXECUTIVE ORDER NO. 119, WITH
PRAYER FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2002-343

BATANGAS II ELECTRIC COOPERATIVE,
INC. (BATELEC II),

Applicant.

x-----x

O R D E R

Before this Commission for resolution is the application filed on December 27, 2002 by applicant Batangas II Electric Cooperative, Inc. (BATELEC II) for approval of a reduction in rates in compliance with Section 60 of Republic Act No. 9136 and Executive Order No. 119, with prayer for provisional authority.

In the said application, BATELEC II prayed that the rate reduction equivalent to ₱ 0.17234/kWh be provisionally and immediately approved ex-parte; that it be authorized to adopt and implement it effective upon provisional approval; and that after notice and hearing, the rate reduction be approved permanently.

In support of its application and prayer for provisional authority, BATELEC II submitted the following documents in compliance with the requirements indicated in the Guidelines for the Implementation of the Reduction in Rate of the Electric Cooperatives Due to the Condonation of Debts, as amended, to wit:

1. Certification from the National Electrification Administration (NEA) indicating the amount of ₱ 516,794,700.83 as BATELEC II's outstanding loan to NEA as of June 26, 2001 and that said amount has been a) recommended for assumption by the Power Sector Assets Liabilities Management (PSALM); and b) has been used for Rural Electrification Program;
2. Copies of the confirmation of accounts as of June 26, 2001 from the Development Bank of the Philippines (DBP) and validated by the Commission on Audit (COA) pertaining to BATELEC II's loan for its Rural Electrification Program. Said confirmation of accounts indicated an aggregate amount of ₱ 49,443,695.11 used for BATELEC II's Rural Electrification Program;
3. An Omnibus Certification from the Commission on Audit (COA) certifying that its office has verified the loan balances as of June 26, 2001 of one hundred eighteen (118) electric cooperatives, including BATELEC II and found the same to be true and correct;
4. Sworn Statements/Affirmations executed by BATELEC II's General Manager, Mr. Evangel Manundo, confirming that the amounts of ₱ 516,794,700.83 and ₱ 49,443,695.11 are due and outstanding;
5. Certification from the National Power Corporation (NPC) attesting that BATELEC II is current in the payment of its obligations;
6. Detailed information or report on outstanding loans applied for condonation as follows:

- a. Amortization payments on the Rural Electrification Loans; and
- b. Monthly kilowatthour sales covering the period July 1, 2001 to June 30, 2002.

BATELEC II submitted other supporting data/documents in accordance with the aforesaid Guidelines, such as: a) the certifications of receipt of copies of the notice of application by the LGU Legislative Bodies of the Municipalities and Cities within BATELEC II's area of coverage; and c) the affidavit of publication executed by Ms. Elenita Yaco, Business Manager of Sun Star People's Courier, Inc. attesting to the publication of the Notice of Application.

I. SUMMARY OF BATELEC II's APPLICATION

BATELEC II's proposed rate reduction was computed as follows¹:

Annual Amortization of Condoned Loans (Outstanding as of June 26, 2001)		
NEA Loans	₱ 65,040,292.80	
DBP Loans	<u>19,266,240.00</u>	
Total Loans		₱ 84,306,532.80
Divide by Total Annual Sales (for the twelve months Ending June 2002)		
		<u>349,844,233 kWh</u>
Rate Reduction		₱ 0.24098/kWh
Less: Required Rate Increase due to Additional Loan Releases after June 26, 2001:		
Annual Amortization:		
OECF – Logistical Loan	₱ 19,269,656.04	
OECF - Construction Loan	<u>4,744,311.96</u>	
Total Annual Amortization Due to Additional Loan Releases		₱ 24,013,968.00
Divide by Total Annual Sales (for the twelve Months Ending June 2002)		
		<u>349,844,233 kWh</u>
Required Rate Increase		₱ 0.06864/kWh
Total Adjusted Rate Reduction (net of the required rate Increase due to additional loan releases)		₱ 0.17234/kWh

¹ Based on Annex "B" – Rate Calculation submitted by BATELEC II.

II. COMMISSION DISCUSSIONS AND CONCLUSIONS

II.A.1 Loan Profile

Mr. Evangel A. Manundo, BATELEC II's General Manager, issued two (2) separate Sworn Statements/Affirmations affirming that BATELEC II's total loans to be condoned out of the loans with NEA and DBP are in the amounts of ₱ 516,794,700.83 and ₱ 49,443,695.11, respectively.

In a separate certification, a representative of the COA validated the individual Confirmation of Accounts issued by the DBP by affixing her signature thereon.

The NEA Loan Profile submitted by BATELEC II provides the information on the amortization payments on its Rural Electrification Loans as of June 26, 2001.

II.A.2. Monthly kilo-Watthour (kWh) sales covering the period July 1, 2001 to June 30, 2002.

The table below shows the summary of energy sales of BATELEC II for the twelve months ending June 30, 2002:

Customer Class	Total Sales (kWh) ²
Residential	133,376,439
Commercial	76,350,331
Industrial	95,070,236
Irrigation	15,928,031
Public Building	5,539,337
Street Lights	3,224,196
Rescom	1,243,987
BAPA	19,111,676
Total	349,844,233

² Based on Annex "A" Schedule B of BATELEC II's application.

The data on energy sales were verified because this will serve as the billing determinant³ to be used in the calculation of the rate reduction. This was done by comparing the said data with that of the monthly kWh sales reported by BATELEC II in its regular submission of Monthly and Financial Statistical Reports (MFSRs). Said verification showed that the energy sales used by BATELEC II as the billing determinant, were correct vis-à-vis its submitted MFSRs.

II.B. Calculation of the Rate Reduction for Purposes of Granting Provisional Authority

The rate reduction was computed as follows:

Annual Amortization of Condoned Loans (Outstanding as of June 26, 2001)		
NEA Loans	₱ 65,040,292.80	
DBP Loans	<u>19,266,240.00</u>	
Total Loans		₱ 84,306,532.80
Divide by Total Annual Sales (for the twelve months Ending June 2002)		
		<u>349,844,233 kWh</u>
Rate Reduction		₱ 0.24098/kWh

Section 2, Rule 31 of the Implementing Rules and Regulations (IRR) of R. A.

No. 9136 specifically provides that:

“This Rule shall cover all outstanding financial obligations by the ECs to NEA and other government agencies, incurred as of 26 June 2001 for the purpose of financing the Rural Electrification Program. x x x”
(underscoring supplied).

³ Billing Determinants are the units divided into a class of costs to calculate a rate element.

Hence, for purposes of determining the propriety of a provisional authority, the Commission did not consider BATELEC II's proposal to include the required rate increase in the amount of ₱ 0.06864/kWh resulting from the additional loan releases after June 26, 2001 for being inconsistent with the clear intent of the law which provides that the reduction in the rates of the electric cooperatives should be commensurate with the resulting savings due to the removal of the amortization payments of their outstanding loans as of June 26, 2001.

However, BATELEC II may consider filing for an adjustment in its existing rates even during the pendency of its application for unbundling of rates to cover its payment for the additional loan releases after June 26, 2001.

DISPOSITION

WHEREFORE, the foregoing premises considered, Batangas II Electric Cooperative, Inc. (BATELEC II) is hereby granted a provisional authority to reduce its rates by ₱ 0.24098/kWh effective on the next billing cycle after receipt of this Order. Should the rate reduction provisionally authorized herein is found to be insufficient after final evaluation, the amount corresponding to the deficiency shall be reimbursed by BATELEC II to its consumers by crediting the same in their electric bills covering future consumptions for a period of not more than six (6) months from the implementation of the Decision.

Relative thereto, BATELEC II is hereby directed to comply with the following conditions:

- a) Reflect the approved reduction in rates as a separate item in the consumers' electric bills;
- b) Inform its consumers of the said approved rate reduction not later than thirty (30) days after receipt of this Order;
- c) Submit five (5) sample bills for each customer class for verification and confirmation purposes on or before the twentieth (20th) day of the month following the effectivity of the approved rate reduction and every month thereafter; and
- d) Continue its payment to NEA with respect to all outstanding obligations assumed by PSALM if the amortization cost component of the EC's tariff is still collected from the end-users;

BATELEC II is further directed to submit the following requirements:

- a. Certification from PSALM provisionally acknowledging the amount of loans applied for condonation subject to the final results of the audit to be performed by an independent body commissioned for such purpose;
- b. Detailed information or report on outstanding loans applied for condonation, to wit:
 - i. List of outstanding loans obtained from creditors under Article II, Section 1 of the Amended Guidelines;

- ii. Purpose for each loan;
- iii. Date of approval of each loan;
- iv. Total Releases from each loan granted and date of such releases;
- v. Principal and interest payments made for each loan;
- vi. Outstanding balance for each loan;
- vii. Data pertaining to its last approved rate adjustment whether provisional or final;
- viii. Proceeds from Benefits to Host Communities in the form of grants or technical assistance pursuant to Chapter II, Sections 289 to 294 of the Local Government Code, if applicable;
- ix. Statement on debt restructuring of any loan, if any;
- x. Revenues generated from amortization portion of approved rates channelled to payments of purchased power cost, if applicable; and
- xi. Other documents that may be needed by the ERC in the course of the evaluation.

BATELEC II is reminded to furnish the legislative body of the Local Government Unit of the locality where it principally operates a copy of its accomplished application form.

In the meantime, finding the application sufficient in form and in substance, with the required fees having been paid, the same is hereby set for hearing on April

28, 2003 at nine o'clock (9:00 A.M.) in the morning at the BATELEC II Main Office, Antipolo del Norte, Lipa City, Batangas.

Let copies of this Order and the attached Notice of Public Hearing be furnished the Municipal/City Mayors of Alitagtag, Balete, Cuenca, Laurel, Lobo, Mabini, Malvar, Mataas Na Kahoy, Padre Garcia, Rosario, San Jose, San Juan, Taysan, Talisay, Tingloy, Lipa City and Tanauan City, all in the Province of Batangas, for the appropriate posting thereof on their respective bulletin boards.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), the National Electrification Administration (NEA), the PSALM and the Committees on Energy of both Houses of Congress who are hereby requested to have their respective duly authorized representatives present at the aforesaid initial hearing.

BATELEC II is hereby directed to publish, at its own expense, the attached Notice of Public Hearing at least twice (2) for two (2) successive weeks in two (2) newspapers of nationwide circulation in the country, the last date of publication to be made not later than two (2) weeks before the scheduled date of initial hearing.

The evidence on the posting and publication of the Notice of Public Hearing consisting of the certifications of the abovementioned Mayors or their duly authorized representatives, bearing the seals of their offices and the affidavits of the Editors or Business Managers of the newspapers wherein the said Notice of Public Hearing would be published, together with the complete copies of the issues of the said

newspapers, should be submitted to the Commission by BATELEC II on the date of the initial hearing.

SO ORDERED.

Pasig City, March 10, 2003.

(Sgd) LETICIA V. IBAY
Acting Chairman

(Sgd) MARY ANNE B. COLAYCO
Commissioner

(Sgd) OLIVER B. BUTALID
Commissioner

(Sgd) CARLOS R. ALINDADA
Commissioner

Copy furnished:

1. Atty. Zenon S. Suarez
Counsel for Petitioner/Applicant
4/F Casman Bldg., 1198 Quezon Avenue.,
Quezon City
2. Batangas I I Electric Cooperative, Inc.
Attn: Evangel A. Manundo
Antipolo del Norte, Lipa City, Batangas
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village
City of Makati - 1229
4. Commission on Audit
Commonwealth Avenue
Quezon City - 1121
5. Fr. Jose Silva
Administrator
National Electrification Administration (NEA)
NIA Road, Diliman, Quezon City
6. Senate Committee on Energy
GSIS Building, Roxas Boulevard
Pasay City - 1300
7. House Committee on Energy
Batasan Hills, Quezon City - 1126

8. Power Sector Assets & Liabilities Management Corporation
2nd Floor SGV II Building
Ayala, Avenue, Makati City
9. The City Mayor
Lipa City, Batangas
10. The City Mayor
Tanauan City, Batangas
11. The Municipal Mayor
Alitagtag, Batangas
12. The Municipal Mayor
Balete, Batangas
13. The Municipal Mayor
Cuenca, Batangas
14. The Municipal Mayor
Laurel, Batangas
15. The Municipal Mayor
Lobo, Batangas
16. The Municipal Mayor
Mabini, Batangas
17. The Municipal Mayor
Malvar, Batangas
18. The Municipal Mayor
Mataas Na Kahoy, Batangas
19. The Municipal Mayor
Padre Garcia, Batangas
20. The Municipal Mayor
Rosario, Batangas
21. The Municipal Mayor
San Jose, Batangas
22. The Municipal Mayor
San Juan, Batangas
23. The Municipal Mayor
Taysan, Batangas
24. The Municipal Mayor
Talisay, Batangas
25. The Municipal Mayor
Tingloy, Batangas