

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

IN RE: APPLICATION FOR APPROVAL OF  
REVISION OF RATE SCHEDULES AND  
APPRAISAL OF PROPERTIES WITH  
PROVISIONAL AUTHORITY

**ERC CASE NO. 2001-243**  
(ERB Case No. 93-118)

MANILA ELECTRIC COMPANY, INC.  
(MERALCO)

Applicant.

x-----x

**ORDER**

On November 15, 2002, the Supreme Court rendered a Decision in Republic vs. Manila Electric Company (G.R. No. 141314) and Lawyers Against Monopoly and Poverty (LAMP), et al. vs. Manila Electric Company (G.R. No.141369) reversing the February 24, 1999 Decision of the Court of Appeals in C.A. G.R. SP No. 46888 and upholding the directive of the then Energy Regulatory Board (ERB) in its Decision dated February 16, 1998 in ERB Case 93-118, for MERALCO to increase its basic rates by only ONE POINT SEVEN CENTAVOS (P0.017) per kWh effective with respect to its billing cycles beginning February 1994, and to refund or correspondingly credit the amount of SIXTEEN POINT SEVEN CENTAVOS (P0.167) per kWh to its customers covering the period starting February 1994 up to present.

It will be recalled that on the basis of an application filed by MERALCO on December 23, 1993, the ERB issued an Order dated January 28, 1994 granting a provisional increase in basic rates of EIGHTEEN POINT FOUR CENTAVOS (P0.184) per kWh, subject to the condition that in the event the ERB finds, after final evaluation, that MERALCO is entitled to a lesser increase in rates, all excess amounts collected by MERALCO shall be refunded to its customers or credited in their favor.

On December 5, 2002, MERALCO filed with the Supreme Court a "Motion for Reconsideration" praying that the November 15, 2002 Decision be reconsidered and the February 24, 1999 Decision of the Court of Appeals be affirmed.

On April 9, 2003, the Supreme Court promulgated a Resolution denying with finality MERALCO's motion for reconsideration. In another Resolution dated April 30, 2003, the Supreme Court again denied MERALCO's urgent motion for consideration dated April 14, 2003 of the November 15, 2002 Decision and April 9, 2003 Resolution and further declared that no further pleadings shall be entertained in the said cases.

On May 8, 2003, MERALCO submitted its "Submission" incorporating therein its proposal to refund to its customers or credit against their future consumptions the 16.7 centavos per kWh in compliance with the Supreme Court decision. On even date, the Commission issued an Order setting the same for public consultation on May 9, 2003.

At the May 9, 2003 public consultation, the officials and representatives of the following organizations and entities were present: 1) MERALCO; 2) Gabay ng Mundo sa Kaunlaran Foundation, Inc. (GABAY Foundation); 3) BAYAN; 4) Power Commission (Senate and House of Representatives); 5) SAMPAL PPA; 6) ANAK-PAWIS; 7) AGHAM; 8) Philippine Consumer Welfare Union (PCWU); 9) GABRIELA; 10) Kilusang Mayo Uno (KMU); 11) Freedom from Debt Coalition (FDC); 12) People Opposed to Warrantless Electricity Rates (POWER); and 13) National Association of Electricity Consumers for Reforms, Inc. (NASECORE). Also present was the Honorable Mayor of Makati City, Mayor Jejomar Binay. Said representatives were all given ample opportunity to present their views on the issue of the MERALCO refund.

In the said public consultation, MERALCO presented its Phase I, Refund and Credit Implementation Process. In addition, the following submitted for the Commission's consideration their respective proposals in an attempt to identify and resolve issues on the MERALCO refund, namely: 1) FDC; 2) POWER ; and 3) NASECORE.

In brief, MERALCO's proposal for the implementation of the Phase I of the refund scheme is as follows: a) Phase I will cover Residential and General Services (RGS) registered customers with active accounts and consuming 100 kWh or less, based on their April 2003 billing; b) the refund due to a registered customer will be based on customers' bills during the period the customer had actually availed of MERALCO's services from February 1994 to May 2003 based on MERALCO's records; c) Registered customers covered in Phase I will be advised in their June 2003 billing of the details and mechanics on how they could avail of the said refund; and d) a new

working schedule would be adopted by MERALCO for its branch office personnel to ensure that the claims of customers will be processed in an orderly and timely manner.

The Commission, having heard and considered the various views, comments and proposals of the participants in the public consultation, finds MERALCO's proposal to implement Phase 1 of the refund scheme to be reasonable and in the public interest, and so hereby **APPROVES** the same.

Accordingly, pending final determination of the proper total amount of refund in this case, MERALCO is directed to develop and submit to this Commission a procedure or mechanism to implement the refund to its residential customers consuming 100 kWh or less, subject to the following guidelines:

- 1) MERALCO should determine the refund due each customer and **start paying the same in CASH not later than June 6, 2003**, with any refund amount first offsetting any arrearage in that customer's bill, unless the customer would prefer that the refund be credited to his/her future billing;
- 2) MERALCO should develop a procedure for advising present and former customers of the existence of the refund and the method for availing of the same, including the conduct of a massive tri-media public information campaign to notify and educate customers of the refund process;
- 3) MERALCO should develop a procedure whereby: (a) customers entitled to any refund and whom MERALCO has no way of contacting; and (b) customers who are connected to MERALCO's system through another person's facilities, may avail of the refund. In

connection with letter (b), MERALCO may coordinate with, and seek the assistance of, local government officials in effectuating the said refund.

4) MERALCO should file a refund report to the Commission at the close of the Phase 1 refund process.

Further, conformably with the Supreme Court Decision and Resolutions in G.R. Nos. 141314 and 141369, MERALCO is hereby directed to **CEASE and DESIST** from collecting from its customers the P0.167/kWh increase in its basic rates effective with respect to its immediately succeeding billing cycle.

Finally, as manifested during the public consultation, MERALCO is hereby directed to submit, for the Commission's consideration, its proposal for the implementation of the other phase/s of the refund scheme on or before May 24, 2003.

SO ORDERED.

Pasig City, May 12, 2003.

**(Sgd) MANUEL R. SANCHEZ**  
Chairman

**(Sgd) MARY ANNE B. COLAYCO**  
Commissioner

**(Sgd) OLIVER B. BUTALID**  
Commissioner

**(Sgd) CARLOS R. ALINDADA**  
Commissioner

**(Sgd) LETICIA V. IBAY**  
Commissioner

Copy furnished:

1. Atty. Manuel L. M. Torres  
Counsel for Applicant  
Quiason Makalintal Barot Torres & Ibarra  
21<sup>st</sup> Floor, Robinsons-Equitable Tower  
4 ADB Avenue, corner Poveda Street  
Ortigas Center, Pasig City – 1600
2. Atty. Wigberto Tanada  
Tanada, Vivo & Tan Law Offices  
6<sup>th</sup> Floor, Strata 200 Bldg.,  
Emerald Avenue, Ortigas Center  
Pasig City
3. Manila Electric Company  
Lopez Bldg., Meralco Avenue  
Pasig City
4. Office of the Solicitor General  
134 Amorsolo St., Legaspi Village  
Makati City – 1229
5. Commission on Audit  
Commonwealth Avenue  
Quezon City – 0880
6. Senate Committee on Energy  
GSIS Building, Roxas Boulevard  
Pasay City -1307
7. House Committee on Energy  
Batasan Hills, Quezon City – 1126

8. Atty. Ceferino Padua  
Suite 6-D, 6/F G.E. Antonio Bldg.,  
T.M. Kalaw, Ermita, Manila – 1000
9. Mr. Genaro Lualhati  
c/o Maura Hilado  
317 Palali St., City of Mandaluyong – 1550
10. Engr. Robert Mallillin  
G/F Alegria Bldg.,  
229 Pasong Tamo St.,  
Makati City – 1231
11. Mr. Pete Ilagan  
National Association of Electricity  
Consumers for Reforms (NASECORE)  
Unit 616 Roxas Seafront Gardens Townhouse  
Roxas Bldv., corner Ortigas St.,  
Pasay City – 1300
12. Atty. Ramon Lapes  
San Miguel Corporation  
San Miguel Ave., Pasig City – 1600
13. Freedom from Debt Coalition  
Manalili Dolleton Law Office  
34 Matiyaga St., Central District  
Quezon City
14. Atty. Jose T. Baldonado  
Vice-President - Agriculture  
Foundation of Phil. Industries, Inc.  
19-F Manalo St. San Juan
15. ATTYS. MARIE YUVIENCO  
And RACHEL F. PASTORES  
Public Interest Law Center  
4<sup>th</sup> Floor, Kaija Bldg.,  
7836 Makati Ave., corner Valdez St.,  
Makati City

16. ATTY. MELVIN A. MATIBAG  
Halili Certeza Matibag Law Offices  
Counsel for Oppositor Province of Laguna  
Suite 224, BPI Office Condominium,  
Plaza Cervantes, Binondo, Manila
17. ATTY. QUIRINO MARQUINEZ  
President  
MR. ANGELO OCAMPO  
Executive Director  
Consumers Union of the Phils.  
2409 Syquia St.,  
Sta. Ana, Manila – 1009
18. ATTY. GERARDO A. DEL MUNDO  
Counsel for Gabay Ng Mundo sa Kaunlaran  
Foundation Inc (GABAY Foundation)  
Gerardo A. del Mundo Law Office  
Unit 2102 Cityland Condominium 10, Tower I  
6815 Ayala Avenue, Makati City
19. ATTY. NELSON A. LOYOLA  
Counsel for Oppositors Loyola et al.  
No. 92 Sampaguita Avenue, Sampaguita Village  
San Pedro Laguna -4023
20. Justice Ramon Mabutas (Ret.)  
2454 Amatista St., San Andres Bukid  
Manila
21. National Economic Development Authority (NEDA)  
Jose Maria Escriva St.,  
Ortigas Center, Pasig City
22. ATTY. JAIME NAGRAMPA  
Nagrampa Law Office  
Unit 305 R.A. Petines Bldg.,  
Examiner St., Corner Times St.,  
West Triangle, Quezon City
23. MR. CESAR K. ESCOSA  
Philippine Justice Foundation  
P.O. Box AC-459 Cubao  
1109 Quezon City

24. JUDGE RAFAEL BELARMINO  
President  
Retired Judges Association of the Philippines (RJAP)  
5 Axtell St., North Fairview  
Quezon city
  
25. ATTY. EDUARDO B. FLAMINIANO  
ELT Center, 103 J. Abad Santos corner  
Lopez Jaena Sts., San Juan, Metro Manila