

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

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL AND RECOVERY OF
GENERATION COST UNDER
THE SECOND GENERATION
RATE ADJUSTMENT
MECHANISM (2ND GRAM),
TOGETHER WITH CARRYING
CHARGES, WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE NO. _____

**MANILA ELECTRIC COMPANY
(MERALCO),**

Applicant.

X-----X

APPLICATION

APPLICANT, Manila Electric Company ("MERALCO" for brevity), by undersigned counsel and to this Honorable Commission, most respectfully states:

THAT--

1. Applicant is a private corporation existing under the laws of the Republic of the Philippines, with principal office located at Lopez Building, MERALCO Center, Ortigas Avenue, Pasig City. It may be served with notices and other processes of this Honorable Commission at its principal office address or through its counsel at the address indicated herein.

2. Applicant has a legislative franchise to operate and maintain a distribution system in the cities/municipalities of Metro Manila, Bulacan, Cavite and Rizal and certain cities/municipalities/barangays in Batangas, Quezon, Pampanga and Laguna pursuant to Republic Act No. 9209, and is authorized to charge all its customers for their electric consumption at the rates duly approved by the Honorable Commission.

3. Pursuant to Republic Act No. 9136 (R.A. 9136), otherwise known as the Electric Power Industry Reform Act (EPIRA), Distribution Utilities (DUs), such as Applicant, are allowed to recover just and reasonable costs to enable them to operate viably.

4. On 14 January 2004, Applicant filed with the Honorable Commission an amended Application entitled "*In the Matter of the Application for the Recovery of the Independent Power Producer Costs under the Generation Rate Adjustment Mechanism (GRAM)*", docketed as ERC Case No. 2004-20 ("*1st GRAM*" for brevity). Said Application was filed pursuant to the Decision of the Honorable Commission dated 20 March 2003 in ERC Case Nos. 2001-646¹ and 2001-900², and the Order dated 24 February 2003 in ERC Case No. 2003-44³ adopting the Implementing Rules for the Generation Rate Adjustment Mechanism (GRAM) and Incremental Currency Exchange Recovery Adjustment (ICERA).

5. On 21 January 2004, the Honorable Commission issued an Order in ERC Case No. 2004-20, approving the 1st GRAM Application and authorizing Applicant to recover generation cost at the rate of **Php3.1886/kWh**, from its customers effective its February 2004 billing cycle (or starting its 01 February 2004 meter reading as clarified in the Honorable Commission's order dated 30 January 2004).

6. On 19 April 2004, Applicant filed another amended Application, this time in ERC Case No. 2004-112, entitled "*In the Matter of the Application for the Recovery of the Independent Power Producer Costs under the Generation Rate Adjustment Mechanism (GRAM)*" ("*2nd GRAM*" for brevity). In said Application, Applicant recalculated its

¹ Entitled "*In the Matter of the Application for Approval of Revision of Rate Schedules and Appraisal of Properties, with Provisional Authority.*"

² Entitled "*In the Matter of the Application for Approval of Revised Rate Schedules in Compliance with Section 36 of Republic Act 9136 and ERC Order dated October 30, 2001, and for Approval of Appraisal of Properties with prayer for Provisional Authority.*"

³ Entitled: "*In the Matter of the Adoption of the Generation Rate Adjustment Mechanism and Incremental Currency Exchange Rate Adjustment.*"

generation charge, aimed at updating the previously allowed generation charge of Php 3.1886 per kWh, to Php 3.4664 per kWh.

7. The remaining balance in the DAA under the 1st GRAM was recalculated to align the Generation Cost with the Generation Charge recovery for proper matching of cost and revenue. The alignment entails using the same-month Generation Cost and Generation Charge recoveries in computing for over/under-recoveries for a given month, as opposed to using the Generation Cost of the previous month and Generation Charge recoveries of the current month. For the June 2003 DAA computation, for example, the June Generation Cost was used instead of the May Generation Cost. For the July 2003 DAA, the July Generation Cost was used, instead of the June figure, and so on. What was used in the 1st GRAM was the prior month Generation Cost in the computation of the current month DAA for all the months in the test period.

8. The aforementioned alignment resulted in the downward adjustment of the 1st GRAM DAA from Php766.5 Million to Php554 Million. ANNEX "A" shows the computation of the Php3.4664/kWh proposed Generation Rate applied for by Applicant. The following documents show Applicant's other supporting computations:

Document	ANNEX
Generation Cost Computation	A-1
Details of IPP Figures	A-2
Computation of Deferred Accounting Adjustment	A-3
Computation of Under/(Over)-recovered Generation Cost	A-4
Computation of Actual Recoveries-Generation Charge	A-5
91-day T-bill Rates Plus 300 Basis Points and supporting documents	A-6 to A-7
Computation of the Adjusted Deferred PPA	A-8
Computation of the Remaining DAA in the First GRAM	A-9
Re-computation of Over/Under	A-10

9. In the Order dated 02 June 2004 in ERC Case No. 2004-112, the Honorable Commission approved a revised Generation Rate of **Php 3.3213/kWh**. Such rate reflected a **Php 0.1451/kWh** reduction from that applied for by the Applicant. The revised generation rate in said Order, which took effect immediately, superseded the **Php3.1886/kWh** previously authorized under ERC Case No. 2004-20 or the 1st GRAM.

10. However, on 28 June 2004, a Petition for Certiorari, Prohibition and Injunction was filed by NASECORE, FOVA and FOLPIA before the Supreme Court, docketed as G.R. No. 163935⁴, seeking to nullify the Order dated 02 June 2004, allegedly for lack of publication of Applicant's amended Application.

11. On 02 February 2006, the Supreme Court issued a Decision declaring as void the 02 June 2004 Order of the Honorable Commission in ERC Case No. 2004-112, on the ground of failure to comply with Rule 3, Section 4(e) of the EPIRA Implementing Rules and Regulations (IRR). It also held that the GRAM Implementing Rules did not become effective for lack of publication in a newspaper of general circulation and for lack of filing at the University of the Philippines-Office of the National Administrative Register (UP-ONAR), as required by the Administrative Code of 1987.

12. On 16 August 2006, the Supreme Court issued a Resolution denying the separate motions for reconsideration filed by ERC and MERALCO and directing the latter to refund to the affected consumers the amount of **Php 0.1327/kWh** representing the "unauthorized" increase. The increase, which was implemented from June to August 2004, is equivalent to an additional billing to customers of **Php 780,489,745**.

⁴ Entitled "National Association of Electricity Consumers for Reforms (NASECORE), represented by Petronilo Ilagan, Federation of Village Associations (FOVA), represented by Siegfriedo Veloso, and Federation of Las Piñas Homeowners Associations (FOLPIA), represented by Bonifacio Dazo, Petitioners, vs. Energy Regulatory Commission (ERC) and Manila Electric Company (MERALCO) Respondents."

13. Pursuant to the ERC Order in ERC Case No. 2004-112 dated 01 September 2006 in response to the 16 August 2006 Resolution of the Supreme Court, Applicant submitted to the Honorable Commission a refund scheme to implement the refund.

14. On 25 October 2006, the Honorable Commission issued an Order approving the proposed refund scheme of the Applicant and directed the latter to:

- i.) Implement the refund scheme starting on its January 2007 billing cycle for a period of three (3) months or until such time that the full amount shall have been refunded;
- ii.) Reflect the 2nd GRAM as a separate item in the bill by using the phrase "2nd Generation Rate Adjustment Mechanism Refund", and
- iii.) Submit a monthly refund status report upon its implementation."

15. As of the end of September 2010, Applicant has refunded to the affected consumers the amount of Php 746,338,121 which is equivalent to 95.6% of the total refundable amount of Php 780,489,745. Copies of the Applicant's monthly refund status report submitted to the Commission are attached as follows:

REFUND MONTH	COMPLIANCE REPORT	ANNEX
September 2010	Compliance with Manifestation dated 29 October 2010	"B"
August 2010	Compliance with Manifestation dated 24 September 2010	"B-1"
July 2010	Compliance with Manifestation dated 24 August 2010	"B-2"
June 2010	Compliance with Manifestation dated 29 July 2010	"B-3"
May 2010	Compliance with Manifestation dated 28 June 2010	"B-4"
April 2010	Compliance with Manifestation dated 28 May 2010	"B-5"
March 2010	Compliance with Manifestation dated 26 April 2010	"B-6"
February 2010	Compliance with Manifestation dated 30 March 2010	"B-7"
January 2010	Compliance with Manifestation dated 01 March 2010	"B-8"
December 2009	Compliance with Manifestation dated 28 January 2010	"B-9"
November 2009	Compliance with Manifestation dated 04 January 2010	"B-10"
October 2009	Compliance with Manifestation dated 01 December 2009	"B-11"
September 2009	Compliance with Manifestation dated 30 October 2009	"B-12"
August 2009	Compliance with Manifestation dated 01 October 2009	"B-13"
July 2009	Compliance with Manifestation dated 01 September 2009	"B-14"
June 2009	Compliance with Manifestation dated 30 July 2009	"B-15"

May 2009	Compliance with Manifestation dated 30 June 2009	"B-16"
April 2009	Compliance with Manifestation dated 29 May 2009	"B-17"
March 2009	Compliance with Manifestation dated 30 April 2009	"B-18"
February 2009	Compliance with Manifestation dated 26 March 2009	"B-19"
January 2009	Compliance with Manifestation dated 02 March 2009	"B-20"
December 2008	Compliance with Manifestation dated 30 January 2009	"B-21"
November 2008	Compliance with Manifestation dated 23 December 2008	"B-22"
October 2008	Compliance with Manifestation dated 28 November 2008	"B-23"
September 2008	Compliance with Manifestation dated 27 October 2008	"B-24"
August 2008	Compliance with Manifestation dated 25 September 2008	"B-25"
July 2008	Compliance with Manifestation dated 1 September 2008	"B-26"
June 2008	Compliance with Manifestation dated 30 July 2008	"B-27"
May 2008	Compliance with Manifestation dated 26 June 2008	"B-28"
April 2008	Compliance with Manifestation dated 30 May 2008	"B-29"
March 2008	Compliance with Manifestation dated 23 April 2008	"B-30"
February 2008	Compliance with Manifestation dated 28 March 2008	"B-31"
January 2008	Compliance with Manifestation dated 29 February 2008	"B-32"
December 2007	Compliance with Manifestation dated 28 January 2008	"B-33"
November 2007	Compliance with Manifestation dated 2 January 2008	"B-34"
October 2007	Compliance with Manifestation dated 29 November 2007	"B-35"
September 2007	Compliance with Manifestation dated 30 October 2007	"B-36"
August 2007	Compliance with Manifestation dated 28 September 2007	"B-37"
July 2007	Compliance with Manifestation dated 28 August 2007	"B-38"
June 2007	Compliance with Manifestation dated 31 July 2007	"B-39"
May 2007	Compliance with Manifestation dated 28 June 2007	"B-40"
April 2007	Compliance with Manifestation dated 31 May 2007	"B-41"
March 2007	Compliance dated 27 April 2007	"B-42"
February 2007	Compliance dated 29 March 2007	"B-43"
January 2007	Compliance dated 1 March 2007	"B-44"

16. Based on Applicant's records, the remaining refundable amount of Php 34,151,624 is mostly for customers with terminated accounts that can no longer be located. It is therefore proposed that Applicant be allowed to terminate the refund immediately upon approval of the instant Application. This would mean that this amount will not be part of the proposed recoverable amount under this Application.

17. This Application is being filed pursuant to Republic Act No. 9136 (otherwise known as the "EPIRA"), which authorizes the distribution utilities to recover just and reasonable costs to enable them to operate viably, and Rule 3, Section 4(e) of the EPIRA IRR, as amended.

18. In support of the instant Application, below is the table showing the 2nd

GRAM Monthly Refund from January 2007 to September 2010:

SECOND GRAM MONTHLY REFUND	
Refund Month	Refunded Amount to Both Active & Terminated Accounts
Sep-10	3,876
Aug-10	4,137
Jul-10	12,117
Jun-10	8,523
May-10	6,766
Apr-10	9,144
Mar-10	8,378
Feb-10	14,887
Jan-10	27,952
Dec-09	48,451
Nov-09	20,637
Oct-09	7,081
Sep-09	13,044
Aug-09	26,343
Jul-09	28,642
Jun-09	27,341
May-09	15,573
Apr-09	9,748
Mar-09	14,982
Feb-09	11,507
Jan-09	15,948
Dec-08	19,028
Nov-08	19,759
Oct-08	25,378
Sep-08	28,520
Aug-08	33,119
Jul-08	33,782
Jun-08	55,560
May-08	45,017
Apr-08	46,611
Mar-08	47,303
Feb-08	51,232
Jan-08	63,308
Dec-07	6,945,645
Nov-07	112,024
Oct-07	118,237
Sep-07	1,201,416
Aug-07	9,490,710
Jul-07	486,678
Jun-07	455,150
May-07	7,947,197

Apr-07	10,225,400
Mar-07	183,707,503
Feb-07	197,921,389
Jan-07	326,923,078
TOTAL	746,338,121

19. In the light of the resulting delay in the recovery of a portion of its generation charge for the period from June to August 2004, Applicant further proposes that the appropriate carrying charges be calculated to account for the longer recovery period and therefore ensure its revenue-neutral position in the recovery of pass-through charges. A copy of the worksheet showing the computation of the carrying charge is attached as ANNEX "C" and made an integral part hereof.

20. Thus, Applicant proposes to recover the generation cost of Php 746,338,121 and the corresponding carrying cost of Php 227,050,596, at the rate of Php 0.0373 per kWh, over a period of one (1) year starting December 2010 or until such time that the total amount is fully recovered. Below is the table showing the rate proposal of Applicant.

	Amount	Rate per kWh
Generation Cost	P746,338,121	P0.0286
Carrying Cost	227,050,596	P0.0087
Total	P973,388,717	P0.0373

In support of the said rate proposal, a copy of the worksheet showing the computation of the rate translation is attached hereto as ANNEX "D" and made an integral part hereof.

21. To explain the details of the instant application and the proposed recovery scheme, and in support of the prayer for provisional authority, attached as ANNEX "E"

and made integral part hereof is the affidavit of **MS. NOEMI B. JIMENEZ**, Senior Manager and Head, Rates and Pricing, Regulatory Management Office of the Applicant.

PRAYER

WHEREFORE, it is respectfully prayed to this Honorable Commission that:

1. The amount of **Php 780,489,745**, which is the equivalent of the **P0.1327** per kWh increase implemented by the Applicant from June to August 2004 under the 2nd GRAM, be approved;

2. Applicant be allowed to terminate the refund immediately upon approval of this Application, provisional or otherwise, and to recover the amount of **Php 746,338,121**, which excludes the remaining balance of the 2nd GRAM Refund in the amount of **Php 34,151,624**;

3. Applicant be allowed to recover the computed carrying cost of **Php 227,050,596**; and

4. Applicant be allowed to recover the total amount of **Php 973,388,717** at the rate of **Php0.0373** per kWh over a period of one (1) year from the approval of this Application or until such time that the total amount is fully recovered.

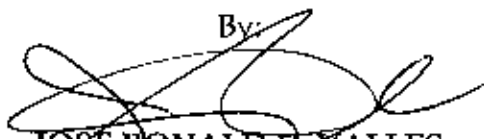
Pending hearing of the instant Application, it is likewise prayed that a provisional authority be issued to the Applicant to prevent further accumulation of the carrying costs.

Other relief just and equitable under the premises are also prayed for.

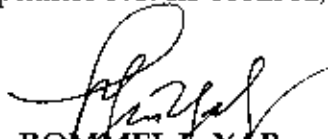
Pasig City, 10 November 2010.

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Applicant
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By:



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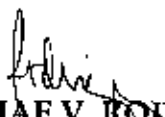
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MCLE Compliance No. III-0008426; 9 February 2010

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VERIFICATION AND CERTIFICATION ON NON-FORUM SHOPPING

I, **IVANNA G. DELA PEÑA**, Filipino, of legal age, married, with office address at 12th Floor, Lopez Building, MERALCO Compound, Ortigas Avenue, Pasig City, after being sworn in accordance with law, hereby depose and say: THAT –

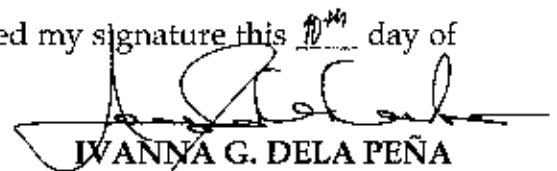
1. I am the First Vice President & Head, Regulatory Management Office of Applicant Manila Electric Company (MERALCO) and I caused the preparation of the foregoing Application. A copy of the Secretary's Certificate authorizing me to cause the preparation of the instant Application and sign this Verification and Certification on Non-Forum Shopping is attached hereto as **Annex "F"**;

2. I have read and understood the allegations contained therein and the same are true and correct based on my personal knowledge and authentic records made available to me in the ordinary course of business of the Applicant;

3. To the best of my knowledge, no similar action or proceeding is pending before the Supreme Court, the Court of Appeals, the lower courts or administrative bodies; and


4. If I should hereafter learn that a similar action has been filed before the Supreme Court, the Court of Appeals, the lower courts or administrative bodies, I undertake to report such fact to this Honorable Commission within five (5) days from notice of such fact.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 10th day of November 2010 at Pasig City, Philippines.


IVANNA G. DELA PEÑA
Affiant

SUBSCRIBED and SWORN to before me this 10th day of November 2010, affiant exhibited to me her Social Security System ID bearing the number 03-5122810-4.

Doc. No. 302
Page No. 03
Book No. 1
Series of 2010.


ATTY. CARMEN GRACE S. RAMOS
NOTARY PUBLIC
Pasig, Pateros, Taguig & San Juan
Issued on June 4, 2009 at Pasig City
until December 31, 2010
Roll No. 55945 / IBP No. 315833: 01222161RSM Chapter
PTR No. 5931755: 01114110 | Pasig City
7th Floor, Lopez Bldg., Ortigas Ave., Pasig City