

REPUBLIC OF THE PHILIPPINES  
ENERGY REGULATORY COMMISSION  
SAN MIGUEL AVE, PASIG CITY

IN THE MATTER OF THE  
APPLICATION TO CONFIRM  
TRANSMISSION COST OVER- AND  
UNDER-RECOVERIES AND OFFSET  
THE NET TRANSMISSION COST  
OVER-RECOVERIES WITH THE  
TRANSMISSION COST UNDER-  
RECOVERIES APPLIED FOR UNDER  
ERC CASE NO. 2007-147 RC,  
INCLUDING CARRYING COST, WITH  
PRAYER FOR PROVISIONAL  
AUTHORITY

ERC CASE NO. 2009 - \_\_\_\_\_

MANILA ELECTRIC COMPANY,  
Applicant,  
x-----x

APPLICATION

Applicant MANILA ELECTRIC COMPANY (MERALCO), by undersigned counsels, and to this Honorable Commission, most respectfully states that:

1. MERALCO is a private corporation existing under the laws of the Republic of the Philippines, with principal office located at Lopez Building, Meralco Compound, Ortigas Avenue, Pasig City. It is a holder of 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, Laguna, Quezon and Pampanga pursuant to Republic Act No. 9209, and is authorized to charge all its customers

for their electric consumption at the rates approved by this Honorable Commission. It may be served with notices, pleadings, orders, and other processes through the undersigned counsel at the address indicated herein.

2. On 26 September 2007 MERALCO filed an application with this Honorable Commission entitled "*IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO RECOVER TRANSMISSION COST UNDER-RECOVERIES, INCLUDING THE CARRYING COST, WITH PRAYER FOR PROVISIONAL AUTHORITY*", docketed as ERC Case No. 2007-147 RC, for the recovery of transmission charge under-recoveries amounting to **PhP5,553,732,307.05** covering the period June 2003 to July 2007, with corresponding carrying cost.

a. A significant portion of these under-recoveries was incurred prior to the promulgation by the Honorable Commission of the "Guidelines for the Adjustment of Transmission Rates by Distribution Utilities (TRAM)." TRAM provided for the annual updating of the transmission charges to customers but did not address the accumulated over- or under-recoveries in the collection of the transmission charge.

b. A detailed explanation for these under-recoveries is provided in said application (ERC Case No. 2007-147 RC), which is now submitted for decision.

3. After Applicant has filed said application, it continued to accumulate under-recoveries from August 2007 to March 2008 in the amount of

**PhP1,868,155,847.33**. The monthly computation of the under-recoveries from August 2007 to March 2008 is attached as **Annex "A"**.

4. Starting with its April 2008 supply month billing, TransCo reduced its Ancillary Service Charges in accordance with the ERC approved Ancillary Services - Cost Recovery Mechanism (AS-CRM). The AS-CRM provides for the monthly adjustment of ancillary services charged to transmission customers. As a result of the reduction in the cost of ancillary services, Applicant incurred over-recoveries in the collection of transmission charges amounting to **PhP6,396,046,232.47** from April 2008 to April 2009. The monthly computation of the over-recoveries for this period is attached as **Annex "A-1"**.

5. Upon confirmation by the Honorable Commission of the amount of **PhP1,868,155,847.33** in under-recoveries from August 2007 to March 2008, as stated in paragraph 3 above, Applicant proposes to offset the same with the amount of **PhP6,396,046,232.47** in over-recoveries accumulated from April 2008 to April 2009 as explained in paragraph 4, as may be confirmed by the Honorable Commission. Said offsetting will result in a net over-recovery of **Php4,527,890,385.14**, as detailed in **Annex "A-2"**.

6. Likewise, Applicant proposes that this net over-recovery of **Php4,527,890,385.14** be offset with the under-recoveries of **PhP5,553,732,307.05** applied for in ERC Case No. 2007-147RC, subject to the Honorable Commission's approval of the said application.

7. Offsetting the under-recoveries of **PhP5,553,732,307.05** applied for in ERC Case No. 2007-147C with the net over-recoveries from August 2007 to April 2009 amounting to **PhP4,527,890,385.14** would result in a net under-recovery collectible from customers of **PhP 1,025,841,921.91**.

8. In its Application under ERC Case No. 2007-147 RC, Applicant prayed for the recovery of carrying costs in the total amount of **PhP1,092,943,966.09** based on the 91-day T-Bill rates plus 300 percentage points. This amount of carrying cost was calculated on the basis of the following assumptions: (1) the recovery period would span twelve months; (2) the recovery would start in November 2007 and end in October 2008; and (3) the 91-day Treasury Bill rate would remain at 3.719%, the actual figure for August 2007. Considering the close to two-year lag between the time the Application in ERC Case No. 2007-147 RC was filed and the time of filing of the instant Application, there is a need to update and recompute the amount of carrying cost to reflect changes in the assumptions and to incorporate the actual T-Bill rates. Thus, using the same method of computation, Applicant determined that the carrying cost should be adjusted to the updated level of **PhP2,248,185,591.98**, as computed in Annex "B".

9. On the other hand, applying the same method of computation and rate of interest, Applicant determined that for the net over-recoveries of **PhP4,527,890,385.14**, a carrying cost of **PhP684,808,491.07** is due to the customers (Annex "B-1"). Thus, subtracting the carrying cost incurred by the over-recoveries from the updated carrying cost incurred by the under-recoveries of **PhP2,248,185,591.98**, would result in a net carrying cost of **PhP1,563,377,100.91**.

10. Upon confirmation by the Honorable Commission, Applicant proposes to recover the net under-recovery amount of PhP 1,025,841,921.91, plus the net carrying cost PhP1,563,377,100.91, over the period of **three (3) years** starting August 2009 or in the billing cycle immediately following the Honorable Commission's approval, at the rate of PhP0.0303/kWh. A detailed computation is attached as **Annex "B-2"**.

11. Furthermore, since the T-bill rate and kWh sales for the recovery period are estimated, Applicant likewise prays that a final adjustment be allowed after the actual recovery period in order to account for any differences between estimated and actual figures.

12. It should be noted that the aforesaid amount of under-recoveries was already paid by the Applicant to TransCo but has not yet been collected from its customers. Verily, these under-recoveries impose a financial burden to the prejudice of the Applicant. Hence, this Application is being filed under the authority of Republic Act No. 9136 (R.A. 9136), which authorizes distribution utilities, like the Applicant, to recover just and reasonable costs to enable them to operate viably and promote efficiency.

13. In order to stop the financial burden to the Applicant and, at the same time, prevent the further accumulation of carrying costs to the prejudice of Applicant's customers, it is urgent that a Provisional Authority be immediately issued upon the filing and pending hearing of the instant Application. In support of the instant Application and prayer for Provisional Authority, the

affidavit of Ms. Arlyn I. dela Cruz, Superintendent, Rates and Pricing, Utility Economics, is attached as Annex "C".

### PRAYER

WHEREFORE, it is respectfully prayed to the Honorable Commission that a Decision be rendered approving the instant Application and that:

1. The transmission cost under-recoveries amounting to **PhP1,868,155,847.33** incurred by the Applicant from August 2007 to March 2008, be confirmed;
2. The transmission cost over-recoveries amounting to **PhP6,396,046,232.47** accumulated by the Applicant from April 2008 until April 2009, be confirmed;
3. The transmission cost under-recoveries of **PhP1,868,155,847.33** be offset against the over-recoveries amount of **PhP6,396,046,232.47**, as may be both confirmed by the Honorable Commission , resulting to net over-recoveries of **Php4,527,890,385.14**.
4. The under-recovery amount of **PhP5,553,734,960.54** applied for in ERC Case No. 2007-147 RC be offset with the net over-recoveries amounting to **Php4,527,890,385.14**, as may be confirmed by the Commission, resulting in net transmission cost under-recoveries of **PhP1,025,841,921.91**; and
5. Applicant be allowed to recover the net transmission cost under-recoveries amounting to **PhP1,025,841,921.91**, plus net carrying cost in

the amount of **PhP1,563,377,100.91**, over a three-year period starting August 2009 or in the billing cycle immediately following the Honorable Commission's approval, at the rate of **PhP0.0303/kWh**.

Pending hearing, it is further prayed that a Provisional Authority be immediately issued so as to avoid any further prejudice to the Applicant, which already advanced payment of the under-recoveries, and the consumers, in terms of additional carrying costs.

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

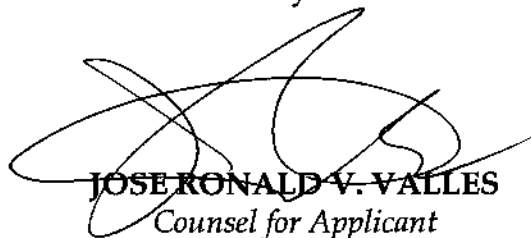
Pasig City, 17 July 2009.

**MANILA ELECTRIC COMPANY**

*Applicant*

MERALCO Compound  
Ortigas Avenue, Pasig City

By:



**JOSE RONALD V. VALLES**

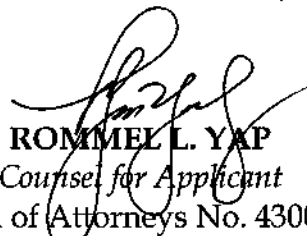
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Roll of Attorneys No. 42281

PTR No. 5100033; 01/05/2009; Pasig City

IBP No. 768572; 01/05/2009; RSM

MCLE Compliance No. II-0001104; 28 April 2008



**ROMMEL L. YAP**

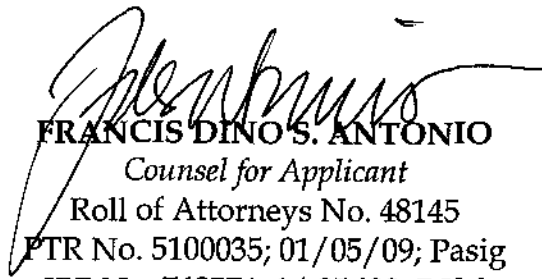
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IBP No. 768573; 01/05/2009; RSM

MCLE Compliance No. II-0001134; 28 April 2008



**FRANCIS DINO S. ANTONIO**

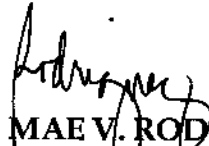
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IBP No. 768574; 1/ 05/09; RSM

MCLE Compliance No. II-0001109; 28 April 2008



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IBP No. 770441; 01/08/2009; Quezon City

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7<sup>th</sup> Floor, Lopez Building, MERALCO Compound  
Ortigas Avenue, Pasig City

REPUBLIC OF THE PHILIPPINES )  
CITY OF PASIG ) S.S.

**VERIFICATION AND CERTIFICATION ON NON FORUM SHOPPING**

I, **IVANNA G. DELA PEÑA**, Filipino, of legal age, married, with office address at 12<sup>th</sup> 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 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 "D"; and

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, except for Energy Regulatory Commission (ERC) Case No. 2007-147 RC, which is already submitted for Decision, 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 20<sup>th</sup> day of July at Pasig City, Philippines.

  
IVANNA G. DELA PEÑA  
Affiant

SUBSCRIBED and SWORN to before me this 20<sup>th</sup> day of July 2009, affiant exhibited to me her Social Security System ID bearing the number 03-5122810-4.

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Page No. 22  
Book No. VII  
Series of 2009.

  
NOTARY PUBLIC  
ATTY. ROMMEL Q. YAP  
NOTARY PUBLIC  
Pasig, Pateros, Taguig & San Juan  
Issued on January 7, 2008 at Pasig City  
until December 31, 2009  
Roll No. 43007 / IBP No. 768573: 01/05/2009/RSM Chapter  
PTR No. 5100034; 01/05/2009 / Pasig City  
7<sup>th</sup> Floor, Lopez Bldg., Ortigas Ave., Pasig City



## **SECRETARY'S CERTIFICATE**

I, **ANTHONY V. ROSETE**, a duly elected, qualified and incumbent Assistant Corporate Secretary of the Manila Electric Company (MERALCO), a corporation duly organized and existing under and by virtue of the laws of the Philippines, do hereby certify that:

At the regular meeting of the Board of Directors of the Company duly convened and held on March 24, 2009, at which meeting a quorum was present, acted throughout and voted, the following resolutions were approved and that said resolutions are in full force and effect on the date hereof:

**"RESOLVED**, that the Board of Directors of the Manila Electric Company (MERALCO) authorize, as it hereby authorizes Messrs. **MANUEL M. LOPEZ**, Chairman & Chief Executive Officer, **JOSE P. DE JESUS**, President & Chief Operating Officer, **EMMANUEL R. SISON**, Corporate Secretary, **RICARDO V. BUENCAMINO**, Executive Vice President & Head, Networks, **ROBERTO R. ALMAZORA**, Senior Vice President & Head, Customer Retail Services, **LEONISA C. DE LA LLANA**, Senior Vice President & Head, Human Resources & Corporate Services, **RAFAEL L. ANDRADA**, First Vice President & Treasurer, **RUBEN B. BENOSA**, Vice President & Head, Corporate Logistics Office, **IVANNA G. DELA PEÑA**, Vice President & Head, Utility Economics, **ANTHONY V. ROSETE**, Vice President, Assistant Corporate Secretary & Head, Legal, **MARTIN L. LOPEZ**, Vice President and Chief Information Officer, **MIGUEL L. LOPEZ**, Vice President & Head, Corporate Marketing, **HORATIO ENRICO M. BONA**, Assistant Vice President & Head, Civil Law, **TERESITA M. MAGPAYO**, Assistant Vice President and Head, Paralegal Services, **GERMAN F. MARTINEZ, JR.** Assistant Vice President & Head, Taxation, **MARIA ZARAH R. VILLANUEVA-CASTRO**, Senior Manager & Head, Corporate Law, **DENNIS E. ALABANZA**, Manager & Head, Labor Law, and any lawyer or employee of MERALCO that any of them may designate, name, or appoint:

- (1) to represent the Company in the institution, prosecution, and defense of any claim, complaint, action, proceeding, petition, application, protest, suit, or case, for or against the Company, before any court, prosecutor's office, regulatory, quasi-judicial, or administrative body, agency, or office of the national or any local government;

complaint, petition, application, position paper, memorandum, all types of pleadings and motions, verifications, affidavit-complaint, counter-affidavit, affidavit of merit, affidavit of desistance, affidavit of witness, and all other affidavits of whatever nature, certificate of non-forum shopping, powers of attorney, certifications, and all other instruments as may be necessary or proper;

- (3) to represent the Company or to designate, name, and appoint a representative or an attorney-in-fact in behalf of the Company during the investigation, inquest, preliminary investigation, preliminary conference, pre-trial, mediation, conciliation, arbitration, trial, execution, and all other stages of or incidents related to the case, proceeding or action; to negotiate, enter into, and agree to an amicable settlement, compromise agreement, plea bargaining, admissions or waiver of claim or action; and to perform and execute any and all actions or deeds as may aid in the prompt disposition of such cases, proceedings, or actions filed in behalf of or against the Company;

"RESOLVED, FURTHER, that any previous resolution of the Board of Directors on the same subject matter that is inconsistent herewith shall be deemed terminated, superseded and revoked."


Pursuant to the above resolutions, Ms. IVANNA G. DELA PEÑA, Vice President and Head, Regulatory Management Office & Utility Economics, is an authorized representative and signatory of the Company with respect to the filing of the "APPLICATION TO CONFIRM TRANSMISSION COST OVER- AND UNDER-RECOVERIES AND OFFSET THE NET TRANSMISSION COST OVER-RECOVERIES WITH THE TRANSMISSION COST UNDER-RECOVERIES APPLIED FOR UNDER ERC CASE NO. 2007-147 RC, INCLUDING CARRYING COST, WITH PRAYER FOR PROVISIONAL AUTHORITY" with the Energy Regulatory Commission (ERC).

WITNESS THE SIGNATURE of the undersigned as such officer of the Company and its corporate seal hereunto affixed on this 10<sup>th</sup> day of July 2009.

  
ANTHONY V. ROSETE  
Assistant Corporate Secretary

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of July 2009, affiant exhibiting to me his Driver's License No. N16-77-00607 with expiry date on December 1, 2009 issued by the Land Transportation Office (LTO) as his competent evidence of identity.

Doc. No. 6 ;  
Page No. 3 ;  
Book No. I ;  
Series of 2009.

  
ATTY. CARMEN GRACE S. RAMOS  
NOTARY PUBLIC  
Pasig, Pateros, Taguig & San Juan  
Issued on June 8, 2009 at Pasig City  
until December 31, 2010  
Roll No. 55945 / IBP No. 768578; 01/05/2009/RSM Chapter  
PTR No. 5100039; 01/05/2009 / Pasig City  
7<sup>th</sup> Floor, Lopez Bldg., Ortigas Ave., Pasig City