

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF
ADJUSTMENT IN RATES
PURSUANT TO THE TARIFF
GLIDE PATH RULES, WITH
PRAYER FOR PROVISIONAL
AUTHORITY,**

ERC CASE NO. 2015-143 RC


**LEYECO IV ELECTRIC
COOPERATIVE, INC.
(LEYECO IV),**

Applicant.

X-----X

D O C K E T E D

Date: **FEB 03 2017**

By: 

O R D E R

On 29 July 2015, applicant Leyte IV Electric Cooperative, Inc. (LEYECO IV) filed an application dated 19 June 2015 seeking the Commission's approval for the adjustment in its rates in accordance with the rules governing the tariff glide path pursuant to Article VII of the Rules for Setting the Rural Electric Cooperatives' Wheeling Rates (RSEC-WR).

LEYECO IV alleged the following in its application:

1. LEYECO IV is a non-stock, non-profit electric cooperative, duly organized and existing under and by virtue of Philippine laws, with principal offices at Brgy. Lamak, Hilongos, Leyte;

2. It holds an exclusive franchise issued by the National Electrification Commission to operate an electric light and power distribution service in the City of Baybay and five (5) municipalities in the Province of Leyte, namely, Inopacan, Hindang, Hilongos, Bato and Matalom;

THE ANTECEDENT FACTS

3. In 2009, the Honorable Commission promulgated the Rules for Setting the Electric Cooperatives' Wheeling Rates (RSEC-

WR);

4. The RSEC-WR envisioned a regulatory framework whereby an Initial Tariff and a Tariff Glide Path shall be developed for each Electric Cooperative (EC) Group for a Regulatory Period;

5. Pursuant to the RSEC-WR, in 2009, LEYECO IV filed with the Honorable Commission an application for approval of proposed adjustment in its rates, docketed as ERC Case No. 2009-151 RC;

6. In the said application, the Honorable Commission granted the cooperative provisional authority to implement the proposed rates in three-year tranches, with the following rate caps or initial tariffs on the Distribution, Supply and Metering (DSM) Charges being implemented starting at the end of the transition period, to wit:

CHARGES	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			267.9000
Distribution System Charge	PhP/kWh	0.8449	0.9259	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		40.1500	40.1500
Supply System Charge	PhP/kWh	0.7732		
Metering Charges:			28.7200	28.7200
Retail Customer Charge	PhP/Meter/Mo	5.0000		
Metering System Charge	PhP/kWh	0.4569		

7. It is provided under Article 7 of the RSEC-WR that during the regulatory period, the rate of the ECs per group shall be adjusted using the following formula, to wit:

$$\text{Tariff} \times (1 + \text{index "I"} - \text{Efficiency Factor "X"} + \text{Performance Incentive "S"})$$

The Index "I", shall be an escalation factor to be used in adjusting the rates to reflect the combined impact of inflation and load factor. There shall be an efficiency factor "X" to account for the operational efficiency of the ECs in setting their rates. There shall be a performance incentive "S" which shall reward or penalize the EC for above or below standard performance, respectively.

The TGP is intended as a cap and the EC may move up to the cap, if it is a positive adjustment. If the cap is lower than the current average tariff, a reduction may be implemented.

LEGAL BASES FOR THE APPLICATION

8. On May 2, 2011, the Honorable Commission promulgated the Tariff Glide Path (TGP) Rules pursuant to Article 7 of the RSEC-WR;

9. The TGP is a rate adjustment mechanism which provides an opportunity for the ECs to adjust their rates once every

three (3) years. The rate adjustments may occur at the start of the fourth year of the first Regulatory Period and every three years thereafter;

10. Under the TGP, the regulatory period is six (6) years for each entry group. For the Third Entrant Group, the first regulatory period is from January 1, 2013 to December 31, 2018. LEYECO IV belongs to the Third Entrant Group;

11. Further under the TGP Rules, the concerned EC shall use the following formula in determining the TGP for the first to third years of the Regulatory Period, to wit:

$TGP_A = TGP_n + TGP_{n+1} + TGP_{n+2}$ where

$TGP_n = I_n - X_n + S_n$

N= the first year of their Regulatory Period and succeeding Regulatory Periods

Except that for the first two years of the First Regulatory Period, "X" will be equal to zero and thereafter shall not be less than zero. The TGP calculated for each of the three years will be summed to determine the possible rate adjustment the starting on the Fourth Year of the current Regulatory Period.

THE PROPOSED RATE ADJUSTMENT

12. LEYECO IV was among the electric cooperatives whose franchise areas were severely hit by Super Typhoon Yolanda on that fateful day of November 8, 2013;

13. The typhoon brought about massive destruction to life and property, including LEYECO IV's distribution facilities;

14. The catastrophe destroyed the households and businesses of LEYECO IV's customers, and during the months that the cooperative was unable to bill and collect payment from its customers, its revenues and number of customers fell;

15. It should be noted that the number of billed customers as well amount of kilowatt hour sales during the period covered by the instant application are determinants in the computation of the TGP;

16. If the reduction in its revenues and number of billed customers brought about by the destruction of Typhoon Yolanda is considered in LEYECO IV'S calculations, the resulting rates would not be reflective of the cooperative's normal operations;

17. LEYECO IV prepared a comparative analysis utilizing historical data under normal operations as well as actual data when the cooperative's operations was being prejudiced by the effects of Typhoon Yolanda, and applying the methodology embodied in the TGP Rules, calculated the values of the "I", "X" and "S", and came up with the following results, to wit:

Utilizing data under normal operations:

	"I"	"X"	"S"	TGP A	TGP A (Excluding "S")
Year 2013	0.00%	0.00%	1.50%	1.50%	0.00%
Year 2014	0.59%	0.00%	2.30%	2.89%	0.59%
Year 2015	5.47%	6.15%	1.30%	0.62%	-0.68%
Net Results				5.01%	-0.09%

Including actual data affected by Typhoon Yolanda

	"I"	"X"	"S"	TGP A	TGP A (Excluding "S")
Year 2013	0.00%	0.00%	1.50%	1.50%	0.00%
Year 2014	6.80%	0.00%	2.30%	9.10%	6.80%
Year 2015	2.48%	36.23%	1.30%	-32.45%	-33.75%
Net Results				-21.85%	-26.95%

18. Applying the above values pursuant to the TGP Rules resulted in adjustments in LEYECO IV's DSM Rates, as follows:

A. WITH PERFORMANCE INCENTIVE "S" AND UNDER NORMAL OPERATIONS

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			281.33
Distribution System Charge	PhP/kWh	0.8873	0.9723	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		42.16	42.16
Supply System Charge	PhP/kWh	0.8120		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.25	30.16	30.16
Metering System Charge	PhP/kWh	0.4798		

B. EXCLUDING PERFORMANCE INCENTIVE "S" AND UNDER NORMAL OPERATIONS

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			267.67
Distribution System Charge	PhP/kWh	0.8442	0.9251	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		40.12	40.12
Supply System Charge	PhP/kWh	0.7725		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.00	28.70	28.70
Metering System Charge	PhP/kWh	0.4565		

C. WITH PERFORMANCE INCENTIVE "S" AND WITH DATA UNDER TYPHOON YOLANDA

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			209.37
Distribution System Charge	PhP/kWh	0.6603	0.7236	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		31.38	31.38
Supply System Charge	PhP/kWh	0.6043		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	3.91	22.44	22.44
Metering System Charge	PhP/kWh	0.3571		

D. EXCLUDING PERFORMANCE INCENTIVE "S" AND WITH DATA UNDER TYPHOON YOLANDA

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			195.70
Distribution System Charge	PhP/kWh	0.6172	0.6764	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		29.33	29.33
Supply System Charge	PhP/kWh	0.5648		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	3.65	20.98	20.98
Metering System Charge	PhP/kWh	0.3338		

19. From the foregoing, it is shown that LEYECO IV's resulting rates are lower if the extra-ordinary effects of Typhoon Yolanda is considered in the calculations;

20. However, the effects of Typhoon Yolanda is an extra-ordinary occurrence and not reflective of the normal operations of LEYECO IV. Consequently, the cooperative respectfully prays for the approval of the calculated DSM rates utilizing data during normal operations.

SUPPORTING DATA AND DOCUMENTS

21. In support of the foregoing computations, the cooperative is submitting herewith the following data and documents, which are being made integral parts hereof, to wit:

Annex	Nature of Document
A A-1 A-2	Proposed TGP Calculation and supporting documents using the prescribed templates: Index "I" Calculation Efficiency Factor "X" Calculation Performance Incentive "S" Calculation
B	Monthly Financial and Statistical Report (MFSR) – Sections B and E (2010-2014)
C	Billing Determinants Template (kWh Sales, Number of Customers, kW Demand) (2010-2104)
D	Sample Bills (per customer type) (2010-2014)
E	Regional CPI (2011-2014)
F	RFSC/Reinvestment Fund Utilization (2012-2014)
G	Consumer Complaints (Summary or Tracking Form) (2012-2014)
H	Audited Financial Statements (2010-2014)

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

22. Applicant repleads the foregoing allegations as may be material herein;

23. Applicant's current DSM rates which were granted by the Honorable Commission provisionally, were implemented in three – year tranches starting way back January 2010, with the rate caps or initial tariffs being implemented only starting at the end of the three-year transition period;

24. Over the years, the cost of its operations has significantly increased, not only as a logical effect of inflation as well as certain governmental requirements, but likewise due to the inevitable expansion of its distribution network brought about by the extension of its services to remote areas. More significantly, the cooperative has been implementing the Sitio Energization Program (SEP) of the Aquino government, such that the massive expansion of its distribution lines up to the remotest areas has considerably increased its operational and maintenance costs, not to mention the increased system loss which the cooperative is likely to absorb. All these costs were not duly provided for in its current rates and the general funds being generated from its DSM revenues as granted under the RSEC-WR are no longer sufficient to cover these inevitable costs;

25. Thus, the cooperative urgently needs additional funds to be able to cope with the rising costs of its operations;

26. Further, based on the provisions of the TGP Rules, for

cooperatives belonging to the Third Entrant Group, their initial tariff shall be adjusted at the start of the fourth regulatory year of the First Regulatory Period, which is January 1, 2016;

27. Considering the foregoing, applicant respectfully prays that while the instant application is pending, it be granted a provisional authority to implement the proposed rates effective January 1, 2016.

COMPLIANCE WITH PRE-FILING REQUIREMENTS

28. Finally, in compliance with the ERC Rules of Practice and Procedure, applicant is likewise submitting herewith the following documents, which are being made integral parts hereof, to wit:

Annex	Nature of Document
I	Affidavit in Support of the Prayer for Provisional Authority
J to J-1	Proof of furnishing copies of the Application to the Sangguniang Bayan of Hilongos and Sangguniang Panlalawigan of Leyte
K and series	Proof of publication of the Application in a newspaper of general circulation in LEYECO IV's franchise area or where its principally operates

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission that pending evaluation of the instant application or after due notice and hearing, as the case may be, LEYECO IV be allowed to implement effective January 1, 2016 either of the following two (2) alternative proposed new rates for Distribution, Supply and Metering (DSM) Charges, to wit :

A. WITH PERFORMANCE INCENTIVE "S" AND UNDER NORMAL OPERATIONS

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			281.33
Distribution System Charge	PhP/kWh	0.8873	0.9723	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		42.16	42.16
Supply System Charge	PhP/kWh	0.8120		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.25	30.16	30.16
Metering System Charge	PhP/kWh	0.4798		

B. EXCLUDING PERFORMANCE INCENTIVE "S" AND UNDER NORMAL OPERATIONS

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			267.67
Distribution System Charge	PhP/kWh	0.8442	0.9251	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		40.12	40.12
Supply System Charge	PhP/kWh	0.7725		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.00	28.70	28.70
Metering System Charge	PhP/kWh	0.4565		

Other reliefs, just and equitable in the premises are likewise prayed for.

Finding the said application sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **22 February 2017 (Wednesday) at two o'clock in the afternoon (2:00 P.M.) at LEYECO IV's Main Office in Lamak, Hilongos, Leyte.**

Accordingly, LEYECO IV is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the application, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;

- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the application and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, applicant must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by applicant to inform of the filing of the application, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the application and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicant and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-trial Conference, their respective Pre-trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

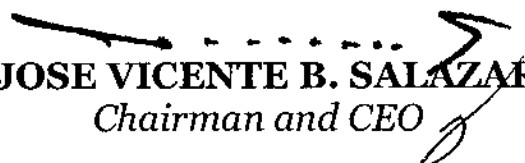
Failure of applicant to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

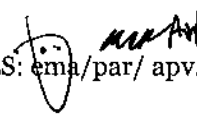
LEYECO IV must also be prepared to make an expository presentation of the instant application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 30 January 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO

LS: /par/ apv.2015-143 RC LEYECO IV.doc

ERC
Office of the Chairman


B-2017-001-OC-08309

Copy Furnished:

1. Attys. Ditas Lerios-Amboy and Precious Ellen Pingol
Counsels for LEYECO 4
Units 1609-1610, Tycoon Centre, Pearl Drive,
Ortigas Center, Pasig City
2. Leyte IV Electric Cooperative, Inc.
Lamak, Hilongos, Leyte
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village , Makati City
4. Commission on Audit
Commonwealth Ave., Quezon City
5. The Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
6. The Committee on Energy
House of Representatives
Batasan Hills, Quezon City
6. Office of the City Mayor
Baybay City, Leyte
7. Office of the LGU Legislative Body
Baybay City, Leyte
8. Office of the Mayor
Inopacan, Leyte
9. Office of the LGU Legislative Body
Inopacan, Leyte
10. Office of the Mayor
Hindang, Leyte
11. Office of the LGU Legislative Body
Hindang, Leyte
12. Office of the Mayor
Hilongos, Leyte
13. Office of the LGU Legislative Body
Hilongos, Leyte
14. Office of the Mayor
Bato, Leyte
15. Office of the LGU Legislative Body
Bato, Leyte

16. Office of the Mayor
Matalom, Leyte
17. Office of the LGU Legislative Body
Matalom, Leyte
18. Office of the Governor
Province of Leyte
19. Office of the LGU Legislative Body
Province of Leyte
20. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building, Sen. Gil Puyat Avenue
Makati City
21. Regulatory Operations Service (TGP Group)
17/F, Pacific Center Bldg., San Miguel Ave.,
Ortigas, Pasig City