

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



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

ERC Case No. 2015-164 RC

**LEYTE III ELECTRIC
COOPERATIVE INC.
(LEYECO III),**

Applicant.

X-----X

D O C K E T E D
Date: MAR 20 2017
By: [Signature]

ORDER

On 15 September 2015, Leyte III Electric Cooperative, Inc. (LEYECO III) filed an *Application* dated 03 September 2015 (Application) for the approval of the adjustment in rates pursuant to the Tariff Glide Path (TGP) Rules, with prayer for provisional authority.

LEYECO III alleged the following in its *Application*:

1. LEYECO III is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of Presidential Decree 269, as amended, with capacity to sue and be sued, with principal office at Brgy. San Roque, Tunga, Leyte, where it may be served with summons and other legal processes, represented in this instance by its General Manager, ALLAN L. LANIBA, who was authorized to represent and file this application per Board Resolution nos. 2015-05-75 and 2015-05-74 dated May 30, 2015, copy of which are hereto attached as "**Annex A**" and "**Annex B**", respectively. Likewise attached herein is the LEYECO III Board Resolution no. 2015-05-76 engaging the services of undersigned counsel for this purpose, marked as "**Annex C**";
2. Applicant is a holder of exclusive franchise issued by National Electrification Administration (NEA) to operate an electric light and power distribution service in the north-eastern part of Leyte covering nine (9) municipalities, namely: Capoocan, Carigara,

Barugo, San Miguel, Tunga, Alangalang, Jaro, Santa Fe and Pastrana. A copy of LEYECO III's Certificate of Franchise is hereto attached as "Annex D".

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 III filed with the Honorable Commission an application for approval of proposed adjustment in its rates, docketed as ERC Case No. 2009- 108RC;
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
Distribution Charges:			
Demand Charge	PhP/kW		
Distribution System Charge	PhP/kWh	1.0557	1.1577
Supply Charges:			
Retail Customer Charge	PhP/Customer/Mo		42.82
Supply System Charge	PhP/kWh	1.0282	
Metering Charges:			
Retail Customer Charge	PhP/Meter/Mo	5.0000	29.12
Metering System Charge	PhP/kWh	0.5792	

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:

Tariff x (1+ index "I"-Efficiency Factor "X" + 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

A. The Tariff Glide Path Rules

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 III 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:

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

$$TGP_n = I_n - X_n + S_n$$

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.

B. The RSEC-WR

12. Under Article 3.1 of the RSEC-WR, for electric cooperatives belonging to Group A to which LEYECO III belongs, the Initial DSM Tariffs for Higher Voltage Customers are as follows, to wit:

Particulars	Units	Distribution	Supply	Metering
Higher Voltage	PhP/kW PhP/cust/mo.	302.51	42.82	29.12

13. As noted in Paragraph 6 above however, the rates granted to LEYECO III do not include rates for Higher Voltage Customers;

14. The reason for the non-inclusion was that, at the time of filing said application, LEYECO III did not have any existing customers which could be classified as Higher Voltage Customers, and the cooperative was not expecting to have in the near future, any customers which would fall within the category of Higher Voltage hence, the exclusion in said application for approval of rates for higher voltage customers;

THE PROPOSED RATE ADJUSTMENT

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

A) WITH PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE	
		Residential	Low Voltage
Distribution Charges:			
Demand Charge	PhP/kW		
Distribution System Charge	PhP/kWh	1.3716	1.5041
Supply Charges:			
Retail Customer Charge	PhP/Customer/Mo		55.63
Supply System Charge	PhP/kWh	1.3358	
Metering Charges:			
Retail Customer Charge	PhP/Meter/Mo.	6.50	37.83
Metering System Charge	PhP/kWh	0.7525	

B) EXCLUDING PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE	
		Residential	Low Voltage
Distribution Charges:			
Demand Charge	PhP/kW		
Distribution System Charge	PhP/kWh	1.3504	1.4809
Supply Charges:			
Retail Customer Charge	PhP/Customer/Mo		54.78
Supply System Charge	PhP/kWh	1.3153	

Metering Charges:			
Retail Customer Charge	PhP/Meter/Mo.	6.40	37.25
Metering System Charge	PhP/kWh	0.7409	

16. Consequently, the cooperative respectfully prays for the approval of the above calculated DSM rates.

SUPPORTING DATA AND DOCUMENTS

17. 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
E	Proposed TGP Calculation and supporting documents using the prescribed templates:
E-1	Index "I" Calculation
E-2	Efficiency Factor "X" Calculation
E-3	Performance Incentive "S" Calculation
F	Monthly Financial and Statistical Report (MFSR) – Sections B and E (2010-2014)
G	Billing Determinants Template (kWh Sales, Number of Customers, kW Demand) (2010-2104)
H	Sample Bills (per customer type) (2010-2014)
I	Regional CPI (2011-2014)
J	RFSC/Reinvestment Fund Utilization (2012-2014)
K	Consumer Complaints (Summary or Tracking Form) (2012-2014)
L	Audited Financial Statements (2010-2014)

MOTION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

18. All the forgoing allegations are repleaded by reference in support of the instant Motion for the issuance of provisional authority;

19. Applicant's current DSM rates for Residential and Lower Voltage Customers as granted by the Honorable Commission based on the RESC-WR, were implemented by the cooperative in three (3) yearly tranches, which started way back in January 2010;

20. 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;
21. Thus, the cooperative urgently needs additional funds to be able to cope with the rising costs of its operations;
22. 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;
23. 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. In support to the prayer for Provisional Authority, the Judicial Affidavit of LEYECO III's Finance Department Manager is hereto attached and made integral part of this application and marked as "**Annex M**"

COMPLIANCE WITH PRE-FILING REQUIREMENTS

24. Finally, LEYECO III has duly complied with the pre-filing requirements as required in Section 2, Rule 6, of ERC Rules of Practice and Procedure, by furnishing copies of the application together with its supporting annexes to the Sangguniang Bayans of 9 municipalities in the Province of Leyte. It likewise published the Application in its entirety in a newspaper of general circulation in the Province of Leyte, where the franchise area of Applicant LEYECO III is operating. Proofs of pre-filing compliance are hereby attached to form as integral part hereof, to wit:

Annex	Nature of Document
N to W	Proof of furnishing copies of the Application to Sangguniang Bayan of Capoocan, Carigara, Barugo, San Miguel, Tunga, Alangalang, Jaro, Santa Fe and Pastrana; and Sangguniang Panlalawigan of Leyte
X to Y	Proof of publication of the Application in a newspaper of general circulation in LEYECO III's franchise area or where it 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 III 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 for Residential, Low Voltage Customers, to wit :

A. WITH PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE	
		Residential	Low Voltage
Distribution Charges:			
Demand Charge	PhP/kW		
Distribution System Charge	PhP/kWh	1.3716	1.5041
Supply Charges:			
Retail Customer Charge	PhP/Customer/Mo		55.63
Supply System Charge	PhP/kWh	1.3358	
Metering Charges:			
Retail Customer Charge	PhP/Meter/Mo.	6.50	37.83
Metering System Charge	PhP/kWh	0.7525	

B. EXCLUDING PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE	
		Residential	Low Voltage
Distribution Charges:			
Demand Charge	PhP/kW		
Distribution System Charge	PhP/kWh	1.3504	1.4809
Supply Charges:			
Retail Customer Charge	PhP/Customer/Mo		54.78
Supply System Charge	PhP/kWh	1.3153	
Metering Charges:			

Retail Customer Charge	PhP/Meter/Mo.	6.40	37.25
Metering System Charge	PhP/kWh	0.7409	

Other reliefs, just and equitable under the premises are likewise most respectfully 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 **25 April 2017 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at the LEYECO III's Main Office in Brgy. San Roque, Tunga, Leyte.**

Accordingly, LEYECO III 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 their 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 Governors, 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 their 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 Governors, 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:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form 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 III 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, 20 February 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO

Copy furnished:

1. Atty. Rogelio P. Gula
Counsel for LEYECO III
Gula Law & Notarial Office
#78, 2nd Floor, Cabigon Bldg., Sen. Enage St.,
Tacloban City, Leyte
2. Leyte III Electric Cooperative, Inc. (LEYECO III)
Brgy. San Roque, Tunga, Leyte
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
4. Commission on Audit
Commonwealth Avenue
Quezon City, Metro Manila
5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Metro Manila
6. House Committee on Energy
Batasan Hills, Quezon City, Metro Manila
7. Office of the Provincial Governor
Province of Leyte
8. Office of the Sangguniang Panlalawigan
Province of Leyte
9. Office of the Municipal Mayor
Alangalang, Leyte
10. Office of the Sangguniang Bayan
Alangalang, Leyte
11. Office of the Municipal Mayor
Barugo, Leyte
12. Office of the Sangguniang Bayan
Barugo, Leyte
13. Office of the Municipal Mayor
Capoocan, Leyte
14. Office of the Sangguniang Bayan
Capoocan, Leyte
15. Office of the Municipal Mayor
Carigara, Leyte
16. Office of the Sangguniang Bayan
Carigara, Leyte

17. Office of the Municipal Mayor
Jaro, Leyte
18. Office of the Sangguniang Bayan
Jaro, Leyte
19. Office of the Municipal Mayor
Pastrana, Leyte
20. Office of the Sangguniang Bayan
Pastrana, Leyte
21. Office of the Municipal Mayor
San Miguel, Leyte
22. Office of the Sangguniang Bayan
San Miguel, Leyte
23. Office of the Municipal Mayor
Sta. Fe, Leyte
24. Office of the Sangguniang Bayan
Sta. Fe, Leyte
25. Office of the Municipal Mayor
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26. Office of the Sangguniang Bayan
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