

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



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO
INCLUDE IN
CUSTOMER'S BILL A
TAX RECOVERY
ADJUSTMENT CLAUSE
(TRAC) FOR FRANCHISE
TAXES PAID IN THE
PROVINCE OF LAGUNA**

ERC CASE NO. 2018-034 CF

**FIRST LAGUNA
ELECTRIC
COOPERATIVE, INC.
(FLECO),
Applicant.**

D O C K E T E D
Date: AUG 02 2018
By: [Signature]

X-----X

ORDER

On 28 June 2018, First Laguna Electric Cooperative, Inc. (FLECO) filed an *Application* dated 31 May 2018, seeking approval of the authority to include in customer's bill a Tax Recovery Adjustment Clause (TRAC) for franchise taxes paid in the Province of Laguna.

FLECO alleged the following in its *Application*:

1. Applicant is an electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with the principal office at Barangay Lewin, Lumban, Laguna, where it may be served with summons and other legal processes, represented in this instance by its Board President, ALLAN S. GUALBERTO, of legal age, Filipino, and with office address also at FLECO main office;
2. FLECO is the exclusive franchise holder issued by the National Electrification Administration (NEA) to operate an electric light and power services in the municipalities of the province of Laguna, namely: Cavinti, Pagsanjan, Lumban, Kalayaan, Paete, Pakil, Pangil, Siniloan, Famy, Mabitac and Sta. Maria;

ERC CASE NO. 2018-034 CF
ORDER/ 23 July 2018
PAGE 2 OF 8

3. That the Office of the Provincial Treasurer of Laguna assessed FLECO its arrears on its basic franchise tax liabilities for the following years:

TAXABLE YEAR	GROSS SALES (Php)	TAXABLE FRANCHISE TAX (Php)	GOVERNOR'S PERMIT FEE (Php)	PTO CERTIFICATION FEE	GRAND TOTAL (Php)
2012	82,186,497.52	100,834.42	100.00	50.00	100,984.42
2013	96,863,516.41	484,317.58	100.00	50.00	484,467.58
2014	98,652,231.85	493,261.16	100.00	50.00	493,411.16
2015	102,344,911.02	562,897.01	500.00	50.00	563,447.01
2016	112,996,322.34	621,479.77	500.00	50.00	622,029.77
2017	118,487,801.31	651,682.00	500.00	50.00	652,232.00
	611,531,280.45	2,914,471.94	1,800.00	300.00	2,916,571.94

4. That FLECO paid the basic franchise tax to the Province of Laguna in the total amount of **Php 2,916,571.94**, as follows:

DATE	PARTICULARS	AMOUNT	CV No. / JV No.	OR No.	TOTAL	GRAND TOTAL
February 27, 2013	Franchise Tax - Full Payment	100,984.42	129877	922650	100,984.42	
Franchise Tax for CY 2012						100,984.42
February 12, 2014	Franchise Tax - 1st Payment	121,229.40	131827	1661563	121,229.40	
April 1, 2014	Franchise Tax - 2nd Payment	121,079.40	132082	1665990	121,079.40	
July 1, 2014	Franchise Tax - 3rd Payment	121,079.40	132563	2256168	121,079.40	
October 15, 2014	Franchise Tax - 4th Payment	121,079.38	1333129	2260426	121,079.38	
Franchise Tax for CY 2013						484,467.58
January 8, 2015	Franchise Tax - 1st Payment	123,465.29	133518	2672728	123,465.29	
April 1, 2015	Franchise Tax - 2nd Payment	123,465.29	133953	2996320	123,465.29	
July 15, 2015	Franchise Tax - 3rd Payment	123,465.29	134486	3220158	123,465.29	
October 19, 2015	Franchise Tax - 4th Payment	123,015.29	134970	3394178	123,015.29	
Franchise Tax for CY 2014						493,411.16
January 18, 2016	Franchise Tax - 1st Payment	141,274.25	135480	3725596	141,274.25	
April 5, 2016	Franchise Tax - 2nd Payment	141,274.25	135946	3769102	141,274.25	
July 1, 2016	Franchise Tax - 3rd Payment	141,274.25	136425	4157069	141,274.25	
October 17, 2016	Franchise Tax - 4th Payment	139,624.26	136983	4339614	139,624.26	
Franchise Tax for CY 2015						563,447.01
January 16, 2017	Franchise Tax - 1st Payment	155,919.94	137475	4510304	155,919.94	
July 19, 2017	Franchise Tax - 2nd & 3rd Payment	310,739.88	138565	5218947	310,739.88	
January 19, 2018	Franchise Tax - 4th Payment	155,369.95	139505	5742606	155,369.95	
Franchise Tax for CY 2016						622,029.77
January 15, 2018	Franchise Tax - Full Payment	652,232.00	139560	5743578	652,232.00	
Franchise Tax for CY 2017						652,232.00
TOTAL PAID FRANCHISE TAX						2,916,571.94

5. That FLECO proposes to recover the franchise tax paid in six (6) months recovery period using a projected KWH sales of **60,321,049 kWh**, to wit:

SUMMARY OF THE PROJECTED KWH SALES FOR ELEVEN (11)
MUNICIPALITIES OF LAGUNA FOR THE YEAR 2019

FRANCHISE AREA	PROJECTED KWH SALES
	2019
CAVINTI	6,429,555.96
PAGSANJAN	24,181,573.72
LUMBAN	21,393,895.74
KALAYAAN	6,639,557.77
PAETE	11,045,747.05
PAKIL	7,050,183.34
PANGIL	7,688,244.11
SINILOAN	16,644,264.60
FAMY	4,523,670.43
MABITAC	7,254,647.71
STA MARIA	7,790,757.53
TOTAL	120,642,097.95

**Six Months Projected KWH Sales =
60,321,049 kWh**

Copy of the Summary of Projected KWH Sales per Area and Projected KWH Sales per Municipality is hereto attached and duly marked as Annex "A", collectively;

That the proposed Tax Recovery Adjustment Charge (TRAC) is 0.0484 Php/kWh computed as follows:

Total Paid Franchise Tax = Php 2,916,571.94

Projected Semi-annual KWH Sales for 11 Municipalities in Laguna, within the franchise area of the applicant = 60,321,049 kWh

TRAC = 0.0484 Php/kWh

6. That herein applicant is requesting the Honorable Commission to approve the above proposed recovery of the franchise tax; and
7. That this application is being filed pursuant to Formula 5.B, Section 6, Article 2 of ERC Resolution No. 16, Series of 2009.

PRAYER

WHEREFORE, premises considered, applicant First Laguna Electric Cooperative, Inc. (FLECO) respectfully prays of this Honorable Commission that, after due notice and hearing and consideration, this application be approved and authorizing FLECO to include in its bills to customers in the Province of Laguna a Tax Adjustment Clause (TRAC) of **Php 0.0484 per kWh** until such time that the franchise tax paid in the amount of **Php 2,916,571.94** has been fully recovered.

Other relief, just or equitable, is likewise prayed for.

Finding the said *Application* to be 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 **08 October 2018 (Monday) at two o'clock in the afternoon (2:00 PM) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, FLECO is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, with the date of 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 the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected 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 affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published, and the complete issue of the said newspaper;
- 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*, the 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.

FLECO 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.

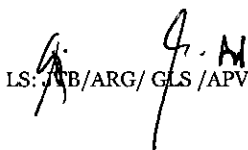
SO ORDERED.

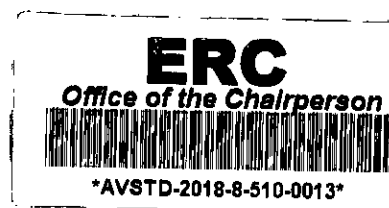
Pasig City, 23 July 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson & CEO

W


LS: JTB/ARG/GLS/APV



ERC CASE NO. 2018-034 CF
ORDER/ 23 July 2018
PAGE 7 OF 8

Copy Furnished:

1. Atty. Arnido O. Inumerable
Counsel for Applicant FLECO
405 Elisa Street, U.E. Village, Cainta, Rizal
2. First Laguna Electric Cooperative, Inc. (FLECO)
Applicant
Barangay Lewin, Lumban, Laguna
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
4. Commission on Audit
Commonwealth Avenue, Quezon City
5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
6. House Committee on Energy
Batasan Hills, Quezon City
7. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City
8. Office of the Governor
Province of Laguna
9. Office of the LGU legislative body
Province of Laguna
10. Office of the Mayor
Cavinti, Laguna
11. Local Government Unit (LGU) legislative body
Cavinti, Laguna
12. Office of the Mayor
Pagsanjan, Laguna
13. Local Government Unit (LGU) legislative body
Pagsanjan, Laguna
14. Office of the Mayor
Lumban, Laguna
15. Local Government Unit (LGU) legislative body
Lumban, Laguna
16. Office of the Mayor
Kalayaan, Laguna
17. Local Government Unit (LGU) legislative body
Kalayaan, Laguna
18. Office of the Mayor
Paete, Laguna
19. Local Government Unit (LGU) legislative body
Paete, Laguna
20. Office of the Mayor
Pakil, Laguna

ERC CASE NO. 2018-034 CF
ORDER/ 23 July 2018
PAGE 8 OF 8

21. Local Government Unit (LGU) legislative body
Pakil, Laguna
22. Office of the Mayor
Pangil, Laguna
23. Local Government Unit (LGU) legislative body
Pangil, Laguna
24. Office of the Mayor
Siniloan, Laguna
25. Local Government Unit (LGU) legislative body
Siniloan, Laguna
26. Office of the Mayor
Famy, Laguna
27. Local Government Unit (LGU) legislative body
Famy, Laguna
28. Office of the Mayor
Mabitac, Laguna
29. Local Government Unit (LGU) legislative body
Mabitac, Laguna
30. Office of the Mayor
Sta. Maria, Laguna
31. Local Government Unit (LGU) legislative body
Sta. Maria, Laguna
32. Regulatory and Operations Service (ROS)
Energy Regulatory Commission
17th Floor, Pacific Center Bldg., San Miguel Avenue, Pasig City