

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF
ADJUSTMENT IN RATES
BASED ON THE TARIFF
GLIDE PATH FOR THE
FOURTH TO SIXTH
REGULATORY YEARS OF
THE FIRST REGULATORY
PERIOD (TGP-B) COVERING
YEARS 2014-2016 FOR THE
FIRST ENTRANT GROUP,
WITH MOTION FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2018-096 RC

**LEYTE II ELECTRIC
COOPERATIVE, INC.
(LEYECO II),
Applicant.**

D O C U M E N T I D
Date: NOV 26 2018
By: W

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ORDER

On 20 September 2018, Leyte II Electric Cooperative, Inc. (LEYECO II) filed an Application dated 07 September 2018 for the approval of its adjustment in rates based on the Tariff Glide Path for the Fourth to Sixth Regulatory Years of the First Regulatory Period (TGP-B) covering years 2014-2016 for the First Entrant Group, with motion for provisional authority (Application).

In the said *Application*, LEYECO II alleged the following,

1. It is a non-stock, non-profit electric cooperative, duly organized, registered and existing under and by virtue of Presidential Decree No. 269, as amended, with principal office address at Barangay 57, Real St., Sagkahan District, Tacloban City, Leyte;

2. It holds an exclusive franchise, issued by the National Electrification Commission (NEC), to operate an electric light and power distribution service in the City of Tacloban and in the Municipalities of Palo and Babatngon, all in the Province of Leyte;

NATURE OF THE APPLICATION

3. The *Application* was filed for the approval of LEYECO II's proposed adjustment in its Distribution, Supply and Metering (DSM) Charges covering the Fourth to Sixth Regulatory Years of the First Regulatory Period (TGP-a covering years 2014-2016) for First Entrant Group Electric Cooperatives;

STATEMENT OF FACTS

4. On May 16, 2013 LEYECO II filed with the Commission an application for the approval of the proposed adjustment in its DSM Rates for the First to Third Year of the First Regulatory Period (TGP-B) covering years 2011-2013) pursuant to the TGP Rules docketed as ERC Case No. 2013-103 RC;
5. In the said application, LEYECO II prayed for the approval either of the following proposed alternative rates for its DSM Charges starting January 2014 up to the next regulatory reset, to wit:

Type of Customer	Particulars	Unit	Alternative (1) Rate @ 1 st TGP Adjustment with Performance Incentive "S"	Alternative (2) Rate @ 1 st TGP Adjustment without Performance Incentive "S"
Residential	Distribution	PhP/kWh	0.2956	0.2805
	Supply	PhP/kWh	0.4453	0.4226
	Metering	PhP/kWh	0.3722	0.3532
	Metering	PhP/Meter /mo	5.38	5.10

Low Voltage	Distribution	PhP/kWh	0.4032	0.3826
	Supply	PhP/customer/mo	64.25	60.97
	Metering	PhP/Meter/mo	59.08	56.06
Higher Voltage	Distribution	PhP/kWh	127.52	121.00
	Supply	PhP/customer/mo	64.25	60.97
	Metering	PhP/Meter/mo	59.08	56.06

6. The foregoing application was LEYECO II's initial application for DSM rate adjustment pursuant to the TGP Rules, under which electric cooperatives are given an opportunity to adjust their rates once every three (3) years, which may occur at the start of the fourth year of the First Regulatory Period and every three (3) years thereafter;
7. LEYECO II belongs to the First Entrant Group under the TGP Rules, whose first regulatory period is from January 1, 2011 to December 31, 2016. Having filed its initial application for DSM rate adjustment, LEYECO II is again filing the instant application for the proposed adjustment in its DSM rates covering the fourth to sixth regulatory years of the First Regulatory Period for the First Entrant Group;
8. ERC Case No. 2013-103 RC is still pending with the Commission. However, for presentation and reference purposes, LEYECO II assumed, and adopted as a premise, in this *Application* that the aforesaid proposed DSM rate application in ERC Case No. 2013-103 RC is approved as applied;

THE PROPOSED APPLICATION

9. Section 3.3 of the TGP Rules states:

“The EC shall use the following formula in determining the Tariff Glide Path for the fourth to sixth years of the Regulatory period:

$$TGPB = TGP_n + TGP_{n+1} + TGP_{n+2}$$

Where:

$$TGP_N = I_n - X_n + S_n$$

N = the fourth year of the Regulatory Period and succeeding Regulatory Periods

The TGP calculated for each of the three years will be summed to determine the possible rate adjustment the starting the First Year of the next Regulatory Period.”

10. The following were the results of the computations, to wit:

	"I"	"X"	"S"	TGP B	TGP B(excluding "S")
YEAR 2014	4.83%	0.00%	2.30%	7.13%	4.83%
YEAR 2015	45.65%	0.00%	2.10%	47.75%	45.65%
YEAR 2016	0.00%	5.77%	2.50%	-3.27%	-5.77%
TOTAL				51.60%	44.70%

11. Based on the foregoing computations the DSM Rate of LEYECO II resulted to an adjustment either with “S” or without “S”, to wit:

A. WITH PERFORMANCE INCENTIVE “S”

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			193.33
Distribution System Charge	Php/kWh	0.4481	0.6112	
Supply Charges:				
Retail Customer Charge	Php/Customer/Mo		97.41	97.41
Supply System Charge	PhP/kWh	0.6751		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	8.15	89.56	89.56
Metering System Charge	PhP/kWh	0.5643		

B. EXCLUDING PERFORMANCE INCENTIVE “S”

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			175.10
Distribution System Charge	Php/kWh	0.4059	0.5536	
Supply Charges:				
Retail Customer Charge	Php/Customer/Mo		88.22	88.22
Supply System Charge	PhP/kWh	0.6115		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	7.38	81.12	81.12
Metering System Charge	PhP/kWh	0.5110		

12. Hence, LEYECO II respectfully prays that it be allowed to implement the proposed DSM rates effective January 1, 2019 up to December 31, 2021;

SUPPORTING DATA AND DOCUMENTS

13. In support of the foregoing computations, LEYECO II submitted the following documents and are made as an integral part of the *Application*, to wit:

ANNEX	NATURE OF DOCUMENT
E	Proposed TGP Calculations and supporting documents using the prescribed templates
E – 1	Index "I" Calculation (2013 - 2016)
E – 2	Efficiency Factor "X" Calculation (2013 - 2016)
E – 3	Performance Incentive "S" Calculation (2014 - 2016)
F	MFSR (Sections B & E) (2012 - 2015)
G	Billing Determinants Template (Kwh Sales, No. of Consumers, Kw Demand, System Loss) (2012 - 2015)
H	Sample Bills (per customer type) (2012 - 2015)
I	Regional CPI (2012 - 2015)
J	RFSC/Reinvestment Fund Utilization (2013 - 2015)
K	Consumer Complaints (Summary or Tracking Form) (2013 2015)
L	Audited Financial Statements (2013 - 2015)

MOTION FOR PROVISIONAL AUTHORITY¹

14. Records show that LEYECO II has been operating using the initial DSM rate as provided under the RSEC-WR. No reset has yet been implemented since then and the TGP application remains pending with the Commission;

¹ Section 1, Rule 14, ERC Rules of Practice and Procedure: For applications or petitions covered by Section 1 of Rule 6, the motion for provisional authority shall be included in the application or petition and the caption of the pleading shall clearly indicate that such relief is requested.

15. Since the implementation of the initial DSM rate in 2010, there has been continuing substantial increase of operational cost, i.e. fuel, materials, tools, office supplies and wages. Not to mention the government electrification programs (i.e. NIHE, Sitio Electrification) that normally require additional cost which are taken from the operational funds of the cooperative;
16. There has been a rampant demand from LEYECO II's labor force for wage increase due to the increasing prices of commodities worth mentioning the effects of The Tax Reform for Acceleration and Inclusion Law (TRAIN Law) thus materially affecting cost of living. Since 2013 or for more than five years (5) now, salaries of rank and file employees have not been changed and it is a struggle of management to put a Collective Bargaining Agreement (CBA) under status quo. In fact, a Notice of Strike has been filed last September 19, 2017 for this cause but LEYECO II finances are tied up to DSM Rate increase;
17. Cost-cutting measures and multi-tasking were being implemented by LEYECO II in order for it to survive especially during years after Super Typhoon Yolanda (November 2013) and earthquake (July 2016). Despite of these means, LEYECO II can hardly recover considering the fixed costs it incurred monthly versus the gradual increase in revenue it generated from restoration billings. As such, there are needed programs of the cooperative to keep track of recent regulations especially on open access that are put on hold due to tight budgeting. One of which is LEYECO II's plan for organizational re-alignment. There are positions already needed to be filled-up by the cooperative to keep abreast of recent regulations (additional manpower for record keeping and remittances of new pass-on charges LEYECO II as collection facility like FIT-ALL rate and PSALM rates, WESM trading, corporate planning) and those that were vacated due to retirement but are still vacant due to budget constraint. In corporate essence, LEYECO II is aware that permanent multi-tasking is not good but DSM rate is their constraint;
18. As confirmed in the computations made using the formula and models provided by the Commission, LEYECO II's DSM rate needs to be adjusted in order for it to efficiently perform its duties as a public utility; and

19. It is for those significant reasons that LEYECO II prays that it be allowed to implement provisionally the proposed DSM rate with "S".

Finding the said *Application* to be sufficient in form and 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 **10 January 2019 (Thursday) at nine o'clock in the morning (9:00 A.M.), at LEYECO II's principal office at Barangay 57, Real St., Sagkahan District, Tacloban City, Leyte.**

Accordingly, LEYECO II 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/or 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 *Joint 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 *Joint Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, LEYECO II 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 Editor or Business Manager of the newspaper 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 LEYECO II 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.

LEYECO II 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 LEYECO II 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.

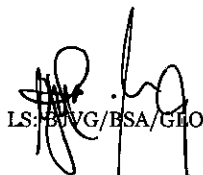
LEYECO II must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the *Joint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

SO ORDERED.

Pasig City, 13 November 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal Service


LS: B/VG/BSA/GLO

Copy Furnished:

1. Leyte II Electric Cooperative, Inc. (LEYECO II)
Applicant
Barangay 57, Real St., Sagkahan District,
Tacloban City, Leyte

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Tacloban City, Leyte
4. Office of the City Mayor
Tacloban City, Leyte
5. Local Government Unit (LGU) legislative body
Palo, Leyte
6. Office of the Municipal Mayor
Palo, Leyte
7. Local Government Unit (LGU) legislative body
Babatngon, Leyte
8. Office of the Municipal Mayor
Babatngon, Leyte
9. Office of the Provincial Governor
Province of Leyte
10. Office of the LGU legislative body
Province of Leyte
11. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
12. Commission on Audit
Commonwealth Avenue, Quezon City
13. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
14. House Committee on Energy
Batasan Hills, Quezon City
15. 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
16. Regulatory Operations Services (ROS)
17th Floor, Pacific Center, San Miguel Avenue, Pasig City