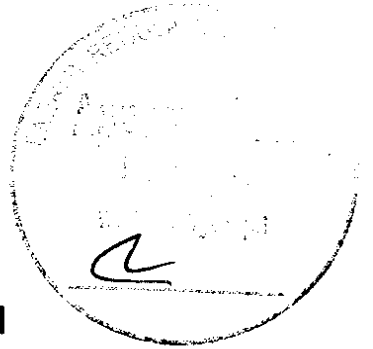


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE VIOLATION
OF ERC ORDERS, RULES AND
REGULATIONS**

**ERC CASE NO. 2009 – 108 MC
Re: For Implementing a
Different Power Supply
Contract Cost In Its Retail
Rates without Approval from
the Commission.**

**PANAY ELECTRIC COMPANY, INC.
(PECO),**

Respondent.

x ----- x

D O C K E T E D

Date: **MAR 10 2010**

By: _____

DECISION

Before the Commission for resolution is the Show Cause Order dated November 19, 2009 directing Panay Electric Company, Inc. (PECO) to submit an explanation under oath why no administrative penalty should be imposed upon it, and/or criminal action instituted against its directors and officers for collecting from its consumers a higher generation rate without prior approval from the Commission.

On December 18, 2009, PECO submitted its "Verified Explanation" alleging, among others, that:

1. There was a difference in the interpretation of the Commission and that of PECO and PPC as to the rates allowed by the then ERB;
2. The monthly computations of generation rates being billed to its consumers were submitted regularly to the Commission and it did not call its attention on the said infraction; and
3. The rates of PPC are reasonable and it was confirmed by the subsequent Decision by the Commission.

Subsequently, on January 6, 2010, the Commission issued an Order setting a conference on January 21, 2010, to give PECO an opportunity to amplify its position or avail of its right to make an offer of settlement before said case is finally resolved.

During the January 21, 2010 conference, Mr. Randy S. Pastolero, an Assistant to the President, appeared. In the said conference, PECO reiterated its arguments as cited in the Verified Explanation.

A thorough evaluation of the PECO's explanation revealed that it failed to comply with the Order of the then ERB dated March 20, 2000 in ERB Case No. 98-30 (In the Matter of the Application for the Approval of the Power Purchase Agreement for the Purchase of Electric Power and Energy by Applicant from Panay Power Corporation) approving the Purchased Power Agreement (PPA) between PECO and Panay Power Corporation (PPC), thus, implementing a higher generation rate without approval of the Commission.

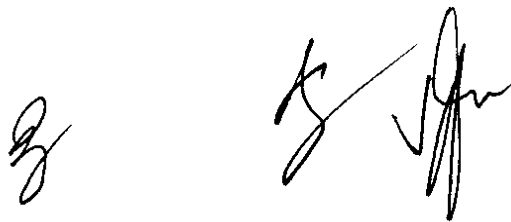
The bottom of the page contains four handwritten signatures in black ink. From left to right, they are: a signature that appears to be 'Ry', a signature that appears to be 'Ry' with a long horizontal stroke, a signature that appears to be 'Ry' with a long vertical stroke, and a signature that appears to be 'Ry' with a long horizontal stroke.

WHEREFORE, the foregoing premises considered, Panay Electric Company, Inc. (PECO) is hereby declared to have committed the violation as charged.

Accordingly, pursuant to Section 21 of the Commonwealth Act No. 146, as amended and Section 5 of the "Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136" dated May 17, 2002, PECO is hereby meted a fine in the amount of **FOUR HUNDRED TWELVE THOUSAND PESOS (PHP412,000.00)** computed as follows:

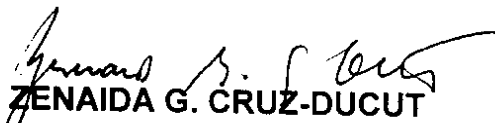
Particulars	Amount (PhP)
Computation under Sec. 21 of CA No. 146	
Php 200 a day for each day of violation (Oct. 1, 1999 to 17 June 2002) (PhP200 x 889 days)	198,000
Subtotal	198,000
Computation under Sec. 5 of Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Sec. 46 of R.A. 9136	
Initial Amount	100,000
Plus: PhP100 a day for every day of violation (18 June 2002 to 31 July 2005) (PhP100 x 1,140 days)	114,000
Subtotal	214,000
Total	412,000

The said administrative fine should be remitted to the Energy Regulatory Commission, within fifteen (15) days from receipt hereof.



SO ORDERED.

Pasig City, March 2, 2010.



ZENAIDA G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner

(Took No Part)
MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner


jsp/act/ing
Reference: No. 2010-D1-D38
DECISION_peco_PPA.doc

Copy furnished:

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