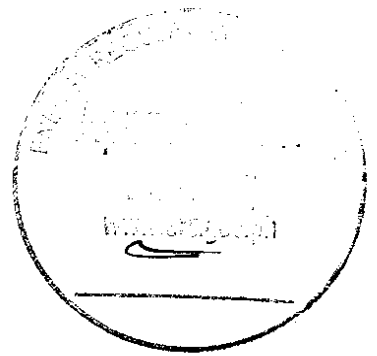


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



IN THE MATTER OF THE APPLICATION  
FOR APPROVAL OF THE PROPOSED  
RATE RESTRUCTURING/REFORMATTING  
TO COMPLY WITH REPUBLIC ACT NO.  
7832, WITH PRAYER FOR PROVISIONAL  
AUTHORITY

ERC CASE NO. 2001-333  
(ERB CASE NO. 96-26)

PHILIPPINE ELECTRIC PLANT OWNERS  
ASSOCIATION (PEPOA)

- AND -

PANAY ELECTRIC COMPANY, INC.  
(PECO),

Applicants.

x ----- x

**D O C K E T E D**

Date: DEC 02 2008

By: [Signature]

**ORDER**

Before the Commission for resolution is the "Motion for Reconsideration" and the "Supplement to Applicant's Motion for Reconsideration" both filed by Panay Electric Company, Inc. (PECO) on July 19, 2006 and August 31, 2006, respectively, praying that the Commission's Order dated June 9, 2006 be reconsidered and set aside.

In the said motions, PECO alleged, among others, the following:

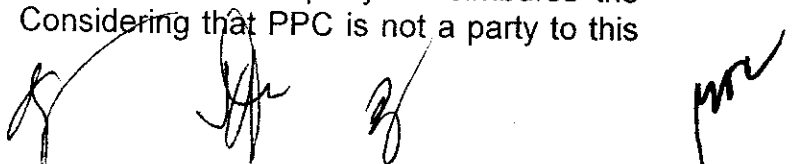
**A. Motion for Reconsideration**

1. The Commission's Order dated June 9, 2006 disregarded its right to administrative due process. The instant application has nothing to do with the refund of the alleged over-recovery of power costs. In fact, the record of this case shows that no opposition was filed to PECO's and PPC's application. Thus, since the issues of over-recovery and refund were never raised in this case, the Commission should not have decided these issues. Consequently, there was a clear violation of its right to administrative due process since the Commission issued the aforesaid Order and rendered its Order based on matters, issues, evidence and documents not presented and which do not form part of the present case.

Four handwritten signatures are located at the bottom of the page, likely representing the signatories of the order.

The Commission resolved matters that were not supported by evidence duly presented to form part of the record of this case. It was likewise not given the opportunity to controvert the charge that it exceeded its generation charge, thereby resulting to over-recovery. No hearing was set to give it the opportunity to present evidence to contradict such charges. This evident disregard of the cardinal requirements of due process in administrative proceedings, therefore, rendered the questioned Order null and void;

2. The generation rates of Panay Power Corporation (PPC) should not be based solely on the National Power Corporation's (NPC) generation rates but also with the generation rates of other bulk power producers. A perusal of the Purchased Power Agreement (PPA) shows that the PPC's selling rate shall be based on the "rates offered by bulk power producers in the grid, such as NPC," and not necessarily limited to those charged by NPC. Thus, PPC's generation rate will be based on the generation rates of other bulk power producers in the same grid as PECO. It was an error for the Commission to fix PPC's rate solely on NPC's rate when the ERB-approved PPA itself provides that it should be based on the rates of other power producers. If at all, the mention of NPC's rate in the PPA is only by way of illustration to cite an example of power producer in the same grid;
3. It can be reasonably inferred from Article 7.1 of the PPA that PPC's generation rates should be based on the rates of similar power producers using the type of fuel utilized to generate PPC's energy, i.e., bunker fuel. It is incorrect and unfair to base PPC's rates solely on the NPC's rates considering that most of NPC's plants use alternative energy sources (i.e., hydro power, geothermal, etc.) different from PPC's energy source, which is imported bunker fuel. Necessarily, the cost to generate power using oil-based and alternative energy sources would also differ. It is more consistent with PPC's and PECO's intent in entering into the PPA that PPC's generation rate should be based on the rates offered by other bulk power producers in the same grid using bunker or diesel fuel as energy source;
4. There was no over-recovery of the Power Cost Charge (PCC) as the rates it applied were consistent with the formula approved by the Commission. Assuming *arguendo* that PPC's rates exceeded the NPC's rates, it is not guilty of over-recovery of its generation costs considering that the ERB-approved formula, per ERB's Order dated May 5, 1999 in ERB Case No. 98-30, is used by PPC and PECO to come up with the generation cost. This formula factors in foreign exchange and fuel cost in computing the generation rates. Thus, a necessary consequence of the depreciation of the Philippine pesos as well as the unexpected increase in fuel prices, PPC's rates increased. Consequently, there was no over-recovery because the increase in PPC's rates was due to the application of an ERB-approved formula;
5. It did not benefit from any alleged over-charging. The full amount of the power purchase cost it charged was paid to PPC. Hence, if there was any over-recovery, it could not be the party to reimburse the corresponding amounts. Considering that PPC is not a party to this

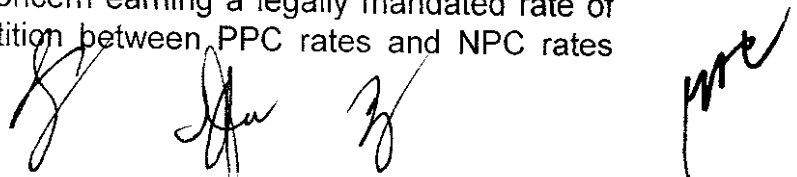


petition and ultimate liability, if any, will fall upon PPC, the Commission should summon PPC to give it an opportunity to present evidence to explain its generation cost;

6. The Commission erred in deducting the pilferage recoveries from the total power cost. Pilferage recoveries are intended to reduce the amount of losses it suffered arising from unrecovered systems losses. Its actual systems loss is over the cap of 9.5%. Nevertheless, it used only the cap of 9.5% in computing its kWh sales for purposes of rate determination, with the excess systems loss being borne by it. Since the method of deducting the pilferage recoveries from the power cost is applicable only to power utilities whose systems loss is less than the 9.5% cap, then the Commission also erred in deducting the same from PECO's power cost;

**B. Supplemental Motion for Reconsideration**

7. The term "NPC rates" as used in the PPA dated January 24, 1997 should be interpreted in accordance with its intention and PPC when they executed the PPA. When they executed the PPA in 1997, the generation rates of NPC at that time were not yet subsidized by the government and, hence, were driven by market forces. Expecting fair competition, PPC made an assurance in Article 7.1 of the PPA that its rates, "shall be equal to or less than the rates of bulk power producers in the grid," including NPC. Likewise, at that time, the price of diesel fuel, which powers PPC's plant, had not reached its present high level. Considering the circumstances prevailing at that time, PPC's generation rates were competitive with the NPC's rates despite the fact that PPC uses diesel-powered plants while most of NPC's plants use alternative energy sources, such as geothermal and hydroelectric power;
8. Republic Act No. 9136 provided a framework for the restructuring of the electric power industry, as well as the privatization of NPC. Due to the intervention and subsidy granted by the Philippine government to NPC, the rates of NPC were distorted beyond what the parties contemplated when they executed the PPA;
9. Based on the circumstances existing at the time that the PPA was executed, the parties clearly contemplated "NPC rates" to pertain to the unsubsidized and market-driven NPC rates, and not to its government-subsidized version. To interpret otherwise and not to require PPC and applicant to compete with or even match the present "NPC rates" would be harsh, unfair and inequitable, considering that NPC is subsidized by the government and could afford to operate at a loss while PPC cannot do so;
10. By setting the "NPC rates" as one of the standards by which PPC's generation rates may be measured, the parties reasonably expected that, given NPC's rate base and power development plan existing at the time that the parties executed the PPA, NPC's rates would be dictated by the demands of the market. The parties intended "NPC rates" to mean such rate that NPC could charge to its customers if it were to operate on its own, without the aid of the national government, as a going concern earning a legally mandated rate of return. Thus, fair competition between PPC rates and NPC rates



was expected. Consequently, the term "NPC rates", as used in the PPA, means the generation rate of NPC without the extraneous factors that severely depressed its value to its present rate;

11. Considering that the parties never contemplated the extreme distortion of NPC's rates to its present levels, which was caused by several factors, such as the restructuring of the power industry and the subsidy granted by the Philippine government to NPC, then the parties cannot reasonably expected to comply with the condition that PPC's rates should be less than or equal to NPC's rates, if the phrase "NPC rates" were restrictively interpreted to mean the subsidized NPC rates as they are today. Consequently, the term "NPC rates" as used in the PPA should be construed to mean the NPC's generation rates using the original rules and standards in place at the time the PPA was executed;
12. NPC and PPC are not similarly situated. Thus, it is a violation of the principle of equal protection of the laws to require PPC to charge generation rates which are less than or equal to NPC's present generation rates. While NPC is subsidized by the Philippine government, PPC is not. Further, while NPC can operate at a loss, as in fact it did starting 1997 up to the present, PPC, being a private corporation, cannot do so;
13. To direct the refund of the over-recovery is inequitable and constitutes confiscation of private property without due process of law. Confident that the generation charges imposed upon the consumers were consistent with the ERB-approved formula, the parties continued submitting to the ERB and, later on, to the Commission, monthly reports containing all data necessary to determine the charges based on the formula;
14. From 1999, when PPC's generation charges allegedly exceeded the NPC's rates, up to May 2004, neither the ERB nor the Commission called the attention of the PPC and PECO to the charges collected from its customers. Thus, it would be inequitable and rather too late for the Commission to arbitrarily remedy the situation by *motu proprio* ordering a refund, considering that applicant had paid the income and franchise taxes based on the sales reported to the Commission;
15. Any alleged over-recovery or excess collection pertains to the generation rates that it paid to PPC who, in turn, paid the bulk thereof to the fuel supplier, Pilipinas Shell Petroleum Corporation (PSPC);
16. Considering that the alleged over-recoveries ultimately went to the coffers of PPC and PSPC, it would be inequitable and would amount to confiscation of private property without due process of law if it will be required to refund to its customers money that did not in any way benefit it and which, ultimately, was received by other suppliers for products and services that they delivered in good faith; and
17. Any refund order may result in compelling it to effectively subsidize the energy prices in its franchise area, which the Commission has no authority to do.



In relation thereto, the Commission noted the following submissions:

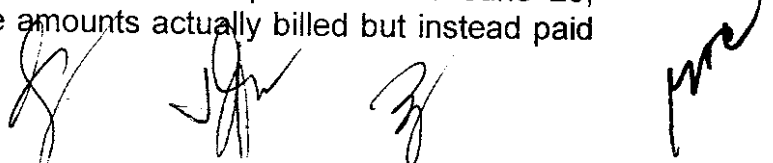
1. The "*Motion to Defer Implementation of Order*" and the "*Motion for Reconsideration*" filed on July 10 and 13, 2006, respectively, by PECO praying that the implementation of the Commission's Order dated June 9, 2006 be deferred pending the final resolution of this case and seeking reconsideration of the subject Order;
2. The "*Opposition to the Motion for Reconsideration of the Order dated June 9, 2006*" filed by Atty. Romeo Gerochi, as representative of Environmentalist Consumers Network, Inc. (ECN); and
3. The "*Motion*" filed on August 31, 2006 by PECO praying that the Commission's Monitoring Unit be directed to provide it with the report of the over-recovery and require its members to submit themselves to cross-examination at the scheduled hearing of the Motion for Reconsideration.

#### STATEMENT OF FACTS

On August 2, 2007, the Commission issued an Order setting the said motions for hearing on September 7, 2007. In the same Order, the Commission granted the said motion to defer implementation of the questioned Order for a period of sixty (60) days from receipt thereof.

On August 24, 2007, Panay Power Corporation (PPC) filed its "Comment (Ad Cautelam) alleging, among others, the following:

1. The refund pertains to substantial amount which will severely impair PECO's overall financial standing, particularly its ability to pay PPC's power cost delivered under the PPA and, consequently, put at risk its ability to viably maintain its operations to supply the power requirements of PECO's customers;
2. For the period August 2005 to December 2005, PECO has failed to fully pay its electricity fees and fuel costs delivered under the PPA. Although it billed PECO in accordance with the rates under the PPA as clarified in a Letter-Agreement between the parties dated June 20, 2003, PECO has not paid the amounts actually billed but instead paid



amounts equivalent only to NPC's effective rates. This underpayment resulted in a differential amount of PhP562,583,817.39, which amounts remains unpaid by PECO and legally due and payable to PPC;

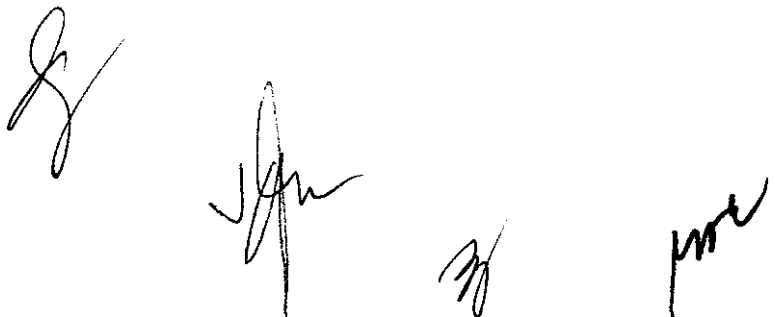
3. The Letter-Agreement clarifies the terms of the PPA and established the understanding of the parties as to the rates under the PPA;
4. The substantial portion of the amount that PECO is being ordered to refund to its customers actually corresponds to true and actual cost of energy including fuel costs;
5. It intends to present a witness to testify on these allegations as well as on the due execution and authenticity of all the documents attached thereto; and
6. The Commission should give due and serious consideration to the adverse impact that the refund of such huge amount would have not only on PECO's financial standing, but also on its capability to ensure security of power supply.

During the September 7, 2007 hearing, PECO and ECN made their respective oral arguments. In the course thereof, the Commission explained the confirmation process it conducted in this case and denied the motion of PECO for the issuance of a subpoena to the Commission's personnel.<sup>1</sup>

On June 20, 2007, the Commission issued another Order granting the "Second Motion to Suspend" filed by PECO on May 9, 2007. The dispositive portion of the said Order is hereunder quoted as follows:

"Finding said motion meritorious, the same is hereby **GRANTED**. Accordingly, the implementation of the Commission's Order dated June 9, 2006 is further suspended for a period of one hundred twenty (120) days from receipt hereof or until such time that the Commission has finally resolved PECO's "Motion for Reconsideration", whichever comes first."

Before the expiration of the period of suspension, the parties made the following submissions:



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<sup>1</sup> Order dated September 18, 2006

1. The "Third Motion to Suspend" filed by PECO on November 16, 2007;
2. The "Opposition to Motion to Suspend" and the "Motion for Issuance of Writ of Execution" filed by ECN on November 27 and 29, 2007, respectively; and
3. The "Opposition to Motion for Issuance of Writ of Execution", the "Reply (to Opposition to Motion to Suspend)" and "Compliance" filed on December 6, 2007 by PECO.

On various dates, the Commission issued the Orders directing PECO to submit several documents. In compliance therewith, PECO filed its "Compliance" and "Manifestation" on April 8, 2008 and May 2, 2008, respectively.

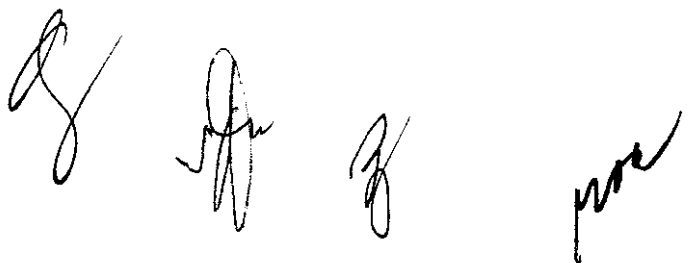
On December 16, 2008, PPC filed its "Second Supplement to Comment (Ad Cautelam)" which included various billing statements to PECO.

At the continuation of the hearing on May 6, 2009, PECO, PPC and ECN appeared.

At the said hearing, PPC and PECO presented the following witnesses:

1. Mr. Jaime T. Azurin, Senior Vice President of PPC; and
2. Mr. Randy A. Pastolero, PECO's Special Assistant.

In the course of their testimonies, several documents were presented and marked as exhibits. The direct examinations having been terminated, ECN conducted its cross-examination on the said witnesses. Thereafter, ECN was directed to file its comment on the evidence presented by PECO and PPC. However, records of this case disclosed that ECN failed to comply with the said directive.



On May 19, 2009 and June 19, 2009, respectively, PPC filed its "Manifestation and Formal Offer of Evidence" and "Motion to Admit Additional Evidence and Supplemental Formal Offer of Evidence".

In its Order dated June 23, 2009, the Commission directed the National Power Corporation (NPC) to confirm the veracity and truthfulness of the evidence presented by PPC and PECO since these documents pertain to the energy generation and production costs of NPC's Panay Diesel Power Plants.

To ensure the submission of the aforesaid documents, on June 30, 2009, the Commission issued a Subpoena Ad Testificandum and Duces Tecum to the representative of NPC. In compliance therewith, NPC filed the Affidavit of Mr. Lucio P. Estangco, its Officer-In-Charge of the Controller's Department, attesting to the truthfulness of the following documents pertaining to the operation of Panay Diesel I and III:

- a. Gross Generation (MWH) in Calendar Year (CY) 1999-2005; and
- b. Energy Generation and Production Cost in CY 1999-2005.

During the July 3, 2009 hearing, the Commission granted the PPC's motion to admit additional evidence and directed NPC to submit various documents.

On July 30, 2009, NPC filed its "Ex-Parte Compliance" while PECO filed a "Motion to Admit Evidence" on August 6, 2009.



The Commission hereby admits the formal offer of evidence filed by PECO and PPC, the same being relevant and material in the final resolution of this case.

### Discussion

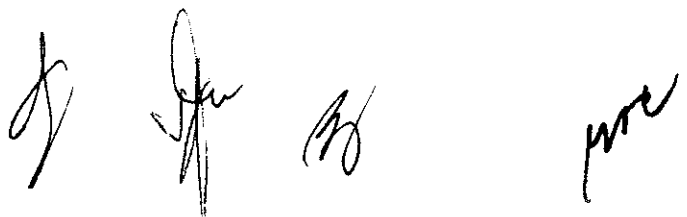
PECO assailed the Order dated June 9, 2006 on the ground that the Commission failed to comply with the due process requirement. It argued that the Commission resolved matters that were not supported by evidence. According to PECO, it was not given the opportunity to controvert the Commission's findings that it exceeded its generation charge which resulted to over-recovery. It was likewise not given the opportunity to present evidence to contradict the findings of over-recovery.

In the case of *Ang Tibay vs. CIR*<sup>2</sup>, the Supreme Court laid down the cardinal requirements of due process in administrative proceedings which are:

1. The right to a hearing which includes the right to present one's case and submit evidence in support thereof;
2. The tribunal must consider the evidence presented;
3. The decision must have something to support itself;
4. The evidence must be substantial;
5. The decision must be based on evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected;
6. The tribunal or body of any of its judges must act on its own or his own independent consideration of the law and the facts of the controversy, and not simply accept the views of subordinate;
7. The board or body should in all controversial questions, render its decision in such manner that the parties to the proceeding can know the various issues involved, and the reason of the decision rendered; and

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<sup>2</sup> G.R. No. L-46496, February 27, 1940



8. The officer or tribunal conducting the investigation must be vested with competent jurisdiction.

What due process abhors is not lack of previous notice but the absolute lack of opportunity to be heard. The essence of due process is the opportunity to be heard. The presence of a party is not always the cornerstone of due process. What the law prohibits is not the absence of previous notice but the absolute absence thereof and lack of opportunity to be heard.<sup>3</sup>

There can, therefore, be no doubt that PECO's allegation of absence due process is without basis.

Further, the Commission finds no merit in PECO's argument that the Commission's Order of Refund is already barred by laches. In the case of *Republic of the Philippines vs. Hon. De Los Angeles*<sup>4</sup>, the Supreme Court held that: "It should be noted further that the doctrine of estoppels or laches does not apply when the Government sues as a sovereign or asserts governmental rights, nor does estoppels or laches validate an act that contravenes law or public policy."

As to the matter of pilferage recoveries, the Commission cites the provisions under Sections 1 and 2 of the Implementing Rules and Regulations (IRR) of Republic Act No. 7832 (R.A. 7832), entitled "*An Act Penalizing the Pilferage of Electricity and Theft of Electric Power Transmission Lines/Materials, Rationalizing System Losses by Phasing Out Pilferage Losses as a Component Thereof and for Other Purposes*", which provides that:

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<sup>3</sup> Administrative Law by Ruben Agpalo, pp. 137 citing the case of *Medenilla vs. CSC*, 194 SCRA 278

<sup>4</sup> G.R. No. L-30240



"RULE X  
Recovery of Pilferage Losses

SECTION 1. Submission of Report. — A utility or cooperative which recovers any amount of pilferage losses shall submit to the ERB, within thirty (30) days from said recovery, a written report under oath, which shall contain the following:

- a. the fact of recovery;
- b. the date of recovery;
- c. the name of consumer concerned;
- d. the amounts recovered including the amounts resulting from compromise agreement and surcharges imposed, if any;
- e. the amount of pilferage loss claimed;
- f. the explanation for the failure to recover the whole amount claimed;
- g. itemized expenses incurred, if there is any; and
- h. the amount passed on to the consumer.

The utility or cooperative shall not accept payment from the consumer during the pendency of the case for the recovery of a pilferage loss, unless so provided in a compromise agreement duly executed by the parties and approved by the Court.

**SECTION 2. The full amount recovered by the utility or cooperative under the preceding section shall be reflected as a reduction in the customer's electric bill through the automatic cost adjustment formula abovementioned, the application of which shall be verified and confirmed by the Board through an Order.**" (Emphasis supplied)

It is also worthy to recall the pertinent provisions of the ERB Order dated July 7, 1995 in ERB Case No. 95-05<sup>5</sup> which established the intent to reflect the pilferage recoveries as a reduction in the cost adjustment formula, to wit:

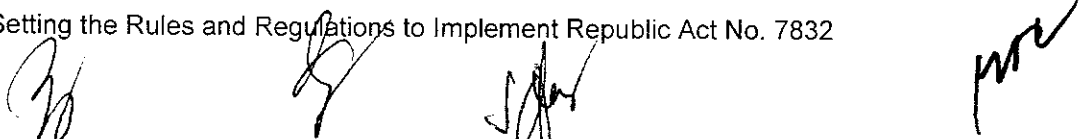
"Section 2 of this Rule provides:

Section 2. The full amount recovered by the utility or cooperative under Section 2, Rule VI shall be reflected as a reduction in the cost adjustment formula of each customer."

MERALCO, as well as the other electric utilities submit the phrase "full amount" would mean the components of the distribution charge and the generation charge. Accordingly, they suggest that only the generation charge or the purchased power adjustment (PPA) component of the recovery clause should be returned to the

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<sup>5</sup> In the Matter of Setting the Rules and Regulations to Implement Republic Act No. 7832



consumer or reflected as a reduction in the cost adjustment formula; that it is in the cost adjustment mechanism (generation charge or PPA) that the cost of the pilferage is passed to honest consumers; that the distribution charge component of the recoveries should accrue to the utility concerned as this component is not even enough for the utility to adequately recover the distribution cost it incurred in the process of delivering electricity to its customers' premises and the additional expenses incurred to apprehend, bill and collect the differential billings of those apprehended to be pilfering electricity. In this regard, the OSG opines that the said proposition would be unfair since the amount of system loss which electric companies are allowed to recover includes not only loss from pilferage or theft but even technical or design loss which is the utility's or cooperative's fault; and that the proposal is too simplified whereas the components of the system loss and computation thereof is complex.

The Board agrees with the position taken by the OSG. It is expressly required by the law that every utility or cooperative should submit to the Board a written report under oath to reflect the recovery of pilferage losses. The report, thus submitted becomes part of the public record which can readily be made available for scrutiny by the public. On the issue of recovery of pilferage losses, the Board is of the view that the amount of recovery to be included as a reduction in the cost adjustment formula should pertain both to the generation and distribution charge components. It must be emphasized that all necessary expenses incurred by the electric utilities and cooperatives, including those incidental expense incurred in pursuing pilferers which is carried on to the distribution charge, are automatically included in the normal operating expenses of the utility/cooperative allowed for rate-making purposes. Thus, to allow the utility or cooperative to retain the distribution charge portion, when the same is considered as part of operating expenses, would be tantamount to allowing the utility or cooperative to obtain double recovery. Further, excluding the distribution charge as a reduction in the cost adjustment formula would afford the electric utilities or cooperatives the opportunity to exceed the authorized rate of return which is not allowed since an automatic adjustment is merely a cost pass-through."

Gleaned from the foregoing, the Commission has the authority to adopt a verification/confirmation mechanism to ensure the effective implementation of R.A. 7832. It must be noted that the PCC formula is a pure recovery mechanism that allows distribution utilities to recover generation costs only, with no allowance to realize gains from their customers. Thus, the Commission maintains its position that pilferage recoveries should be deducted from the power cost of PECO.

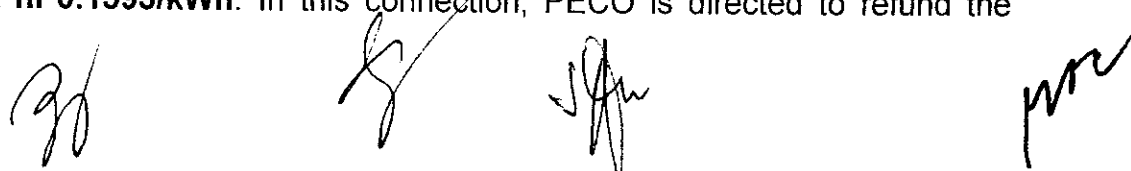


Finally, as to the matter of determining PECO's over-recoveries for the period February 1996 to July 2005, it is imperative to re-examine the reasonableness of the actual power generation cost charged by PECO to its customers on the basis of the principle of full recovery of prudent costs. However, in view of the Commission's Decision rendered on November 16, 2009 in ERC Case No. 2009-63 RC entitled "*In the Matter of the Application for Prior Verification of Other Generation Rate Adjustments under Section 3, Article IV of the Guidelines for the Automatic Adjustment of Generation Rates and System Loss Rates by the Distribution Utilities*", the matter of verifying the reasonableness of PECO's generation cost charges to its customers is now moot and academic. Accordingly, a recalculation of PECO's over-recovery consistent with the said Decision is now in order. Shown below is the result of said recalculation:

| Period Covered                                   | Over-Recoveries<br>(In Total Amount/PhP) |
|--|--|
| February 1996 – October 1998                     | 834,278                                  |
| November 1998 – July 2005                        | 630,491,683                              |
| <b>TOTAL</b><br><b>February 1996 – July 2005</b> | <b>631,325,961</b>                       |

**WHEREFORE**, the foregoing premises considered, the Commission **RESOLVES** to modify its Order dated June 9, 2006, as follows:

1. PECO is hereby directed to refund the amount of **SIX HUNDRED THIRTY ONE MILLION THREE HUNDRED TWENTY FIVE THOUSAND NINE HUNDRED SIXTY ONE PESOS (PhP631,325,961.00)** representing the over-recovery of its purchased power cost for the period February 1996 to July 2005, equivalent to **PhP0.1595/kWh**. In this connection, PECO is directed to refund the



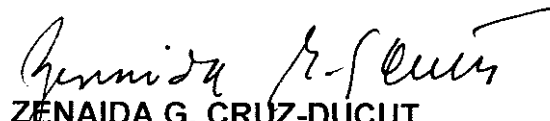
amount of PhP0.1595/kWh starting the next billing cycle from receipt of this Order until such time that the full amount shall have been refunded; and

2. PECO is further directed to:

- a) Submit, within ten (10) days from its initial implementation, a sworn statement indicating its compliance with the aforementioned directive;
- b) Reflect the PCC refund as a separate item in the bill using the phrase "Previous Years' Adjustment on Power Cost"; and
- c) Accomplish and submit a report in accordance with the attached prescribed format, on or before the 30<sup>th</sup> day of the month.

SO ORDERED.


Pasig City, November 16, 2009.

  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson *gpc*

  
**RAUF A. TAN**  
Commissioner

  
**ALEJANDRO Z. BARIN**  
Commissioner

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

  
**JOSE C. REYES**  
Commissioner

**Copy furnished:**

1. **Panay Electric Company (PECO)**  
Cacho Bldg. J.M. Basa Street  
Iloilo City
2. **Office of the Solicitor General**  
134 Amorsolo Street, Legaspi Village  
1229 City of Makati
3. **Commission on Audit**  
Commonwealth Avenue  
1121 Quezon City
4. **Senate Committee on Energy**  
GSIS Building, Roxas Boulevard  
Pasay City 1307
5. **House Committee on Energy**  
Batasan Hills, Quezon City 1126
6. **The City Mayor**  
Iloilo City
7. **Atty. Romeo P. Gerochi**  
Gerochi Law Office  
Room 307 & 308, Golden Commercial Center  
Iznart Street, Iloilo City
8. **Atty. Salvador A. Altura, Jr.**  
Manfred's Bldg  
No. 23 Gen. Luna Street  
Iloilo City

**Distribution Utility Name:** PECO  
**ERC/(ERB) Case No.:** 2001-333 (96-26)  
**Order Date:** 16-Nov-09  
**Total Amount to be Refunded/(Collected):** Php 631,325,961.00  
**Rate per kWh (PhP/kWh):** Php 0.1595/kWh

**NOTE:** This report should be submitted on or before the 30th day of month of the succeeding year and every year thereafter until the amount shall have been fully refunded/recovered.

**Purchased Power Cost**  
**Amount of Refund/(Collect)**  
**For the Period Covering February 1996 to July 2005**

| Month                    | kWh Sold <sup>1</sup> | Amount Refunded/(Collected) | Balance in Amount |
|--------------------------|-----------------------|-----------------------------|-------------------|
| <b>Beginning Balance</b> |                       |                             | <b>0.00</b>       |
| Jan-10                   |                       |                             |                   |
| Feb-10                   |                       |                             |                   |
| Mar-10                   |                       |                             |                   |
| Apr-10                   |                       |                             |                   |
| May-10                   |                       |                             |                   |
| Jun-10                   |                       |                             |                   |
| Jul-10                   |                       |                             |                   |
| Aug-10                   |                       |                             |                   |
| Sep-10                   |                       |                             |                   |
| Oct-10                   |                       |                             |                   |
| Nov-10                   |                       |                             |                   |
| Dec-10                   |                       |                             |                   |
| <b>TOTAL</b>             |                       |                             |                   |
| <b>Ending Balance</b>    |                       |                             | <b>0.00</b>       |

<sup>1</sup>/ Indicate whether the kWh sold used in the calculation of refund/collect pertains to kWh sold of the current or previous month.

Prepared by:

Reviewed by:

Certified True and Correct:

\_\_\_\_\_  
(Name & Position)

\_\_\_\_\_  
Finance/Billing Manager

\_\_\_\_\_  
General Manager