

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

IN THE MATTER OF THE  
APPLICATION FOR APPROVAL OF  
THE AMENDMENT AGREEMENT TO  
THE POWER PURCHASE  
AGREEMENT BETWEEN PANAY  
ELECTRIC COMPANY, INC. AND  
PANAY POWER CORPORATION,  
WITH PRAYER FOR PROVISIONAL  
AUTHORITY

ERC Case No. 2005-043RC

PANAY ELECTRIC COMPANY, INC.  
(PECO),

Applicant.

X -----X

DOCKETED  
Date: JUL 05 2006  
By: [Signature]

**ORDER**

Before the Commission for resolution is a "Motion for Partial Reconsideration" filed on April 28, 2006 by Panay Power Corporation (PPC) on the Decision of the Commission dated March 10, 2006 the dispositive portion of which reads:

*"WHEREFORE, the foregoing premises considered, the Commission hereby **APPROVES** the Amendment Agreement to the Power Purchase Agreement between PECO and Panay Power Corporation (PPC) subject to the following conditions:*

- 1. The amount recoverable by PPC from PECO is initially referenced on the December 31, 2004 base rate (with base index of a CPI of 125.4 and a forex rate of PhP56.1828 per US\$) of PhP2.1012/kWh and shall be adjusted monthly corresponding to the percentage change in the CPI and the actual Peso per Dollar exchange rate, as published by the BSP, of the last day of the month immediately preceding the applicable billing period. The CPI used a 2000 year base of 100.*

*[Three handwritten signatures]*

As the repayment schedule for PPC's US\$ loan calls for a last and final payment falling due on January 15, 2009, the US\$ component of the December 31, 2004 base rate shall be reduced from US\$0.0183/kWh to US\$ 0.0122/kWh, as follows:

The Recoverable Base Rates (using the base rate as of December 31, 2004 of PhP2.1012/kWh) are as follows:

Table "A" Base Rates

Validity Period: from December 14, 2005 (the date when ERC's Provisional Authority was implemented by PPC) until January 15, 2009:

	<b>for kWh up to MGEQ</b>	<b>for kWh Excess of MGEQ</b>
<b>PhP/kWh Component</b>	1.0737	0.7347
<b>US\$/kWh Component</b>	0.0183	0.0183

Table "B" Base Rates

Validity Period: from January 16, 2009 until the January 2025 expiration of the Cooperation Period between the parties:

	<b>for kWh up to MGEQ</b>	<b>for kWh Excess of MGEQ</b>
<b>PhP/kWh Component</b>	1.0737	0.7347
<b>US\$/kWh Component</b>	0.0122	0.0122

The US\$ component of the base rate above corresponds to directly imported (paid for in foreign exchange) and/or Philippine-sourced imported components (paid for in Pesos) of PPC's power plant O & M costs which includes, among others, spare parts, materials, consumables and chemicals during routine and periodic maintenance conducted at intervals of 4,000 running hours.

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*The Peso/kWh component "for kWh in excess of the MGEQ" corresponds to PPC's recovery of non-fuel variable O & M costs considering that PPC's capacity costs are deemed to have been recovered when the MGEQ level is attained;*

*The Amendment Agreement to the Power Purchase Agreement between PECO and PPC stipulates an MGEQ level of 373,032,024 kWh per year equivalent to 31,086,002 kWh per month.*

- 2. The cost of power purchased by PPC from Avon River Holdings, Inc. (to augment PPC's supply to PECO during peak periods and during unscheduled maintenance of units of PPC's power plant/s) and delivered to PECO shall be billed at rates equivalent to the "for kWh up to MGEQ" under this Decision; PPC shall bill PECO every month for the cost of purchased power and PECO shall recover the same under AGRA;*
- 3. The prevailing 3% Prompt Payment Discount (PPD) previously granted by PPC to PECO shall continue provided fifty percent (50%) thereof shall be passed on to its customers/consumers and, provided further, that the PPD shall apply only to PPC's base rate net of fuel cost; PECO shall submit a monthly report to the Commission detailing the amount of PPD received from PPC and the amount of the 50% it passed on to its customers;*
- 4. The Primary Voltage Discount (PVD) and the Power Factor Discount (PFD) previously granted by PPC to PECO shall be suspended pending the Commission's promulgation of the rules for such discounts;*
- 5. PECO and PPC shall connect to the Cebu-Negros-Panay (CNP) Grid of NPC-TRANSCO and may contract for electricity supply in excess of its contractual commitments to PPC, as and when supply is available, and PPC shall enter into a contract with NPC for the appropriate Ancillary Service/s; the actual cost of Ancillary Service shall be passed on to PECO's customers;*
- 6. The cost of start-up diesel fuel and bunker fuel is a pass-on cost of PPC to PECO provided the consumption rate of bunker fuel does not exceed 0.2600 liters per kWh or actual fuel consumption, whichever is lower; the consumption rate is based on the current sixty five percent (65%) load factor of PECO; and*



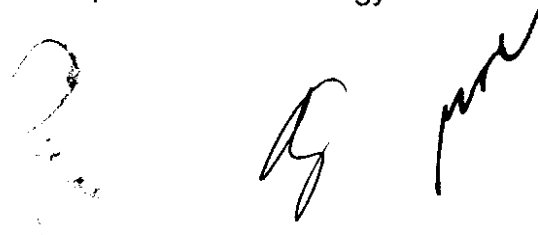
7. *PECO and PPC shall submit a report to the Commission, not later than ninety (90) days from receipt of this Decision, on their compliance to the above."*

In this motion, PPC seeks the

- 1) recomputation of the allowable rates using data from the 2005 Financial Statements;
- 2) inclusion of the miscellaneous and other necessary items in its computation of the operation and maintenance expenses (O&M);
- 3) adjustment of the computation of the weighted adjustment of the cost of capital (WACC); and
- 4) increase of the base rate to PhP2.5565 /kWh net of any prompt payment discount.

PPC alleged that Panay Electric Company, Inc. (PECO) is currently paying only on the basis of National Power Corporation (NPC) rates approved in ERC Case NO. 2003-574 [NPC application for recovery of costs under the Generation Rate Adjustment Mechanism (GRAM)] and ERC Case No. 2003-498 [NPC application for recovery of costs under the Incremental Currency Exchange Rate Adjustment (ICERA)] and has not implemented the Power Purchase Adjustment clause to the prejudice of PPC.

PPC assailed the Commission's apparent interpretation of the rates in the Decision, as the ERC approved rates for NPC, contending that this premise is harsh and without factual or legal basis. It argued that the requirements of "economic criteria" and "avoided cost" set under the Department Of Energy's



(DOE) Energy Regulations No. 1-95 (ER 1-95) dated January 2, 1995 did not contemplate the extent to which the power industry, particularly the NPC, will be restructured under Republic Act No. 9136 (The Electric Power Industry Reform Act or the EPIRA) and the heavy intervention and subsidy given to NPC that distorted the latter's rate beyond what ER 1-95 contemplated. They added that such restructuring had the effect on the NPC rate that could not have reasonably been foreseen by PECO and PPC and that such rate that they used is the same NPC rate after the effectivity of the EPIRA. And that by setting the NPC rate as a standard, there was an unmistakable assumption by ER 1-95 that led PECO and PPC to expect that NPC will be allowed to apply for such rates as market forces demand of it. Conversely, there was no contemplation that the PECO and PPC will follow the "suicidal" NPC rate considering that such has government guarantee or subsidy.

PPC argued that it entered into the Power Purchase Agreement (PPA) in response to government's call for private sector participation in electricity generation through Executive Order No. 215 and an assurance that it will be afforded a certain rate of return with the approval by the government of the PPA. It points out that the NPC rate that it referred to in the PPA is not the NPC rate that the Commission is now referring to, arguing that there is latent ambiguity in the term NPC rate. It contends that under DOE Circular No. 03-004-00 dated March 17, 2000, the government has veered away from requiring that new power plants be cheaper than existing or programmed power plants and that whatever restrictions imposed by the government under Article 7.1(2) of the PPA has been removed when the generation of electricity was deregulated by the EPIRA. It emphasized that unlike most Independent Power Producers (IPPs) supplying



NPC, payment of rates of PPC to PECO is not guaranteed by the government such that NPC suppliers are assured of payment of their fees from NPC and the government, whereas PPC can only run after PECO which has been in default since August 2005.

PPC contended that the Commission relied on its 2004 Audited Financial Statement and the Property, Plant and Equipment stated therein in arriving at the Capital Recovery Fee of PhP 0.3390 /kWh. Further, it argued that in the computation, new accounting rules and regulations on the total asset base of PPC was not considered. It alleged that in 2004, due to required compliance with International Accounting Standards (IAS) No. 21 (Accounting for the Effects of Changes in Foreign Exchange Rates), PPC wrote-off a total of Four Hundred Eighty Eight Million Thirty Six Thousand Two Hundred and Nineteen Pesos (PhP488,036,219) worth of capitalized foreign exchange (FOREX) adjustments which effectively reduced total Fixed Assets and Stockholder's Equity by the same amount. It asserted that with the devaluation of the peso and deterioration of the peso-dollar exchange rate since the time of the financing of the project where the rate then was approximately PhP36 to US\$1, the peso value of PPC's US dollar denominated debt liabilities increased, adding that prior to the adoption of the IAS No. 21, it capitalized its foreign exchange adjustments to Fixed Assets. It posited that with the adoption of IAS No. 21 and the write-off of a significant portion of the capitalized FOREX adjustments and since the Commission's determination is asset based, capitalized FOREX adjustments should be included in the determination of the asset base which would be a more accurate representation of the value of the assets and shareholders equity. It argued that without such write-off PPC's Property, Plant and Equipment which, amounted to



Two Billion Four Hundred Two Million Four Hundred Fifty Nine Thousand three Hundred Twenty Nine Pesos (PhP2,402,459,329) would have been Two Billion Eight Hundred Ninety Million Four Hundred Ninety Five Thousand Five Hundred Forty Eight Pesos (PhP2,890,495,548).

<b>Fixed Assets (PhP)</b>	2,402,459,329
	+ <u>488,036,219</u>
	<b>PhP2,890,495,548</b>

The Capital Recovery Fee would thus be PhP0.4078 /kWh compared to the Commission's computation of PhP0.3390 /kWh.

The computation of the Capital Recovery Fee using two (2) different Fixed Asset bases can be seen below:

	<b>2004</b>	<b>2004 with IAS adjustments added back</b>
<b>Capital Recovery</b>		
Fixed Asset Value (PhP)	2,402,459,329	PhP2,890,495,548
Remaining BOO Contract Years	19 years	19 years
Annual Capital Recovery	<u>Asset Value</u> Remaining Years = 126,445,228	152,131,345
MEOT (kWh/yr)	373,032,024	373,032,024
Capital Recovery Nominal CPI	<u>Annual Capital Recovery</u> MEOT = 0.3390	0.4078

PPC added that the write-off reduced the Stockholders Equity by Four Hundred Eighty Eight Million Thirty Six Thousand Two Hundred and Nineteen Pesos (PhP488,036,219) thus making its Equity equivalent to One Billion Nine Hundred Seventy Seven Million Eight Hundred Eighty Six Thousand Seven Hundred Eighty Six Pesos (PhP1,977,886,786) instead of One Billion Four

Hundred Eighty Nine Million Eight Hundred Fifty Thousand Five Hundred Sixty Seven Pesos (PhP1,489,850,567) as stated in the Audited Financial Statements

<b>Equity</b>	1,489,850,567
+	<u>488,036,219</u>
	<b>PhP1,977,886,786</b>

PPC also contended that the Commission used the value of PhP1,489,850,567 in determining the debt-equity ratio of 37.79:62.21 instead of PhP1,977,886,786 to get a debt-equity ratio of 31.39:68.61 as seen in the following table:

	<b>2004</b>		<b>2004 with IAS adjustments added back</b>	
<b><u>Debt-Equity Mix</u></b>				
Equity	1,489,850,567	62.21%	1,977,886,786	68.61%
Debt	904,976,180	37.79%	904,976,180	31.39%
	=====		=====	
Total Capital	2,394,826,747		2,882,862,966	

PPC then argued that the WACC should be 14.78% instead of 14.06% using the computation of the Commission. Given this Total Capital scenario, there would be no change in the Debt Recovery portion.

	<b>2004</b>		<b>2004 with IAS adjustments added back</b>	
<b><u>Debt per kWh</u></b>				
Debt level	904,976,180		904,976,180	
Cost of Debt	7.05%		7.05%	
Annual Cost	= Debt level x Cost of Debt		63,800,821	
	63,800,821		63,800,821	
Per kWh	= Annual Cost/ MGEQ		0.1710	
	0.1710		0.1710	

PPC also contended that using the Cost of Equity of 18.32% and the Commission's method of computation, it should have a Return on Equity of PhP0.9714 per kWh instead of the Commission determined amount of PhP0.7317 per kWh.

	2004	2004 with IAS adjustments added back
<b>Equity per kWh</b>		
Equity value	1,489,850,567	1,977,886,786
Allowed return	18.32%	7.05%
Annual Return	Equity value x Allowed return = 272,940,624	362,348,859
Per kWh	Annual Return/ MGEQ = 0.7317	0.9714

PPC asserted that in order to get the true Cost of Equity of 18.32% the computed return on Equity should be grossed up to account for income tax. It contended that it should be allowed a Return on Equity charge of PhP1.4944 per kWh.

	2004	2004 with IAS adjustments added back
<b>Equity per kWh</b>		
Equity value	1,489,850,567	1,977,886,786
Allowed return	18.32%	18.32%
Annual return	Equity value x allowed return 272,940,624	362,348,859
Per kWh	Annual return/ MGEQ	0.9714
Income Tax Rate	35%	35%
Grossed up rate	Per kWh / (1-Tax Rate) 1.1257	1.4944

PPC disagreed with the Commission's exclusion of the Miscellaneous items in the computation of the Operation and Maintenance Expenses without ascertaining the components thereof, arguing that the components could be

considered as recurring expenses, or which are necessary in the operation and maintenance of the project. It enumerated the charges under the Miscellaneous expenses, namely: education; training and seminars; travel and transportation expenses; office supplies and printing; laboratory supplies; outside services like security and other sub-contracted services; health/medical services; postage, safety supplies; structure and grounds maintenance; utilities; vehicle repairs; and telecommunications, all of which are recurring expenses and should not therefore be deducted from the operating expenses in the computation of the O&M Fees. It included in the motion a breakdown of the Miscellaneous expense as seen from the 2005 Audited Financial Statements that it submitted to the Commission on March 27, 2006.

PPC argued further that excluding the line items for Depreciation, Interest and Bank Charges, Provision for Probable Losses, and Foreign Exchange Losses, it should have an O&M Fee of PhP0.9344 per kWh as against the Commission's computation of PhP0.8567 per kWh.

PPC added that the Operating Expenses in the 2004 Audited Financial Statements did not reflect the true cost in the operation and maintenance of the power station. It alleged that the test to use seawater in the desulphurization of emissions in power stations where previously Caustic Soda was used failed and it was thus constrained to use Caustic Soda again, which entailed additional O&M costs which were not included in the 2004 Audited Financial Statements. Thus, additional cost of caustic soda of PhP10,500 per MT and plant consumption of 7MT per line should also be taken into consideration.



### Caustic Soda

Cost of Caustic Soda = 10,500 PhP/MT  
Consumption per day            7MT per day (for additional one line)

Annual Cost of Caustic Soda = Cost of Caustic Soda x Consumption per day x 365 days  
= 26,827,500

Per kWh cost of Caustic Soda = Annual cost of Caustic Soda / MGEQ  
= 0.0719

PPC summarized the preceding arguments by stating that with the use of a Return on Equity of 18.32%, the tariff resulting from the inclusion of 1) the IAS write-off; 2) the Miscellaneous Expense; and 3) the additional cost of Caustic Soda, it should be allowed to recover from its consumers its cost of generation at a rate of PhP2.5565/kWh as of December 31, 2004. This computation can be seen from the following table:

	ERC Computation	With IAS adjustments added back
Capital Recovery Fee	0.3390	0.4078
WACC		
Return on Equity Fee	0.7345	0.9714
Debt Recovery Fee	0.1710	0.1710
O&M Fee	0.8567	0.9344
Caustic Soda		0.0719
Total Allowable Base Rate	2.1012	2.5565

PPC also contended that the Prompt Payment Discount as provided in its agreement with PECO is premised on the tariff agreed upon by the parties. It argued that with the decrease of the Capital Recovery Fee and the O&M Fee that may be collected from PECO's consumers, there is no assurance that it will have an Equity Return of 18.32% from its customers and providing a discount further erodes the value left to the shareholders after taxes. It contends further that the



18.32% Return on Equity should be net of discounts to the consumers and net of taxes which would actually be less than twelve percent (12%).

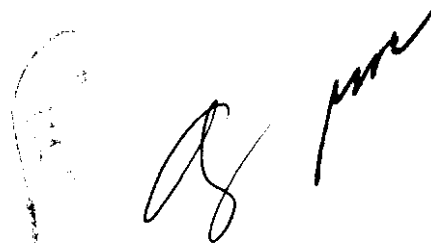
On May 4, 2006, the Commission issued an Order requiring PECO and the Intervenor to file their respective comments to the instant Motion for Partial Reconsideration.

PECO received the said Order on May 15, 2006. It commented that the Motion for Partial Reconsideration may have been filed out of time. It also contended that the issue on the interpretation of the term "NPC rates" that PPC have substantially argued in the Motion have already been rendered "functus officio" by the approval of the amended PPA in the Decision.

Atty. Gerochi, Intervenor in behalf of Iloilo consumers, contends that the Motion should be denied for being filed beyond the reglamentary period provided for under the rules.

On June 20, 2006, PPC filed a Motion to Admit seeking that the following attached documents be admitted in support of the Motion for Partial Reconsideration:

1. Annex "A" - Affidavit of Jaime Azurin containing the breakdown of the components of the Miscellaneous Expenses; and
2. Annex "B" - Affidavit of Mr. Nole Simpás, Assistant Manager of PPC, certifying the use of caustic soda flakes for the desulphurization of the second line and the volume and amount spent therefor.



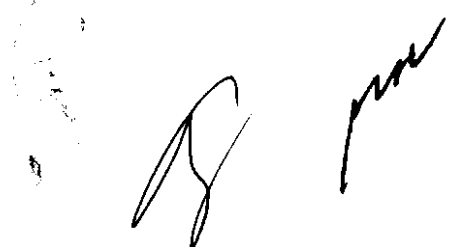
The core issue in this motion is whether there exists sufficient justification to grant the modification of the Decision specifically the revision of the rates approved therein.

While the instant motion was apparently filed beyond the reglamentary period given, Section 2 Rule 14 of the Rules of Practice and Procedure Governing Hearings Before the Energy Regulatory Board (now the Commission) provides for a thirty (30) day period from receipt of an adverse decision for the filing of a Motion for Reconsideration. In this case, PPC filed the instant motion on the last day of the 30 day period given thus the same was timely filed.

The Commission finds PPC's arguments/discussions on the issue of the interpretation of the term "NPC rate" as superfluous and agrees with PECO's observation that the same is "functus officio" or otherwise already treated in the March 10, 2006 Decision.

However, the Commission finds reasonable, the modification sought with respect to PPC's rates as sufficiently supported by documents submitted.

The Commission finds tenable the adjustment to be made of the values for the asset base to include capitalized foreign exchange adjustments pursuant to IAS No. 21. Thus, the amount of Four Hundred Eighty Eight Million Thirty Six Thousand Two Hundred and Nineteen Pesos (PhP488,036,219) worth of capitalized foreign exchange (FOREX) adjustments, which was written-off and effectively reduced total Fixed Assets and Stockholder's Equity by the same amount, should be added back to the value of the Fixed Assets to make it Two



Billion Eight Hundred Ninety Million Four Hundred Ninety Five Thousand Five Hundred Forty Eight Pesos (PhP2,890,495,548).

<b>Fixed Assets (PhP)</b>	2,402,459,329
Amount written-off	+ <u>488,036,219</u>
	<b>PhP2,890,495,548</b>

With the remaining life of the power plant of nineteen (19) years and the MGEQ of 373,032,024 kWh per annum, Capital Recovery Fee (CRF), computed at 0.4078 would then be adjusted by 0.0689.

	<b>2004</b>	<b>2004 with IAS adjustments added back</b>
<b>Capital Recovery</b>		
Fixed Asset Value (PhP)	2,402,459,329	<b>PhP2,890,495,548</b>
Remaining BOO Contract Years	19 years	19 years
Annual Capital Recovery	$\frac{\text{Asset Value}}{\text{Remaining Year}} = 126,445,228$	<b>152,131,345</b>
MGEQ (kWh/yr)	373,032,024	373,032,024
MGEQ/12	31,086,002	31,086,002
Capital Recovery Nominal CPI	$\frac{\text{Annual Capital Recovery}}{\text{MGEQ}} = 0.3390$	<b>0.4078</b>

With the adjustment in the Fixed Assets, the WACC should also be adjusted accordingly such that the Equity will have to be increased by Four Hundred Eighty Eight Million Thirty Six Thousand Two Hundred and Nineteen Pesos (PhP488,036,219). The Equity will thus amount to One Billion Nine Hundred Seventy Seven Million Eight Hundred Eighty Six Thousand Seven Hundred Eighty Six Pesos (PhP1,977,886,786).

With such adjustment in the Equity, the debt-equity ratio will then be 31.39:68.61 as seen from the following table:

<b>Weighted Average Cost of Capital</b>		
Debt	904,976,180	31.39%
Equity	1,977,886,786	68.61%
Cost of Debt		7.05%
Cost of Equity		18.32%

The WACC increased by 0.72 due to the increase in Equity thus making it 14.78 as seen from the following table.

	<b>March 10, 2006 Computation</b>	<b>Increase</b>	<b>Adjusted</b>
WACC	14.06	0.72	<b>14.78</b>
WACC x Fixed Asset	337,811,415.90	89,471,666.03	<b>427,283,081.93</b>
MGEQ	373,032,024		373,032,024
WACC x Fixed Asset/MGEQ (P/kWh)	0.9056	0.2389	<b>1.1454</b>

It does not find merit, however, in using a Return of Equity rate of 11.91%, which is the result of the 18.32% after deduction of taxes. Likewise, there is also no concrete showing that shareholders equity will be reduced to a great extent upon the grant of the PPD for PECO's consumers. In any case, the suspension of the Power Factor Discount (PFD) and the Primary Voltage Discount (PVD) has, conversely, veritably increased the shareholders' equity.

The Commission finds merit in PPC's argument that the components of the Miscellaneous Expense are recurring expenses as this was sufficiently proven by the affidavit containing the breakdown of the said expense. Therefore, the O&M Expense should be adjusted to include the amount of the

Miscellaneous Expense previously disallowed in the March 10, 2006 Decision. However, the Interest Expense in the amount of Eight Hundred Twenty Nine Thousand Six Hundred Forty Eight Pesos (PhP829,648) that is part of the Miscellaneous Expense will still be excluded therefrom as already being part of the cost of debt.

The Commission also finds merit in including the cost of Caustic Soda as part of the O&M Expense considering that the same is a necessary expense for the efficient operation of the power stations which amount was not reflected in the 2004 Audited Financial Statements. The actual cost of the Caustic Soda, which is Nine Thousand Five Hundred Forty Five Pesos and Forty Five Centavos (PhP9,545.45) per metric ton (MT), multiplied by the average daily consumption of seven (7) MT/day and multiplied by Three Hundred Sixty Five (365) days will result to the amount of Twenty Four Million Three Hundred Eighty Eight Thousand Six Hundred Twenty Four Pesos (PhP24,388,624) that should be added to the O&M Expense to accurately reflect the actual expenses therefor.

#### **Caustic Soda**

Cost of Caustic Soda = 9,545.45PhP/MT  
Consumption per day = 7MT per day (for additional one line)

Annual Cost of Caustic Soda = Cost of Caustic Soda x Consumption per day x  
365 days  
= PhP24,388,624

The adjusted O&M Fee is 0.9998 after summing up all the allowed costs less Provision for Probable Losses, Purchased Power and the Depreciation and dividing the result thereof with the MGEQ as shown in the table below.



O & M	2004	Adjusted
Cost and Operating Expense	529,124,649	529,124,649
Less Depreciation	121,030,366	121,030,366
Less provision for probable losses	27,223,646	27,223,646
Less purchased power	31,487,206	31,487,206
Less Miscellaneous except Interest Expense	29,810,883	829,648
Plus Caustic Soda		24,388,624
Net Cost and Operating Expense	319,572,548	372,942,407
MGEQ/YEAR	373,032,024	373,032,024
<b>O&amp;M Fee (O&amp;M/MGEQ)</b>	<b>0.8567</b>	<b>0.9998</b>

To sum up, the total allowable base rate as of December 31, 2004 as adjusted would be PhP2.5530/kWh. This Peso component of the base rate, however, will be adjusted monthly based on the determination of Consumer Price Index (CPI) factor (current CPI divided by CPI for December 2004) and exchange rate published by the Bangko Sentral ng Pilipinas (BSP) on the last day of the applicable billing month.

**Base Rate in P/kWh**

Capacity Recovery Fee	0.4078
O&M Fee	+0.9998
WACC	<u>+1.1454</u>
<b>Total</b>	<b>2.5530</b>

Anent the dollar component of the O&M, the same benchmarked percentage, which is 80% of the O&M fee, will be used in the determination thereof to account for the spare parts and lubricants, which were purchased using US dollars. Thus, O&M Fee is US\$0.0142/kWh using the exchange rate in December 2004, which is PhP56.1828/US\$.

The Commission still allows the recovery of the debt portion of the WACC as adjusted, which is equivalent to 31.39% thereof and amounting to

US\$0.0064/kWh. As in the March 10, 2006 Decision, the debt portion will be zeroed as the loan matures on January 15, 2009.

In excess of MGEQ, Capacity Fee will be zero and only the variable cost, which is the O&M Fee, will be used in computing the fee in excess of the MEOT. Only the O&M fee will be subject to indexation (CPI).

Accordingly, as adjusted, the allowable base generation rates are as follows:

Base Rate (December 31,2004) until January 14, 2009

	Within MGEQ		In excess of MGEQ	
	PhP	US\$	PhP	US\$
Capital Recovery Fee	0.4078	n/a		
Cost of Debt	n/a	0.0064		
Cost of Equity	0.7859	n/a		
<b>Total Capacity Fee</b>	<b>1.1937</b>	<b>0.0064</b>	n/a	n/a
<b>O&amp;M Fee</b>	<b>0.2000</b>	<b>0.0142</b>	<b>0.2000</b>	<b>0.0142</b>
<b>Total</b>	<b>1.3937</b>	<b>0.0206</b>		

Base Rate from January 15, 2009 onwards

	Within MGEQ		In excess of MGEQ	
	PhP	US\$	PhP	US\$
Capital Recovery Fee	0.4078	n/a		
Cost of Debt	n/a	n/a		
Cost of Equity	0.7859	n/a		
<b>Total Capacity Fee</b>	<b>1.1937</b>	<b>n/a</b>	n/a	n/a
<b>O&amp;M Fee</b>	<b>0.2000</b>	<b>0.0142</b>	<b>0.2000</b>	<b>0.0142</b>
<b>Total</b>	<b>1.3937</b>	<b>0.0142</b>		

**WHEREFORE**, premises considered, the Commission resolves to grant PPC's Motion for Partial Reconsideration. Accordingly, the March 10, 2006 Decision is hereby MODIFIED as follows:

The amount recoverable by PPC from PECO is initially referenced on the December 31, 2004 base rate (with base index of a CPI of 125.4 and a FOREX rate of PhP56.1828 per US\$) of **PhP2.5530/kWh** and shall be adjusted monthly corresponding to the percentage change in the CPI and the actual Peso per Dollar exchange rate, as published by the BSP, on the last day of the month immediately preceding the applicable billing period. The CPI used a 2000 index base of 100.

As the repayment schedule for PPC's US\$ loan calls for a last and final payment falling due on January 15, 2009, the US\$ component of the December 31, 2004 base rate shall be reduced from **US\$0.0206/kWh** to **US\$ 0.0142/kWh**, as follows: The Recoverable Base Rates (using the base rate as of December 31, 2004 of PhP2.1335/kWh) are as follows:

Table "A" Base Rates

Validity Period: from December 14, 2005 (the date when ERC's Provisional Authority was implemented by PPC) until January 15, 2009:

	for kWh up to MGEQ	for kWh Excess of MGEQ
<b>PhP/kWh Component</b>	<b>1.3937</b>	<b>0.2000</b>
<b>US\$/kWh Component</b>	<b>0.0206</b>	<b>0.0142</b>

Table "B" Base Rates

Validity Period: from January 16, 2009 until the January 2025 expiration of the Cooperation Period between the parties:

	for kWh up to MGEQ	for kWh Excess of MGEQ
<b>PhP/kWh Component</b>	<b>1.3937</b>	<b>0.2000</b>
<b>US\$/kWh Component</b>	<b>0.0142</b>	<b>0.0142</b>

The US\$ component of the base rate above corresponds to directly imported (paid for in foreign exchange) and/or Philippine-sourced imported components (paid for in Pesos) of PPC's power plant O & M costs which includes, among others, spare parts, materials, consumables and chemicals during routine and periodic maintenance conducted at intervals of 4,000 running hours.

The Peso/kWh component "for kWh in excess of the MGEQ" corresponds to PPC's recovery of non-fuel variable O & M costs considering that PPC's capacity costs are deemed to have been recovered when PECO offtakes at the MGEQ level.

All other provisions and directives in the March 10, 2006 Decision not otherwise modified herein stands and shall be complied with accordingly.

**SO ORDERED.**

Pasig City, 27 June 2006.

  
**RODOLFO B. ALBANO, JR.**  
Chairman

(On Leave)  
**OLIVER B. BUTALID**  
Commissioner

  
**RAUF A. TAN**  
Commissioner

(On Leave)  
**JESUS N. ALCORDO**  
Commissioner

  
**ALEJANDRO Z. BARIN**  
Commissioner

**Copy Furnished:**

1. **Panay Electric Co. Inc.**  
J.M. Basa St., Iloilo City
  
2. **Panay Power Corporation**  
CTC Bldg., 2232 Roxas Blvd.,  
Pasay City
  
3. **Atty Honorato P. Sayno, Jr.**  
Counsel PECO  
Room 207, 2<sup>nd</sup> Floor, Maryville Bldg.,  
Delgado St., Iloilo City
  
4. **Atty. Romeo P. Gerochi**  
Counsel for Oppositors  
Gerochi Law Office  
Room 306-308, 3<sup>rd</sup> Flr.,  
Golden Commercial Center  
Iznart St., Iloilo City
  
5. **The Solicitor General**  
134 Amorsolo St., Makati City
  
6. **Commission on Audit**  
Quezon City
  
7. **House Committee on Energy**  
Batasan Hills, Quezon City
  
8. **Senate Committee on Energy**  
GSIS Bldg., Roxas Blvd,  
Pasay City
  
9. **National Power Corporation**  
BIR Rd., cor. Quezon Ave.,  
Quezon City
  
10. **ERC- Regulatory Operations Service**

