

Republic of the
ENERGY REGULATORY COMMISSION
San Miguel Ave

7 JULY 20 9:21, 2010
9:00 AM
VENUE: Hearing Room

IN THE MATTER OF THE PETITION
FOR THE DETERMINATION OF
COMPUTATION OF ANCILLARY
CHARGES BILLED BY THE
NATIONAL GRID CORPORATION
OF THE PHILIPPINES (NGCP)
TO ITS MEMBER-ELECTRIC
COOPERATIVE'S (EC), AND
PENDING RESOLUTION THEREOF,
TO ALLOW PAYMENT OF THE
MARCH 26-APRIL 25, 2010 NGCP
BILLING AS STAGGERED
PAYMENT BASIS FOR A PERIOD
OF TWELVE (12) MONTHS

ERC CASE NO. 2010-030 MC

ASSOCIATION OF MINDANAO
ELECTRIC COOPERATIVES
(AMRECO) Represented by
PHILIPPINE RURAL ELECTRIC
COOPERATIVES ASSOCIATION,
INC. (PHILRECA)

Petitioner,

DOCKETED
Date: JULY 25 2010
By: M

- VERSUS -

NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP),

Respondent.

x-----x

ORDER

On May 21, 2010, the Association of Mindanao Electric Cooperative, Inc, (AMRECO) represented by the Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) filed a petition for the determination of computation of Ancillary Charges billed by the National Grid Corporation of the Philippines (NGCP) to its member-electric cooperatives (EC) and pending resolution thereof, they be allowed to pay on staggered basis for a period of twelve (12) months the March 26, 2010 to April 25, 2010 NGCP billing.

In the said application, AMRECO alleged, among others, that:

1. It is an association composed of several electric cooperatives located in Mindanao. It authorized the PHILRECA, an association of 119 electric cooperatives throughout the country, to institute the instant petition;
2. Pursuant to its Order dated March 24, 2010 in ERC Case No. 2010-014 RC, the Commission provisionally approved the application of NGCP and Therna Marine Inc. for the approval of their Ancillary Services Procurement Agreement (ASPA) subject to the condition that *"the rate to be paid by the NGCP as ancillary service cost should be passed on to its customers in accordance with the approved Ancillary Services-Cost Recovery Mechanism (AS-CRM)"*;
3. Sometime in March 2010 to April 2010, its member – electric cooperatives received their billings from the NGCP covering the period March 26, 2010 to April 25, 2010;
4. A comparison of Ancillary Charges for the previous four (4) month period before the aforementioned billing showed that there was a sudden increase in the Ancillary Charges billed by NGCP as shown by the table below:

EC NAME	AMOUNT OF ANCILLARY CHARGES from MINDANAO EC'S2					
	Oct. 26, 2009 - Nov. 25, 2009	Nov. 26, 2009 - Dec. 25, 2009	Dec. 26, 2009 - Jan. 25, 2010	Jan. 26, 2010 - Feb. 25, 2010	Feb. 26, 2010 - Mar. 25, 2010	Mar. 26, 2010 - Apr. 25, 2010
	ANECO	1,447,628.00	1,564,588.72	1,709,264.97	560.93	10,362,306.30
ASELCO	522,452.00	647,342.47	621,215.80	198.37	4,092,775.58	3,262,592.96
CAMELCO	79,025.00	95,502.12	77,047.94	30.79	612,921.92	1,940,803.72
COTELCO	1,015,050.00	1,137,650.98	1,199,103.84	406.52	8,009,873.28	22,533,050.64
DANECO	1,667,925.00	1,909,959.21	1,999,074.88	658.03	13,065,211.20	38,736,491.92
DASURECO	930,525.00	1,036,796.97	1,081,817.44	390.72	7,252,314.56	21,901,434.76
DORECO	461,100.00	504,802.81	561,897.60	164.85	3,074,377.28	8,586,501.24
FIBECO	655,600.00	719,149.82	816,726.24	270.59	5,292,204.16	15,272,550.44
LANECO	297,100.00	334,091.04	358,651.04	113.65	2,310,807.68	6,896,774.64
LASURECO	746,875.00	912,067.43	978,384.00	305.19	6,134,103.04	
MAGELCO	240,856.00	256,256.26	276,360.27	98.35	1,821,897.73	4,897,685.16
MOELCI-1	218,050.00	246,769.27	270,626.40	83.49	1,615,799.68	4,841,641.16
MOELCI-2	583,800.00	643,641.03	689,745.76	222.36	4,227,902.72	12,870,504.60
MORESCO 2	468,450.00	528,145.58	569,168.16	191.32	3,858,973.38	10,272,865.20
SIARELCO	63,950.00	73,664.77	82,469.52	24.60	438,840.16	1,288,748.24
SOCOTECO-1	782,800.00	916,199.20	967,134.08	321.30	634,229.76	17,566,991.80
SOCOTECO-2	2,777,850.00	3,047,055.59	5,720,531.46	1,088.56	20,916,923.20	80,810,300.62
SUKELCO	688,475.00	838,138.78	879,882.72	229.13	4,415,854.88	12,822,306.76
SURNECO	426,650.00	477,427.41	495,894.08	166.43	3,490,780.88	9,788,206.48
SURSECO-1	248,300.00	274,998.41	305,543.04	97.65	1,840,456.32	4,806,893.88
SURSECO-2	239,125.00	266,679.41	277,059.20	93.36	2,047,305.09	5,678,059.32
ZAMCELCO	2,127,100.00	2,299,399.33	1,774,289.52	826.17	15,813,122.56	46,212,201.08
ZAMSURECO-1	723,500.00	797,819.83	879,558.24	268.61	5,795,803.20	17,366,364.28
ZAMSURECO-2	430,675.00	505,573.36	571,681.44	175.66	3,442,168.00	10,360,854.28
ZANECO	714,550.00	779,828.95	855,023.84	279.32	5,600,261.76	16,526,694.28
TOTAL	18,437,611.00	20,030,032.73	23,817,921.48	7,285.85	136,164,624.32	386,932,896.09

5. The consumers of the said electric cooperatives protested the drastic increase of transmission charges since they are suffering frequent power outages. Thus, the ECs could not bear to impose the Ancillary Charges to their customers;
6. It moved that the Commission should arbitrate the matter and determine the actual amount due and demandable to its members pursuant to Section 43 (u) of Republic Act No. 9136 (R.A. 9136), to wit:

"The ERC shall have the original and exclusive jurisdiction over all cases contesting rates, fees, fines and penalties imposed by the ERC in the exercise of the above-mentioned powers, functions and responsibilities and cover all cases involving disputes between and among participants or players in the energy sector. x x x." (*emphasis supplies*)

7. Pending resolution of this case, it prays that the assailed billing of NGCP covering the period March 26, 2010 to April 25, 2010 be spread over a period of twelve (12) months to mitigate the impact of the abrupt increase in transmission charges to the member-consumers.

Finding the said petition to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for initial hearing, expository presentation, pre-trial conference and evidentiary hearings on the following dates and venue:

DATE	TIME	VENUE	PARTICULARS
July 20, 2010 (Tuesday)	Nine o'clock in the morning (9:00 A.M.)	ERC Hearing Room, 15 th Floor Pacific Center Bldg., San Miguel Avenue, Pasig City	Jurisdictional Hearing, Expository, Pre-Trial Conference, and Evidentiary hearing
July 21, 2010 (Wednesday)	Nine o'clock in the morning (9:00 A.M.)		Continuation if necessary

AMRECO is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in newspaper of general circulation in the Philippines, with the date of the publication to be made not later than ten (10) days before the date of the scheduled initial hearing. It is also directed to inform the consumers within its franchise area, by any other means available and appropriate, of the filing of the instant petition, its reasons therefor, and of the scheduled hearings thereon.

Let copies of the petition, this Order, and the attached Notice of Public Hearing be furnished 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 hearings.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Provincial Governors and the Mayors of the Cities and Municipalities where the EC members principally operate for the appropriate posting thereof on their respective bulletin boards.

AMRECO is hereby directed to furnish all those making requests therefor with copies of the petition and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, AMRECO must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Provincial Governors and Mayors or their duly authorized representatives, bearing the seals of their offices, and the affidavit of the Editor or Business Manager of the newspaper where said Notice of Public Hearing was published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

AMRECO and all interested parties are directed 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:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefor; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-Trial Brief.

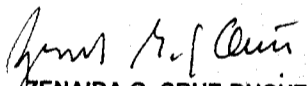
Failure of AMRECO to submit the required Pre-Trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, AMRECO must also be prepared to make an expository presentation on its petition, 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 petition is all about and the reasons and justifications being cited in support of the same.

SO ORDERED.

Pasig City, June 21, 2010.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson

RFW/AMRECO PETITION-Order

Copy Furnished:

1. **CARLOS VALERA NIETO BONGOLAN AND TORREDES LAW OFFICE**
Counsels for AMRECO
2ND Floor STG Bldg.,
190 P. Tuazon Street cor. 10th Avenue,
Araneta Commercial Center, Cubao, Quezon City
2. **ASSOCIATION OF MINDANAO ELECTRIC COOPERATIVE, INC.
(AMRECO)**
Mr. Clint Django Pacana
Executive Director
Door #5, RS Building, Macajalar Street, Camaman-an
9000 Cagayan de Oro City
3. **Commission on Audit**
Commonwealth Avenue
Quezon City
4. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City
5. **House Committee on Energy**
Batasan Hills, Quezon City
6. **Office of the President of PCCI**
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building, Sen. Gil Puyat Avenue
Makati City
7. **All Electric Cooperatives in Mindanao**
8. **All the City and Municipal Mayors of Mindanao**
9. **All the Provincial Governors of Mindanao**