

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF
ADJUSTMENTS IN RATES
BASED ON THE TARIFF
GLIDE PATH ON THE 4TH TO
6TH REGULATORY YEARS
OF THE FIRST
REGULATORY PERIOD FOR
THE FIRST ENTRANT
GROUP UNDER THE
TARIFF GLIDE PATH
RULES**

ERC CASE NO. 2023-009 RC

**PENINSULA ELECTRIC
COOPERATIVE, INC.,**
Applicant.

Promulgated:
[February 21, 2023](#)

X-----X

ORDER

On 30 January 2023, Peninsula Electric Cooperative, Inc. (PENELCO) filed an *Application* dated 09 December 2022, seeking the Commission's approval of its adjustment in rates based on the Tariff Glide Path (TGP) for its fourth (4th) to sixth (6th) Regulatory Years of the First Regulatory Period for the First Entrant Group under the TGP Rules.

The pertinent allegations of the *Application* are hereunder quoted:

1. PENELCO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at the Roman Super Highway, Tuyo, Balanga City, Bataan;
2. It holds an exclusive franchise from the National Electrification Commission to operate an electric light and power distribution service in the city of Balanga and all the municipalities in the province of Bataan, namely: Abucay,

Bagac, Dinalupihan, Hermosa, Limay, Mariveles, Morong, Orani, Orion, Pilar and Samal.

NATURE OF THE APPLICATION

3. The instant Application is being filed for the approval of PENELCO's proposed adjustment in its Distribution, Supply and Metering (DSM) Rates based on the tariff glide path on the fourth to sixth regulatory years of the First Regulatory Period for electric cooperatives belonging to the First Entrant Group under the Tariff Glide Path (TGP) Rules.

STATEMENT OF FACTS

4. Sometime in year 2013, PENELCO filed with the Honorable Commission an application for approval of proposed adjustment in its Distribution, Supply and Metering (DSM) rates pursuant to the TGP Rules, docketed as ERC Case No. 2013- 095 RC;
5. In the said application, PENELCO prayed for approval of either of the following two (2) proposed alternative DSM rates, to be made effective January 2014, to wit:

A. WITH PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			184.60
Distribution System Charge	PhP/kWh	0.5082	0.4893	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		51.34	51.34
Supply System Charge	PhP/kWh	0.5923		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.51	36.11	36.11
Metering System Charge	PhP/kWh	0.3531		

B) EXCLUDING PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			172.36
Distribution System Charge	PhP/kWh	0.4745	0.4568	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		47.94	47.94
Supply System Charge	PhP/kWh	0.5530		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.14	33.72	33.72
Metering System Charge	PhP/kWh	0.3297		

6. Foregoing application was PENELCO'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 years thereafter.
7. PENELCO belongs to the First Entrant Group under the TGP Rules, whose first regulatory period is from January 1, 2011 to December 31, 2016. PENELCO filed its initial application for DSM rate adjustment in 2013 which is the third regulatory year of the First Regulatory Period. It is filing the instant application based on the tariff glide path on the fourth to sixth regulatory years of the First Regulatory Period or January 1, 2014 to December 31, 2016, for the proposed adjustment of its DSM rates to take effect on the first to third regulatory years of the Second Regulatory Period for the First Entrant Group under the TGP Rules.
8. PENELCO's first TGP Application under ERC Case No. 2013-095 RC is still pending evaluation of the Honorable Commission, however, it adopted and utilized the proposed DSM rates in the said pending application as bases in computing the proposed adjustment in the instant application.

THE PROPOSED DSM RATE ADJUSTMENT

9. Under the TGP Rules, the concerned electric cooperative shall use the following formula in determining the TGP for the fourth to sixth years of the Regulatory Period, to wit:

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

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 starting on the First Year of the next Regulatory Period.

10. Applying the methodology embodied in the TGP Rules, PENELCO calculated the values of the "I", "X" and "S", and came up with results shown in the Table below, to wit:

	"I"	"X"	"S"	TGP B	TGP B (Excluding "S")
Year 2014	0.00%	2.47%	4.10%	1.63%	-2.47%
Year 2015	0.00%	0.00%	4.10%	4.10%	0.00%
Year 2016	0.00%	0.00%	4.10%	4.10%	0.00%
Net Results				9.83%	-2.47%

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11. Applying the above values will result in adjustments to PENELCO's DSM Rates, as follows:

A. WITH PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			202.73
Distribution System Charge	PhP/kWh	0.5581	0.5373	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		56.38	56.38
Supply System Charge	PhP/kWh	0.6504		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	6.05	39.66	39.66
Metering System Charge	PhP/kWh	0.3878		

B. EXCLUDING PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			168.10
Distribution System Charge	PhP/kWh	0.4628	0.4455	
Supply Charges:				
Retail Customer Charge	PhP/Customer/Mo		46.75	46.75
Supply System Charge	PhP/kWh	0.5393		
Metering Charges:				
Retail Customer Charge	PhP/Meter/Mo.	5.02	32.89	32.89
Metering System Charge	PhP/kWh	0.3215		

SUPPORTING DATA AND DOCUMENTS

12. The foregoing computations are based on the following data and documents, which are being submitted herewith to form integral parts hereof, as follows, to wit:

Annex Markings	Description of Documents
A	TGP Calculations for Index "I", Efficiency Factor "X", and Performance Incentive "S" with supporting documentations
B	Monthly Financial and Statistical Reports (MFSR) Sections B and E (2012-2015)
C	Billing Determinants (2012-2015) (kWh Sales, No. of Customers, kW Demand)
D	Sample Bills Per Customer Type (2012-2015)
E	Regional Consumer Price Index (2012-2015)
F	Reinvestment Fund for Sustainable Capital Expenditure (RFSC) Utilization (2013-2015)
G	Consumer Complaints (2013-2015)
H	Audited Financial Statements (2013-2015)

SUBMISSION OF PRE-FILING REQUIREMENTS

13. Finally, in compliance with the pre-filing requirements under the ERC Rules of Practice and Procedure, PENELCO is submitting herewith the following documents, which are being made integral parts hereof, to wit:

Annex Markings	Description of Documents
I series	Proof of furnishing copies of the Application to the Offices of the Mayor and Sangguniang Panlungsod of Balanga City and Governor and Sangguniang Panlalawigan of Bataan
J series	Publication of the Application in a newspaper of general circulation in the PENELCO's franchise area or where it principally operates

PRAYER

WHEREFORE, premises considered, the Peninsula Electric Cooperative, Inc. (PENELCO) most respectfully prays of this Honorable Commission that after due notice and hearing, the proposed rates hereinbelow be granted accordingly, to wit:

A. WITH PERFORMANCE INCENTIVE "S"

	UNITS	CUSTOMER TYPE		
		Residential	Low Voltage	Higher Voltage
Distribution Charges:				
Demand Charge	PhP/kW			202.73
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Retail Customer Charge	PhP/Meter/Mo.	5.02	32.89	32.89
Metering System Charge	PhP/kWh	0.3215		

Other reliefs, just and equitable in the premises are likewise prayed for.

Finding the said *Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same

for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021² (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
22 March 2023 (Wednesday) at nine o'clock in the afternoon (9:00 A.M.)	Microsoft Teams or Zoom Application	Determination of compliance with jurisdictional requirements and Expository presentation
29 March 2023 (Wednesday) at nine o'clock in the afternoon (9:00 A.M.)		Pre-trial Conference and presentation of evidence

Accordingly, PENELCO is hereby directed to host the virtual hearings at **PENELCO's Principal Office in Roman Super Highway, Tuyo, Balanga City, Bataan** as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, PENELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, PENELCO is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual 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 Virtual Hearing* the Offices of the Provincial Governor, the Mayors, and the Local Government Unit (LGU) legislative bodies, within PENELCO's franchise area for the

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within PENELCO's franchise area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual 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 and attend the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, all those making requests therefor, subject reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearing, PENELCO must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its **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 Virtual Hearing* consisting of the affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual 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 Virtual 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 PENELCO to inform the consumers within its franchise area of the filing

of the *Application*, its reasons therefor, and of the scheduled hearings thereon;

- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, PENELCO is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Provincial Governor, Mayor and Local Legislative Bodies, and to submit proof of posting thereof.

PENELCO and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled virtual 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 therefor; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

PENELCO must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of PENELCO 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.

PENELCO 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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

PENELCO is hereby directed to file a copy of its **Expository Presentation** via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. PENELCO shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

PENELCO is further directed to submit, either through personal service, registered or ordinary mail or private courier, one (1) set of the original or certified true hard/printed copy/ies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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Finally, PENELCO, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 21 February 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


FLORESINDA G. BALDO-DIGAL
Commissioner


LS: JTB / LSP / MCCG

Copy Furnished:

1. Dechavez Lerios-Amboy and Evangelista Law Offices
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2. Peninsula Electric Cooperative, Inc.
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Roman Super Highway, Tuyo, Balanga City, Bataan
3. Office of the Governor
Province of Bataan
4. Office of the LGU legislative body
Province of Bataan
5. Office of the Mayor
Balanga City, Bataan
6. Office of the LGU legislative body
Balanga City, Bataan
7. Office of the Mayor
Abucay, Bataan
8. Office of the LGU legislative body
Abucay, Bataan
9. Office of the Mayor
Bagac, Bataan
10. Office of the LGU legislative body
Bagac, Bataan
11. Office of the Mayor
Dinalupihan, Bataan
12. Office of the LGU legislative body
Dinalupihan, Bataan
13. Office of the Mayor
Hermosa, Bataan
14. Office of the LGU legislative body
Hermosa, Bataan
15. Office of the Mayor
Limay, Bataan
16. Office of the LGU legislative body
Limay, Bataan
17. Office of the Mayor
Mariveles, Bataan
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Mariveles, Bataan
19. Office of the Mayor
Morong, Bataan
20. Office of the LGU legislative body
Morong, Bataan

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21. Office of the Mayor
Orani, Bataan
22. Office of the LGU legislative body
Orani, Bataan
23. Office of the Mayor
Orion, Bataan
24. Office of the LGU legislative body
Orion, Bataan
25. Office of the Mayor
Pilar, Bataan
26. Office of the LGU legislative body
Pilar, Bataan
27. Office of the Mayor
Samal, Bataan
28. Office of the LGU legislative body
Samal, Bataan
29. Office of the Solicitor General
Amorsolo Street, Legaspi Village, Makati City
Email: docket@osg.gov.ph
30. Commission on Audit
Don Mariano Marcos Avenue, Diliman, Quezon City, Metro Manila
Email: citizensdesk@coa.gov.ph
31. Senate Committee on Energy
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
Email: senateenergycommittee@gmail.com
32. House of Representatives Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
Email: committee.energy@house.gov.ph
33. Regulatory Operations Service (ROS)
Energy Regulatory Commission
14th Floor, Exquadra Tower
1 Jade Dr. Ortigas Center, Pasig City