

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



**IN THE MATTER OF THE
PETITION FOR THE
ADOPTION OF THE
PROPOSED RULES TO
ALLOW THE PASS-
THROUGH OF REAL
PROPERTY TAX (RPT),**

ERC Case No.2018-006 RM

**PHILIPPINE RURAL
ELECTRIC COOPERATIVES
ASSOCIATION INC.
(PHILRECA),**

Petitioner.

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Promulgated:
FEB 19 2019

NOTICE OF PROPOSED RULE-MAKING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 31 October 2018, Philippine Rural Electric Cooperatives Association Inc. (PHILRECA) filed a Petition to Initiate Rule-Making (Petition) seeking the Commission's approval of its proposed Rules to allow the pass-through of Real Property Tax (RPT).

In the said *Petition*, PHILRECA alleged, among others, the following:

Petitioner

1. PHILRECA is a duly organized non-stock and non-profit association operating and existing by virtue of Philippine laws, with office address located at 2nd floor, PNB Building, No. 92 West Ave., Brgy. Philam, Quezon City. It may be served with notices and other processes of this Commission through its President, Mr. Presley C. de Jesus, and/or Atty. Janeene D. Colingan, Executive Director/ General Manager of PHILRECA;

Nature of the Petition

2. This *Petition* was filed pursuant to Rule 21 of ERC's Rules of Practice and Procedure for the purpose of adopting the rules allowing the pass-through of RPT;
3. PHILRECA submitted that the issuance of rules allowing the pass-through of RPT is valid and timely considering that local government units (LGUs) had assessed and collected RPT from Electric Cooperatives (ECs). The RPT should therefore be allowed to be a pass-through charge to the ECs member-consumers subject to post verification and confirmation by the Commission similar to the Local Business and Franchise Tax;
4. The need for rules to allow the pass-through of RPT became all the more urgent following the decision of the Supreme Court in the case of "Manila Electric Company vs. The City Assessor and the City Treasurer of Lucena City"¹, where it was affirmed that transformers, electric posts, transmission lines, insulators and electric meters are not exempted from RPT under the LGU;
5. The RPT is the lifeblood of the LGUs authorized by the Local Government Code of 1991 (R.A. No. 7160) and thus the collection and payment thereof can no longer be avoided by ECs. The ECs have no option but to pay the RPT otherwise the LGU can exercise its right to levy the real properties of the ECs to enforce collection thereof and thereby hamper the ECs from performing its mandate of providing electric service to its member-consumers;
6. The existing tariff of the ECs does not provide for surplus funds by ways of a return on rate base and depreciation like those of the private distribution utilities (DUs). Thus, while the private DUs can exercise certain degree of flexibility by charging the RPT against their surplus funds, the ECs are constrained to fund the same from their meagre internally generated funds and in most cases from loans obtained from the National Electrification Administration (NEA) and other financial institutions;
7. A copy of the proposed rules to allow the pass-through of RPT which contains the proposals of PHILRECA is attached to the *Petition*;

¹ G.R. No. 166102 dated August 5, 2012;

8. PHILRECA prayed for the Commission to:

- a) Approve and promulgate the proposed rules allowing pass-through of RPT; and
- b) It also prayed for other relief deemed just and equitable under the premises.

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 public consultations on the following dates and venues:


DATE and TIME	VENUE	ACTIVITY
14 March 2019 (Thursday) Nine o'clock in the morning (9:00 A.M.)	ERC Main Office 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional Hearing and Public Consultation for Luzon Stakeholders
22 March 2019 (Friday) Nine o'clock in the morning (9:00 A.M.)	ERC Mindanao Office Mintrade Bldg., Monteverde Ave. cor Sales St., 8000 Davao City	Public Consultation for Mindanao Stakeholders
04 April 2019 (Thursday) Nine o'clock in the morning (9:00 A.M.)	ERC Visayas Office St. Mary's Drive, Banilad, Cebu City 6000	Public Consultation for Visayas Stakeholders

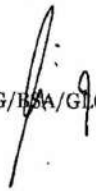
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ERC CASE NO. 2018-006 RM
NOTICE OF PROPOSED RULE MAKING/ 18 February 2019
PAGE 4 OF 4

All interested parties may submit their comments (in both hard and soft copies) on the proposed Rules on or before **28 February 2019**. Electronic copies may be sent to *tariffs@erc.gov.ph*. Parties who have filed their written comments on or before the prescribed period would be given priority during the above-scheduled public consultation. The said Petition may be photocopied at cost, during the regular office hours at the ERC Main Office.

WITNESS, the Honorable Chairperson and CEO, **AGNES VST DEVANADERA**, and the Honorable Commissioners **CATHERINE P. MACEDA** and **PAUL CHRISTIAN M. CERVANTES**, Energy Regulatory Commission, this 18 February in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal Service


LS: BJVG/BA/GLO