

**ENERGY REGULATORY COMMISSION**

San Miguel Avenue, Pasig City

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE: A.) ANNUAL REVENUE REQUIREMENT, PERFORMANCE INCENTIVE SCHEME AND MAXIMUM AVERAGE PRICES FOR THE FIRST REGULATORY PERIOD; AND B) TRANSLATION OF THE MAXIMUM AVERAGE PRICE FOR THE FIRST REGULATORY YEAR (RY2027) INTO A DISTRIBUTION RATE STRUCTURE FOR VARIOUS CUSTOMER CLASSES IN ACCORDANCE WITH THE PROVISIONS OF THE RATIONALIZED RULES FOR SETTING DISTRIBUTION WHEELING RATES (RRDWR), UNDER ERC RESOLUTION NO. 24, SERIES OF 2025

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ERC CASE NO. 2026-016 RC

MANILA ELECTRIC COMPANY  
(MERALCO)

*Applicant.*

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**PRE-TRIAL BRIEF**

**I. INTRODUCTION**

This case does not merely involve the computation of the Annual Revenue Requirement (ARR) and Maximum Average Price (MAP). It raises threshold legal and regulatory questions that must first be resolved before the Commission may approve the proposed distribution rates of Applicant.

First. The Commission must determine whether the Regulatory Asset Base (RAB) underpinning the present Application complies with the directive of the Supreme Court in

**G.R. No. 226443**, which declared the use of the Optimized Depreciated Replacement Cost (ODRC) method in valuing the Regulatory Asset Base void and directed the Commission to adopt a lawful valuation methodology consistent with the statutory requirement that electricity be supplied in the least-cost manner.

Second. The Commission must determine whether the proposed Regulatory Year 2027 Maximum Average Price (MAP) of ₱2.3436/kWh, representing an increase of approximately ₱0.9914/kWh or roughly seventy-three percent (73%) over the Commission-approved recomputed rate of ₱1.3522/kWh under ERC Case No. 2015-112 RC, is supported by prudently verified regulatory inputs.

Resolution of these issues requires the Commission to determine:

- a. whether the Regulatory Asset Base rests on a lawful valuation framework consistent with the Supreme Court directive;
- b. whether reconciliation mechanisms under the RRDWR have been properly implemented;
- c. whether projected capital and operating expenditures have undergone prudence review;
- d. whether the mathematical drivers of the proposed increase are transparent and regulatorily justified; and
- e. whether the resulting rates remain consistent with the statutory requirement that electricity be delivered to consumers in the least-cost manner.

Absent resolution of these threshold matters, approval of the proposed ARR and MAP risks perpetuating regulatory outcomes inconsistent with the Supreme Court directive and the consumer-protection objectives of the Electric Power Industry Reform Act.

## II. STATEMENT OF THE FACTS

1. Applicant seeks approval of its proposed ARR and MAP for the First Regulatory Period.
2. The Application proposes a Regulatory Year 2027 MAP of **₱2.3436/kWh**.
3. The Commission's recomputed distribution rate under ERC Case No. 2015-112 RC fixed the average rate at **₱1.3522/kWh**.
4. The proposed MAP therefore reflects an increase of approximately **₱0.9914/kWh**.
5. The Application indicates that the proposed rate increase is materially driven by the following regulatory inputs: Opening RAB of approximately ₱358.9 Billion;
  - a. Proposed Regulatory WACC of 14.6%;
  - b. Projected CAPEX of approximately ₱272.2 Billion;
  - c. Forecast OPEX and regulatory depreciation;
  - d. Taxes, levies, and duties;
  - e. Price smoothing adjustments.
6. The Opening RAB utilized in the Application is a rolled-forward asset base derived from prior regulatory determinations.

7. Earlier regulatory periods valued MERALCO's Regulatory Asset Base using the **Optimized Depreciated Replacement Cost (ODRC)** methodology.
8. In G.R. No. 226443 (08 October 2019), the Supreme Court:
  - a. declared the use of replacement-cost valuation **void**;
  - b. held that such methodology results in wealth transfer from consumers to shareholders; and;
  - c. directed the Commission to determine a lawful valuation framework consistent with the least-cost mandate.
9. While the case arose from the MERALCO rate-unbundling proceeding, the ruling addressed the **validity of the valuation methodology itself**, not merely the outcome of that proceeding.
10. Since the Regulatory Asset Base used in subsequent rate determinations traces its lineage to prior regulatory baselines, the Commission must establish on record that the valuation framework previously declared void has been replaced or recalibrated before it may serve as the foundation of the ARR and MAP proposed in the present Application.

### III. ISSUES TO BE RESOLVED

1. Whether the Regulatory Asset Base underpinning the present Application complies with the directive of the Supreme Court in **G.R. No. 226443**.
2. Whether the Opening RAB of approximately **₱358.9 Billion** has been transparently and lawfully derived through a verifiable roll-forward from prior regulatory periods..
3. Whether reconciliation mechanisms under the RRDWR, including treatment of over-recoveries and refund adjustments, have been fully implemented.
4. Whether the proposed increase of approximately **₱0.9914/kWh** is justified by prudently verified regulatory inputs including the proposed **14.6% WACC**, projected **CAPEX**, forecast **OPEX**, depreciation and other regulatory parameters.
5. Whether sensitivity analysis demonstrates that reasonable adjustments to WACC, RAB, CAPEX or OPEX materially affect the resulting MAP.
6. Whether projected expenditures reflect measurable efficiency improvements consistent with the objectives of Performance-Based Regulation and the statutory requirement that electricity be supplied in the least-cost manner.
7. Whether the proposed translation of the MAP into distribution rates for various customer classes is supported by a transparent cost-of-service analysis and does not result in unjust or discriminatory allocation of distribution costs among consumers.
8. Whether the inclusion of any contingency allowance in the Opening RAB is authorized under the RRDWR.

9. Whether the RAB roll-forward from 01 July 2011 onward reflects proper embedding of prior reconciliation adjustments and refund determinations.
10. Whether full year-by-year MAP versus AWAT reconciliation was conducted for the immediately preceding Regulatory Period.
11. Whether over-recoveries were corrected in the immediately succeeding Regulatory Year as contemplated under Article IV.
12. Whether staggered implementation of refund Orders complied with the structure of Article IV.
13. Whether any time value component was computed on retained over-recoveries.
14. Whether the ₱0.9914/kWh increase has been fully decomposed into its constituent components.
15. Whether the proposed 14.6% Regulatory WACC is just and reasonable.
16. Whether the application of 14.6% WACC to the proposed RAB materially drives the rate increase.
17. Whether projected CAPEX of approximately ₱272.2 Billion has been subjected to prudence validation prior to earning a return.
18. Whether projected OPEX growth reflects efficiency adjustments consistent with the “least cost manner” mandate.
19. Whether sensitivity analysis demonstrates that reasonable adjustments to WACC, RAB, CAPEX, or OPEX materially reduce the proposed MAP.
20. Whether the proposed MAP complies with Section 6.4 side constraints.
21. Whether consumer bill impact simulations demonstrate absence of undue rate shock.
22. Whether prior verified over-recoveries have been fully netted out before implementation of the new MAP.

#### **IV. MATTERS FOR JUDICIAL NOTICE AND EVIDENTIARY RESERVATIONS**

Intervenor respectfully moves that the Commission take judicial notice of:

1. The Supreme Court Decision dated 08 October 2019 in G.R. No. 226443;
2. Subsequent Supreme Court Resolutions reaffirming said directive;
3. Prior ERC Decisions establishing MERALCO’s baseline RAB;
4. ERC Case No. 2015-112 RC Decision (16 June 2022);
5. ERC refund Orders in Cases 2020-043 RC and 2025-025 RC;
6. RAB roll-forward schedules submitted in the present Application.

Intervenor reserves the right to request formal production of any compliance determination not presently on record.

Intervenor respectfully submits that the existence of the Supreme Court directive is not in dispute; the material issue is whether and how the Commission complied therewith.

## V. POSITION OF INTERVENOR

The Supreme Court in **G.R. No. 226443** categorically declared the use of the **Optimized Depreciated Replacement Cost (ODRC)** method in valuing the Regulatory Asset Base void and directed the Commission to adopt a lawful valuation methodology consistent with the statutory requirement that electricity be supplied in the least-cost manner.

The Commission must therefore establish on record what valuation framework presently governs the determination of the Regulatory Asset Base and whether such framework reflects compliance with the directive of the Supreme Court.

As a matter of regulatory compliance, a valuation methodology declared invalid by the Supreme Court cannot continue to form part of the regulatory framework governing subsequent rate determinations unless the Commission demonstrates that the defect identified by the Court has been corrected.

If the Opening RAB utilized in the present Application continues to trace its lineage to prior regulatory baselines computed using the same valuation framework, then the ARR and MAP proposed in this case risk resting upon a methodology previously declared invalid.

Beyond this threshold issue, the proposed MAP represents a material increase of **₱0.9914/kWh**. Given that a substantial portion of the ARR consists of return on capital computed using a proposed **14.6% WACC** applied to a large RAB supported by significant projected CAPEX, strict scrutiny of the mathematical and prudential inputs is indispensable.

Approval of ARR and MAP absent verification of lawful RAB valuation, reconciliation of prior regulatory adjustments, prudence review of CAPEX and OPEX, and justification of WACC would risk structural over-recovery inconsistent with the least-cost mandate of the law.

## VI. PRAYER

WHEREFORE, Intervenor respectfully prays that the Honorable Commission:

1. Determine and place on record whether the Regulatory Asset Base utilized in the present Application complies with the directive of the Supreme Court in G.R. No. 226443;
2. Identify and confirm the lawful valuation methodology currently adopted for determining the Regulatory Asset Base;
3. Establish on record the recalibrated Opening Regulatory Asset Base for the present Regulatory Period;

4. Require disclosure of reconciliation mechanisms under the RRDWR including treatment of over-recoveries;
5. Require Applicant to present a full mathematical decomposition of the proposed ₱0.9914/kWh increase;
6. Require sensitivity analysis showing the effect on the proposed MAP of adjustments to WACC, RAB, CAPEX and OPEX;
7. Require demonstration that projected expenditures reflect efficiency improvements consistent with the least-cost mandate; and
8. Grant such other reliefs as may be just and equitable

Respectfully submitted,

Pasay City for Pasig City 9 March 2026

**PETRONILO L. ILAGAN**  
*Intervenor*

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