

EN BANC

[G.R. No. 252035, May 04, 2021]

CATHAY PACIFIC STEEL CORPORATION, PETITIONER, VS. COMMISSION ON AUDIT, NATIONAL POWER CORPORATION AND POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION, RESPONDENTS.

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This petition for *certiorari*^[1] assails the Decision No. 2018-256 dated March 15, 2018 and En Banc Notice No. 2020-012 dated February 12, 2020 of the Commission on Audit (COA) in COA C.P. Case No. 2013-502. The first denied the money claim of petitioner Cathay Pacific Steel Corporation (CAPASCO), for lack of merit; and the second denied petitioner's motion for reconsideration.

Antecedents

In her 2002 State of the Nation Address, then President Gloria Macapagal Arroyo ordered electric power producers and distributors "to give price incentives to large electricity users so that excess power can be utilized, economic activity can be encouraged, and jobs can be created." The Energy Regulatory Commission (ERC) was tasked to spearhead the program.^[2]

Consequently, by Order dated October 11, 2002, ERC adopted the Special Program to Enhance Electricity Demand (SPEED) – a pricing incentive aimed at optimizing electricity utilization of existing power plants by offering discounts of up to P0.80/kwh to qualified industrial customers on their incremental consumption of power above the Customer Baseline Load (CBL). ERC further tasked respondent National Power Corporation (NPC) to implement the program which took effect on October 26, 2002.^[3]

On April 4, 2003, NPC sought to modify the discounted rate from P0.80/kwh to P0.50/kwh within the Luzon grid in view of the reduction in the general charge rate.^[4] Under Order dated September 4, 2003, ERC granted the request, reducing the discount rate to P0.50/kwh starting September 26, 2003.^[5]

Subsequently, however, ERC found out that NPC had actually deviated from the SPEED guidelines it issued. NPC belatedly implemented the SPEED discounts starting January 2003, instead of October 26, 2002 when the SPEED Program officially commenced. Through a Show Cause Order dated September 29, 2003, ERC instructed NPC to explain why no administrative penalty should be imposed on it for its violation.^[6]

Per its Compliance with Manifestation dated November 3, 2003, NPC explained that it had already refunded the differential of P0.30/kwh to all qualified consumers. It admitted though that it started granting discounts only on January 24, 2003 since MERALCO itself belatedly submitted the certified list of customers entitled to the discount.

Under Order dated April 27, 2004, ERC found that NPC had violated the order to grant the full discount of P0.80/kwh to qualified customers from October 26, 2002 until the rate was reduced to P0.50/kwh on September 26, 2003, thus:

Considering that NPC has already admitted, based on the above explanation that it did not implement the SPEED as directed by the Commission, hearing on the matter is dispensed with.

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The Commission finds the grounds relied upon by NPC unmeritorious. The argument that there was a need for it to evaluate the CBL as condition precedent to the proper implementation of SPEED is unacceptable. NPC should have made such evaluation even before it applied for the approval of the SPEED discounts knowing that it would delay the implementation of said discounts once it is approved by the Commission. To exonerate NPC on this ground would be tantamount to rewarding its lack of foresight.

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ERC, thus, directed NPC to immediately effect the correct discount on the billings of the qualified customers.^[7] NPC's motion for reconsideration was denied by ERC under Order^[8] dated December 19, 2006, thus:

WHEREFORE, the foregoing premises considered, the Motion for Reconsideration filed by the National Power Corporation (NPC) is hereby DENIED. NPC is hereby REPRIMANDED for its failure to implement the Commission's directive in its Order dated October 11, 2002 in ERC Case Nos. 2001-513 and 2001-769 and is hereby warned that commission of a similar offense in the future shall be dealt with more severely.

Relative thereto, **NPC is directed to grant the Cathay Pacific Steel Corporation (CAPASCO) 0.80/kWh discount** in accordance with the aforesaid directive and the provisions of the Special Program to Enhance Demand (SPEED) Implementing Rules and Regulations (IRR) as approved by the Commission.

SO ORDERED.^[9] (emphasis added)

NPC subsequently filed its Omnibus Motion for Partial Reconsideration and Clarification with Leave from the Order^[10] dated December 19, 2006.

Meantime, petitioner CAPASCO asked ERC to order NPC to implement its entitlement to SPEED discount of P24,637 094.65.^[11] CAPASCO also manifested that because of NPC's delayed implementation, CAPASCO was constrained to pay this amount to MERALCO.

By Order dated May 18, 2009, ERC denied NPC's Omnibus Motion for Partial Reconsideration and Clarification with Leave from the Order dated December 19, 2006 and directed NPC to immediately grant CAPASCO its corresponding SPEED discount of P24,637,094.65, thus:[12]

The Commission takes note of the letter dated February 12, 2009 filed by Cathay Pacific Steel Corporation (CAPASCO) on February 17, 2009 requesting that the National Power Corporation be directed to refund the amount of Php 24,637,094.65 pursuant to its Order dated December 19, 2006.

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Records of this case disclosed that NPC has not yet complied with the aforesaid directive of the Commission. Thus, NPC is hereby directed for the last time to immediately grant the appropriate SPEED discounts to CAPASCO in accordance with the Commission's directive in its Order dated December 19, 2006 and submit a scheme on how to effect the said within fifteen (15) days from receipt hereof, without further extension. Failure of NPC to comply with this directive shall constrain the Commission to impose appropriate penalties.

SO [ORDERED.][13]

Instead of complying with the foregoing directive, NPC sought relief from the Court of Appeals via CA-G.R. SP No. 109747.[14]

By Decision[15] dated May 27, 2010, the Court of Appeals affirmed the ERC.[16]

On June 18, 2010, the decision was recorded in the Book of Entries of Judgments.[17]

CAPASCO then moved for the issuance of the writ of execution which ERC granted through its Order[18] dated July 18, 2011, viz.:

WHEREFORE, the foregoing premises considered, the "Motion for Execution" filed by Cathay Pacific Steel Corporation is hereby **GRANTED**.

Accordingly, the National Power Corporation (NPC), is hereby directed to refund the amount of Php 24,637,094.65, within fifteen (15) days from receipt hereof.[19]

By Letter[20] dated April 20, 2012, NPC informed ERC that it had already referred CAPASCO's claim to the Power Sector Assets and Liabilities Management Corporation (PSALM) pursuant to Section 49 of Republic Act No. 9136 (RA 9136) otherwise known as "Electric Power Industry Reform Act of 2001." [21]

On May 10, 2013, CAPASCO informed ERC that NPC still had not complied with the Order dated July 18, 2011. Consequently, ERC issued yet another Order dated September 5, 2013, directing NPC to submit its compliance with the writ of execution within fifteen (15) days from notice.[22]

By letter dated September 26, 2013, PSALM President Emmanuel R. Ledesma, Jr. disavowed any liability to CAPASCO and asserted that it was NPC which had the duty

to address CAPASCO's claim for discount.^[23]

Meanwhile, on October 10, 2013,^[24] CAPASCO was compelled to pay the amount of P24,637,094.65 as MERALCO continued to reflect it in CAPASCO's outstanding electric bills.

On December 11, 2013, CAPASCO filed a Petition for Money Claim before respondent Commission on Audit (COA) docketed as COA CP Case No. 2013-502. Citing the final and executory decision of the Court of Appeals in CA-G.R. SP No. 109747, it sought payment of its SPEED discount in the amount of P24,637,094.65.^[25]

Rulings of the Commission on Audit (COA)

Under Decision^[26] dated March 15, 2018, COA denied petitioner's money claim. It held that while the respective decisions of the ERC and the Court of Appeals clearly pronounced that CAPASCO was entitled to a refund, the exact amount was not indicated in the aforesaid decisions themselves. The amount of P24,637,094.65 was only borne in the ERC Order of Execution^[27] dated July 2011. Further, it was not even shown how ERC arrived at the amount of P24,637,094.65, using the material CBL factor.^[28]

COA denied petitioner's subsequent motion for reconsideration under Notice No. 2020-012^[29] dated February 12, 2020.

The Present Petition

CAPASCO now seeks affirmative relief from the Court, charging COA with grave abuse of discretion amounting to excess or lack of jurisdiction for disturbing the final and executory decision of the Court of Appeals in CA G.R. SP No. 109747.

CAPASCO argues that the amount of P24,637,094.65 was already part of the final and executory decision of the Court of Appeals and the orders of ERC affirming its entitlement to the refund and granting its motion for execution, specifically in the amount of P24,637,094.65.^[30] Once a decision had attained finality, there is nothing left to be done except to give effect to the judgment by ordering its execution.^[31]

On the other hand, COA and NPC essentially counter: (a) COA has plenary power over matters relating to the settlement of all debts and claims against the government; (b) even if a final and executory judgment had already validated a monetary claim against a government agency, its approval is still a condition *sine qua non* for payment; (c) in approving or disapproving the claim, COA exercises a quasi-judicial function requiring it to rule on the propriety of the money claim based on the evidence presented before it; and (d) it could not be charged with grave abuse of discretion when its action was simply in accord with law and evidence.^[32]

For its part, PSALM claims that NPC is liable to pay the disputed amount. For it is part of the existing liabilities of PSALM which NPC was deemed to have retained under RA 9136.^[33]

In its Supplemental Comment^[34] dated October 30, 2020, the NPC asserts that PSALM is directly liable for the judgment obligation pursuant to Section 49 of RA

9136, providing that all outstanding obligations of the NPC shall be transferred to and assumed by PSALM.

Issue

Did the COA commit grave abuse of discretion when it denied CAPASCO's money claim despite the final and executory rulings of the Court of Appeals and the ERC?

Ruling

We grant the petition.

COA must adhere to the final and executory decision of the Court of Appeals

The final and executory Decision^[35] dated May 27, 2010 of the Court of Appeals in CA-G.R. SP No. 109747 affirmed the ERC Orders dated December 19, 2006 and May 18, 2009, recognizing the entitlement of CAPASCO to the SPEED discount and directing NPC to implement the same, thus:

Petitioner NPC cannot simply escape its obligation to grant SPEED discount to private respondent CAPASCO on the flimsy excuse of the alleged delayed submission of the customer's CBLs and billing statements by the Distribution Utilities. The mandate of the October 11, 2002 Order of public respondent ERC was clear and unequivocal in that petitioner NPC must immediately implement the SPEED to all qualified customers. Notwithstanding the MERALCO has filed its SPEED-rider application only in June 2003, the fact still remains that the SPEED discount of Php0.80/kwh is available to all qualified and eligible customers effective October 26, 2002 billing per ERC's order dated October 11, 2002. Moreover, as correctly observed by public respondent ERC in its Order dated December 19, 2006, eligible customers under the SPEED should not be made to suffer due to the inaction of some distributing utilities to comply with SPEED requirements and pre-qualification procedures. To hold otherwise would render the objective of SPEED useless and nugatory.^[36]

xxx Relative thereto, **NPC is directed to grant the Cathay Pacific Steel Corporation (CAPASCO) a Php0.80/kWh discount** in accordance with the aforesaid directive and the provisions of the Special Program to Enhance Demand (SPEED) Implementing Rules and Regulations (IRR) as approved by the Commission.

SO ORDERED.^[37] (emphasis added)

We quote anew the ERC Order dated December 19, 2006, viz:

WHEREFORE, the foregoing premises considered, the "Motion for Reconsideration" filed by the National Power Corporation (NPC) is hereby DENIED. NPC is hereby REPRIMANDED for its failure to implement the Commission's directive in its Order dated October 11, 2002 in ERC Case Nos. 2001-513 and 2001-769 and is hereby warned that commission of a similar offense in the future shall be dealt with more severely.