

Republic of the Philippines
Province of _____
Municipality/City of _____

(OFFICE)

Certificate of Posting

To whom it may concern:

This is to certify that copies of the Energy Regulatory Commission's Order and Notice of Virtual/Public Hearing both dated both dated 27 June 2023 relative to the National Power Corporation's filed Petition for the Recovery of CY 2021 Revenue Shortfall from the Universal Charge for Missionary Electrification (UC-ME) and the Corresponding Adjustment of the UC-ME with Prayer for the Issuance of Provisional Authority or Interim Relief under ERC Case No. 2023-034RC as scheduled below:

ERC Case No. 2023-034RC / CY 2021 UCME TRUE-UP
Schedule of Virtual/Public Hearings

Date and Time	Platform	Activity
12 September 2023 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Energy Regulatory Commission, Hearing Room, 11th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City	Determination of compliance with the jurisdictional requirements and Expository Presentation for Luzon Stakeholders
19 September 2023 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Energy Regulatory Commission, Visayas Area Operations Division (VAOD), 7th Floor, Kepwealth Building, Samar Loop, Cebu Business Park	Expository Presentation for Visayas Stakeholders
26 September 2023 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6th Floor, BIZ Bldg., c/o BORMAHECO, Inc., 209 J.P. Laurel Avenue, Bajada, Davao City	Expository Presentation for Mindanao Stakeholders
03 October 2023 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	MS Teams or Zoom Application	Pre-trial Conference and presentation of evidence
10 October 2023 (Tuesday) at nine o'clock in the morning (9:00 A.M.)		Presentation of evidence
17 October 2023 (Tuesday) at nine o'clock in the morning (9:00 A.M.)		Presentation of evidence

have been posted at our bulletin board(s) on _____, 2023.

This certification is issued on this ____ day of _____, 2023 in compliance to the above ERC Order.

(SIGNATURE OVER PRINTED NAME)

(DESIGNATION)

Note: No available dry seal/logo

(SIGNATURE OVER PRINTED NAME)

(Insert if Applicable)

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
PETITION FOR THE
RECOVERY OF CY 2021
REVENUE SHORTFALL
FROM THE UNIVERSAL
CHARGE FOR MISSIONARY
ELECTRIFICATION (UC-
ME) AND THE
CORRESPONDING
ADJUSTMENT OF THE UC-
ME WITH PRAYER FOR THE
ISSUANCE OF
PROVISIONAL AUTHORITY
OR INTERIM RELIEF**

ERC CASE NO. 2023-034 RC

**NATIONAL POWER
CORPORATION,**
Petitioner.

Promulgated:
June 27, 2023

X-----X

NOTICE OF PUBLIC/VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 27 April 2023, National Power Corporation filed a *Petition* dated 03 April 2023, seeking the Commission's approval of its recovery of Calendar Year (CY) 2021 revenue shortfall from the Universal Charge for Missionary Electrification (UC-ME) and the corresponding adjustment of the UC-ME, with prayer for the issuance of provisional authority or interim relief.

The pertinent allegations of the *Petition* are hereunder quoted, as follows:

1. Petitioner NPC is a government owned and controlled corporation created and existing under Republic Act No. 6395 as amended ("NPC Charter"), with principal address at NPC Office Building Complex, corner Quezon Avenue and BIR

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 2 OF 14

Road, Diliman, Quezon City where it may be served summons and other processes of the Honorable Commission.

2. Pursuant to Section 70 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act ("EPIRA"), Petitioner NPC shall remain as a National-Government Owned and Controlled Corporation to perform the Missionary Electrification function through its Small Power Utilities Group (hereafter, "NPC-SPUG") and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.
3. Pursuant to Section 4 of Republic Act No. 6395, as amended, and Executive Order No. 86, issued by virtue of the authority granted to the President of the Republic of the Philippines under R. A. 7648, Petitioner NPC is duly authorized to include twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital in the Revenue Requirement.
4. Petitioner NPC is filing this Petition in its capacity as the implementing agency for Missionary Electrification. Said function shall be funded from the revenue from sales in the missionary areas and from the Universal Charge to be collected from all electricity end-users as determined by the Energy Regulatory Commission ("ERC").
5. On 22 August 2011, the Honorable Commission approved and issued Resolution No. 21 Series of 2011 entitled "*Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas*" providing for the guidelines for the setting and approval of electricity generation rates and subsidies for Missionary Electrification areas, for the fixing of and availment of subsidies for Missionary Electrification areas and Cash Incentives for the Renewable Energy ("RE") Developers for Missionary Electrification from the Universal Charge for Missionary Electrification ("UCME").

The said resolution allows for the recovery of the NPC and NPP TCGR as approved by the ERC. In cases where the NPC and the NPP TCGR is higher than the SAGR, then NPC and the NPPs shall be allowed to recover the difference from the Missionary Electrification Subsidy. Further, in the same resolution, it is provided that if after reconciliation of all amounts received against all disbursements made and the result is NPC having surplus funds, as confirmed by this Honorable Commission, the amount corresponding to the surplus shall be deducted from the UCME under the current petition. Otherwise, NPC-SPUG shall be entitled to an increase in the UCME to cover the shortfall which may be brought about by several factors as specified therein (i.e., adjustments due to GRAM and ICERA, adjustment in the NPP TCGR and other analogous cases).

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 3 OF 14

6. On 03 May 2006, the Honorable Commission likewise approved and issued Resolution No. 22 Series of 2006 entitled *“Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy”*. The resolution mandated NPC to file a quarterly application, if necessary, with the ERC to recover any shortfall in the Missionary Electrification subsidy brought about by factors such as: collection shortfall, adjustments in the FCRR and other analogous cases. Also, it is provided therein that “NPC-SPUG shall reconcile all amounts received against all disbursement made for the previous year. If the reconciliation results in NPC having surplus funds, the amount of the ME subsidy for the year shall be adjusted accordingly. Conversely, if the reconciliation results in NPC-SPUG experiencing a deficiency, NPC-SPUG shall be entitled to file an application for an increase in the ME Subsidy to cover the shortfall.”
7. Petitioner NPC is filing this petition pursuant to Rule 20 (A) of the ERC Revised Rules of Practice and Procedure as approved by the Honorable Commission on 17 December 2020 in Resolution No. 01, Series of 2021.

**ABSTRACT OF THE PROPOSED RECOVERY OF THE
SHORTFALL IN THE UC-ME**

8. Reconciliation of Actual UC-ME. The reconciliation covers all amounts received against all disbursement made in CY 2021. NPC utilizes in its calculation the following documents:
 - a. Audited CY 2021 Financial Statements;
 - b. Actual Results of Operation for CY 2021; and
 - c. The actual disbursements of UC-ME Subsidy to NPPs and QTPs.
9. Total UC-ME Shortfall. Based on the foregoing documents and as a result of the calculations made, the total shortfall that NPC proposes to recover from the UC-ME is equivalent to Three Billion Two Hundred Eighty-Five Million Two Hundred Forty-Four Thousand Seven Hundred Forty-Seven and 90/100 (Php3,285,244,747.90) or an equivalent of PhPo.0293/kWh for twelve (12) months recovery period as summarized in Table 1 below.

Table 1. Summary of Shortfall

PARTICULARS	TOTAL	NPC	NPP	QTP
REVENUE REQUIREMENT	26,304,519,971.82	10,024,149,004.35	16,172,897,270.55	107,473,696.92
LESS: REVENUE FROM SALES	9,120,764,223.91	2,258,834,859.68	6,814,143,037.60	47,786,326.64
REQUIRED REVENUE FROM UCME	17,183,755,747.90	7,765,314,144.67	9,358,754,232.95	59,687,370.28
UCME IMPACT P/kWh	0.1525	0.0694	0.0835	0.0005
LESS:				
ACTUAL 2021 UCME REVENUE (BASIC)	13,898,511,000.00	4,480,089,396.77	9,358,754,232.95	59,687,370.28
UCME SHORTFALL - PhP	3,285,244,747.90	3,285,244,747.90		
UCME RATE IMPACT P/kWh	0.0293	0.0293		
Projected Philippine Energy Sales, GWh	111,950.00			

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 4 OF 14

10. In the reconciliation, the resulting shortfall in the revenue from UC-ME was calculated based on the following formula:

$$\text{UC-ME True-Up Shortfall} = \frac{\text{Total UC-ME Subsidy Requirement} - \text{Approved UC-ME}}{\text{UC-ME}}$$

Where:

Total UC-ME Subsidy Requirement =
(NPC Revenue Requirement – Revenue from Sales) +
Subsidy Payment to NPPs and QTPs

11. The revenue is inclusive of the revenue from sales and the Basic UC-ME subsidy for CY 2021. Whereas the disbursement includes all allowable expenses related to NPC-SPUG's operation and subsidy fees paid to the New Power Providers ("NPPs") and Qualified Third Parties ("QTPs") inclusive of the applicable NPP/QTP Value Added Tax ("VAT").
12. In the calculation of the NPC Revenue Requirement, the following documents, accounts, and actual costs were prepared and/or considered:
- a. Actual Fuel Costs for CY 2021;
 - b. Other Operating Expenses which includes Personnel Services and Maintenance and Other Operating Expenses for CY 2021;
 - c. Depreciation for CY 2021;
 - d. Disbursement on FOREX Fluctuation;
 - e. Rate Base (RORB) as of December 2021;
 - f. Revenue from Sales;
 - g. Audited Financial Statements for CY 2021;
 - h. Schedule of Rate Base per Region (Electric Plant In Service – EPS) for CY 2021
 - i. Projected Energy Sales;
 - j. Discussion on Revenue Requirement and Rate Base Components;
 - k. Summary of the Shortfall for CY 2021
 - l. Schedule of Renewable Energy Cash Incentive disbursed by PSALM
 - m. Actual UCME received from PSALM
 - n. Monthly GRAM and ICERA Compliances for January to December 2021 and Fuel Oil Consumption and Inventory Report (FOCIR)
13. The Monthly GRAM and ICERA Compliances for 2021 are being submitted for additional reference of this Honorable Commission.
14. It must be emphasized that the monthly GRAM Compliances were not utilized in the instant Petition. The Actual Fuel Cost for CY 2021 mentioned herein is the actual cost incurred from January 1 to December 31, 2021, which differs from the actual cost reflected in the GRAM. This is due to the timing

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 5 OF 14

- difference, and adjustments made at the end of the accounting cycle which are not reflected in the FOCIR, at the time the GRAM is calculated.
15. The computation for the disbursement on FOREX fluctuation was based on the monthly ICERA compliances attached in the instant petition. The calculation is based on the actual disbursement made for the period with carrying charges based on a 91-day T-bill rate plus a 3% allowance as per the ICERA IRR.
 16. The amount of UC-ME Subsidy for NPPs and QTPs was based on the actual disbursements and payment made consistent with the UC-Settlement Agreement ("UCSA") and QTP Service and Subsidy Contract ("QSSC") between NPC and respective power providers considering their respective ERC-approved Power Supply Agreement ("PSA") and QSSC.
 17. Further, Petitioner NPC recognizes its expenses for the year on an accrual basis, wherein expenses are recorded when incurred rather than when paid.
 18. In the Honorable Commission's Order dated 09 June 2021 for ERC Case No. 2012-046 RC, it was ruled that Depreciation Expense and Capital Recovery allow an entity to recover the cost of investment and other capitalizable items. Thus, Petitioner NPC is entitled to recover the difference of its Depreciation Expense from the approved Capital Recovery as approved by this Honorable Commission. The same holds true for Petitioner NPC's Other Operating Expenses.
 19. The inclusion of Depreciation Expense and Other Operating Expenses in the Revenue Requirement is based on ERC Resolution No. 21, series of 2011 which considered depreciation for purposes of the computation of NPC SPUG TCGR. Article III, Section 1(a) of the said ERC Resolution provides:

"Section 1. Setting and Adjustment of NPC SPUG TCGR. In each of the NPC SPUG Areas, NPC SPUG shall be allowed to recover the NPC SPUG TCGR. In cases where the NPC SPUG TCGR is higher than the SAGR, NPC SPUG may recover the difference from the ME subsidy

(a) Determination of the NPC SPUG TCGR and its Adjustments. NPC SPUG shall file an application with the ERC for the setting and approval of the NPC SPUG TCGR. The NPC SPUG TCGR shall be used to determine the appropriate level of ME Subsidy to be allowed for NPC SPUG for the applicable period. The filing of the application, shall as far as practicable, coincide with NPC SPUG's filing of the UC-ME. In case of failure of NPC SPUG to

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 6 OF 14

file its TCGR application, its last approved TCGR shall be the basis of the ERC in resolving its UC-ME application

The NPC SPUG TCGR will serve as the revenue requirement of NPC SPUG that will be used to determine the National Power Corporation's (NPC) generation charges. In support of the computation of the revenue requirement, NPC SPUG shall submit the following information:

- i. its current operating and maintenance costs, including the details of fuel purchases and deliveries, payroll, power purchase, depreciation and other costs;
- ii. Current value of its assets;
- iii. Its current energy sales; and
- iv. Such other information as the ERC may require."

Hence, the depreciation expense is part of the NPC revenue requirement (TCGR) that is subject to reconciliation of the Actual UCME received.

20. Petitioner NPC further emphasizes that the items enumerated under Personnel Services ("PS") and Maintenance and Other Operating Expense ("MOOE") are all part of the True Cost of Generation Rate ("TCGR") or Revenue Requirements of the NPC which are essential and directly connected to the missionary electrification operations. Moreover, said items are approved in the 2021 General Appropriations Act. The Description of Accounts¹ under said PS and MOOE are also attached to further support said expenses to be recovered under this Petition.
21. Also, Petitioner NPC included a 12% RORB in its calculation which is consistent with NPC Charter RA 6395 and was further strengthened by said Executive Order No. 86. Such Executive Orders are in effect until they are revoked or repealed by the President of the Philippines. This serves as the basis of NPC to charge its customers a 12% RORB.
22. The EPIRA likewise recognizes the granting of the RORB. Section 43(f) of the said law provides:
 - (f) In the public interest, establish and enforce a methodology for setting transmission and distribution wheeling rates and retail rates for the captive market of a distribution utility, taking into account all relevant considerations, including the efficiency or inefficiency of

¹ Part of Exhibit "E" of the Petition.

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 7 OF 14

the regulated entities. The rates must be such as to allow the recovery of just and reasonable costs and a reasonable return on rate base (RORB) to enable the entity to operate viably. Xxx” (Emphasis supplied)

23. Petitioner NPC’s 12% RORB covers other operating costs not included in the revenue requirements, such as interest expenses, taxes, financing charges. Further, it also covers PS, MOOE, and non-operating expenses of NPC Power Plants operating on standby mode in areas already taken by NPPs and QTPs. Without it, Petitioner NPC cannot continue to function viably. Worthy to emphasize is that a True-up shortfall is used for all related expenses incurred. Hence, the RORB can be used for other expenses not included in the revenue requirement.
24. In fact, this Honorable Commission also acknowledges the importance of the RORB in Petitioner NPC’s operations. In its Decision dated 12 August 2013 for ERC Case No. 2012-085RC, this Honorable Commission approved NPC’s recovery of the RORB as part of its CY 2011 True Up Adjustment. Also, in its Decision dated 30 July 2012 for ERC Case No. 2011-074RC, the Honorable Commission approved NPC’s recovery of the 12% RORB, and stated that:

“Power rates are set to recover cost of service prudently incurred plus a reasonable rate of return. A regulated utility is allowed a return that will cover its operating costs and provide it an opportunity to earn a reasonable rate of return on the assets utilized in the business. Thus, the Commission finds it reasonable to grant NPC-SPUG a 12% RORB.”
25. The twelve (12) months projected Philippine energy sales forecast in GWh under DOE’s Power Development Plan (“PDP”) was used to determine the proposed UC-ME True-up rate in PhP/kWh.
26. As can be gleaned from Table 1, the CY 2021 actual revenue received from the UC-ME was not sufficient to cover the total UC-ME requirement for NPC, NPPs and QTPs. As such, Petitioner NPC seeks to recover the deficiency pursuant to the rules and guidelines for the UC-ME.
27. The National Power Board authorized the filing of the instant Petition to recover the shortfall as evidenced by the National Power (NP) Board Resolution No. 2022-69 dated 12 December 2022.
28. In support of this Petition, the Judicial Affidavit of Ms. Margarita M. Egnisaban, Petitioner NPC’s witness, is attached

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 8 OF 14

herein as Annex "A". The said witness' testimony shall prove the computations made and submitted in this Petition are all in accordance with the applicable and existing rules and guidelines. Attached to the Judicial Affidavit, which shall likewise form part of this Petition, are the following documents previously enumerated and/or mentioned by petitioner as basis in the calculations. These documents are identified by the witness in her Judicial Affidavit and pre-marked in accordance with the Judicial Affidavit rule are as follows:

Exhibit "A"	National Power (NP) Board Resolution No. 2022-69 dated 12 December 2022
Exhibit "B"	Summary of Shortfall and UC-ME True-up Adjustment Calculation
Exhibit "C"	Actual Results of Operation – Per Plant for CY 2021
Exhibit "D"	NPC's Audited Financial Statements for CY 2021
Exhibit "E"	Brief Discussion on Revenue Requirements and Rate Base Computation
Exhibit "F"	Schedule of CY 2021 Depreciation Expense – EPIS (GL531)
Exhibit "G"	Fuel Consumption per plant for the period ending December 31, 2021
Exhibit "G-1"	Monthly GRAM Compliances for CY 2021
Exhibit "G-2"	Fuel Oil Consumption and Inventory Report (FOCIR)
Exhibit "G-3"	Monthly ICERA Compliances for CY 2021
Exhibit "H"	Other Operating Expenses per Account for CY 2021
Exhibit "I"	Rate Base per Region (Electric Plant in Service – EPS) for CY 2021
Exhibit "J"	CY 2021 List of Construction Work in Progress (CWIP)
Exhibit "J-1"	Schedule of CY 2021 Construction Work Completed – Unclassified (CWCU)
Exhibit "K"	Summary of NPP/QTP Subsidy with Monthly Subsidy Payment Report for CY 2021 including the Process Flow for the processing of ME Subsidy Claims for NPP/QTP
Exhibit "K-1" to "K-24"	Audited NPP/QTP Disbursement Vouchers for CY 2021
Exhibit "L"	Electricity Sales Forecast, GWh for Luzon, Visayas, and Mindanao Grid from Power Development Plan (2020-2040)
Exhibit "M"	Updated Report on Renewable Energy Developers Cash Incentive by PSALM
Exhibit "N"	Summary of Actual UCME received from PSALM
Exhibit "O"	CY 2021 Net Utility Revenue per Plant per Account with Actual SAGR Report per Area
Exhibit "P"	FY 2021 General Appropriations Act

**RATE IMPLICATIONS OF THE PROPOSED RECOVERY OF UCME
SHORTFALL**

29. Under the foregoing premises, the recovery of Three Billion Two Hundred Eighty-Five Million Two Hundred Forty-Four Thousand Seven Hundred Forty-Seven and 90/100 (Php3,285,244,747.90) or an equivalent monthly rate impact of Php0.0293/kWh is proposed to be collected from the nationwide electricity end-consumers within a period of twelve (12) months.
30. The proposed recovery of the shortfall for twelve (12) months would be reasonable and timely for NPC to augment its financial requirements and to provide up to date recovery and adjustment of the ensuing years' subsidy requirements.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR THE
ISSUANCE OF A PROVISIONAL AUTHORITY OR
INTERIM RELIEF**

Petitioner NPC pleads the foregoing allegations and further states:

31. The recovery by NPC of only a portion of its costs of generation through the Subsidized Approved Generation Rate ("SAGR"), is not reflective of the TCGR or the Revenue Requirement in the island grid. It is only 49% of the total fuel cost for CY 2021. Thus, there is a need to recover immediately the amount prayed for the instant Petition for the continued operations of Petitioner NPC.
32. Further, the amount proposed for recovery is already an incurred cost of NPC and within the reasonable cost of servicing the consumers in the missionary areas considering the nature of operation and level of demand in the off-grid areas.
33. The provisionally approved UC-ME rate of Php0.1561/kWh for CYs 2015 and 2016 under ERC Case No. 2014-135RC was adopted by the Honorable Commission as the final rate in its Decision dated 15 September 2021. However, the rate granted is not sufficient to cover the expense incurred in CY 2021. Hence, the shortfall in the instant case requires a Provisional Authority or an Interim Relief to ensure an uninterrupted electricity supply as this would augment the funding requirements given the increasing demand for energy in line with the government's thrust of economic development in the off-grid areas.
34. The grant of Provisional Authority or Interim Relief will also help alleviate the financial burdens Petitioner NPC is currently experiencing. Due to the rise of the prices of fuel, Petitioner NPC is now operating on a loss just to sustain and deliver power in the missionary areas and to pay the NPPs and QTPs their UCME subsidies.

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 10 OF 14

35. Petitioner NPC will recover from the UC-ME the amount of Php3,285,244,747.90 once the proposed UC-ME adjustment rate and spreads will be immediately approved provisionally by ERC as filed.
36. The issuance of a provisional authority or an interim relief is authorized under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the Honorable Commission to issue a provisional authority is confirmed by the Supreme Court in the case of *Freedom from Debt Coalition, et. al. vs. ERC, et. al.*,² when it held that “the power to approve provisional rate increases is included among the powers transferred to the ERC by virtue of Section 44 since the grant of that authority is not inconsistent with the EPIRA; rather, it is in full harmony with the thrust of the law which is to strengthen the ERC as the new regulatory body.”
37. Petitioner NPC is thus imploring the kind consideration of this Honorable Commission and respectfully prays for the issuance of a provisional authority or an interim relief under the foregoing premises.

COMPLIANCE

38. In support of this petition and in compliance with Rule 6 of the ERC Rules of Practice and Procedures under ERC Resolution No. 38, Series of 2006 as well as Section 4(e) Rule 3 of the EPIRA Implementing Rules and Regulations, Petitioner NPC attaches and submits the following:
 - a. Proof of service of this Petition to the Legislative Bodies of the Local Government Units where NPC principally operate, hereto attached as Annex “B”.
 - b. Affidavit of Publication hereto attached as Annex “C”.
 - c. Proof of Publication of the Petition once in a newspaper of general circulation hereto attached as Annex “D”.

PRAYER

WHEREFORE, premises considered, Petitioner National Power Corporation respectfully prays that:

- a. Pending the hearing on the merits, an Order be issued granting PROVISIONAL APPROVAL OR INTERIM RELIEF to the proposed UC-ME True-up for CY 2021 amounting to Three Billion Two Hundred Eighty-Five Million Two Hundred Forty-Four Thousand Seven Hundred Forty-Seven and 90/100 (Php3,285,244,747.90) for twelve (12) months recovery period or an equivalent monthly rate of PhPo.0293/kWh.

² G.R. No. 161113, 15 June 2004.

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 11 OF 14

b. After the hearing on the merits, the instant petition be GRANTED by the Honorable Commission.

Other reliefs, just and equitable, are likewise prayed for.

The Commission hereby sets the instant *Petition* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and venue, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020³ and Resolution No. 01, Series of 2021⁴ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
12 September 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	Energy Regulatory Commission, Hearing Room, 11th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City	Determination of compliance with the jurisdictional requirements, and Expository Presentation for Luzon Stakeholders
19 September 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	Energy Regulatory Commission, Visayas Area Operations Division (VAOD), 7th Floor, Kepwealth Building, Samar Loop, Cebu Business Park	Expository Presentation for Visayas Stakeholders
26 September 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6th Floor, BIZ Bldg., c/o BORMAHECO, Inc., 209 J.P. Laurel Avenue, Bajada, Davao City	Expository Presentation for Mindanao Stakeholders
03 October 2023 (Tuesday)	MS Teams or Zoom Application	Pre-trial Conference and

³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 12 OF 14

Date and Time	Platform	Activity
at nine o'clock in the afternoon (9:00 A.M.)	MS Teams or Zoom Application	presentation of evidence
10 October 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)		Presentation of Evidence
17 October 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)		Presentation of Evidence

Petitioner NPC was directed to attend the said hearings at the designated venues.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file

ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 13 OF 14

through e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail, or ordinary mail/private courier, **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.


Any of the persons mentioned in the preceding paragraphs may access the copy of the *Petition* on the Commission's official website at www.erc.gov.ph.

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ERC CASE NO. 2023-034RC
NOTICE OF VIRTUAL/PUBLIC HEARING
27 JUNE 2023
PAGE 14 OF 14

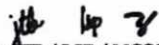



Finally, all interested persons may be allowed to join the scheduled initial virtual hearings by providing the Commission, through legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Petition*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 27th day of June 2023 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO

ERC
Office of the Chairperson and CEO




LS:  /  /  MCGG

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
PETITION FOR THE
RECOVERY OF CY 2021
REVENUE SHORTFALL
FROM THE UNIVERSAL
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ME) AND THE
CORRESPONDING
ADJUSTMENT OF THE UC-
ME WITH PRAYER FOR THE
ISSUANCE OF
PROVISIONAL AUTHORITY
OR INTERIM RELIEF**

ERC CASE NO. 2023-034 RC

**NATIONAL POWER
CORPORATION,**
Petitioner.
x-----x

Promulgated:
June 27, 2023

ORDER

On 27 April 2023, National Power Corporation filed a *Petition* dated 03 April 2023, seeking the Commission's approval of its recovery of Calendar Year (CY) 2021 revenue shortfall from the Universal Charge for Missionary Electrification (UC-ME) and the corresponding adjustment of the UC-ME, with prayer for the issuance of provisional authority or interim relief.

The pertinent allegations of the *Petition* are hereunder quoted, as follows:

1. Petitioner NPC is a government owned and controlled corporation created and existing under Republic Act No. 6395 as amended ("NPC Charter"), with principal address at NPC Office Building Complex, corner Quezon Avenue and BIR Road, Diliman, Quezon City where it may be served summons and other processes of the Honorable Commission.
2. Pursuant to Section 70 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act ("EPIRA"),

Petitioner NPC shall remain as a National-Government Owned and Controlled Corporation to perform the Missionary Electrification function through its Small Power Utilities Group (hereafter, "NPC-SPUG") and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.

3. Pursuant to Section 4 of Republic Act No. 6395, as amended, and Executive Order No. 86, issued by virtue of the authority granted to the President of the Republic of the Philippines under R. A. 7648, Petitioner NPC is duly authorized to include twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital in the Revenue Requirement.
4. Petitioner NPC is filing this Petition in its capacity as the implementing agency for Missionary Electrification. Said function shall be funded from the revenue from sales in the missionary areas and from the Universal Charge to be collected from all electricity end-users as determined by the Energy Regulatory Commission ("ERC").
5. On 22 August 2011, the Honorable Commission approved and issued Resolution No. 21 Series of 2011 entitled "*Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas*" providing for the guidelines for the setting and approval of electricity generation rates and subsidies for Missionary Electrification areas, for the fixing of and availment of subsidies for Missionary Electrification areas and Cash Incentives for the Renewable Energy ("RE") Developers for Missionary Electrification from the Universal Charge for Missionary Electrification ("UCME").

The said resolution allows for the recovery of the NPC and NPP TCGR as approved by the ERC. In cases where the NPC and the NPP TCGR is higher than the SAGR, then NPC and the NPPs shall be allowed to recover the difference from the Missionary Electrification Subsidy. Further, in the same resolution, it is provided that if after reconciliation of all amounts received against all disbursements made and the result is NPC having surplus funds, as confirmed by this Honorable Commission, the amount corresponding to the surplus shall be deducted from the UCME under the current petition. Otherwise, NPC-SPUG shall be entitled to an increase in the UCME to cover the shortfall which may be brought about by several factors as specified therein (i.e., adjustments due to GRAM and ICERA, adjustment in the NPP TCGR and other analogous cases).

6. On 03 May 2006, the Honorable Commission likewise approved and issued Resolution No. 22 Series of 2006 entitled "*Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy*". The resolution

mandated NPC to file a quarterly application, if necessary, with the ERC to recover any shortfall in the Missionary Electrification subsidy brought about by factors such as: collection shortfall, adjustments in the FCRR and other analogous cases. Also, it is provided therein that "NPC-SPUG shall reconcile all amounts received against all disbursement made for the previous year. If the reconciliation results in NPC having surplus funds, the amount of the ME subsidy for the year shall be adjusted accordingly. Conversely, if the reconciliation results in NPC-SPUG experiencing a deficiency, NPC-SPUG shall be entitled to file an application for an increase in the ME Subsidy to cover the shortfall."

7. Petitioner NPC is filing this petition pursuant to Rule 20 (A) of the ERC Revised Rules of Practice and Procedure as approved by the Honorable Commission on 17 December 2020 in Resolution No. 01, Series of 2021.

ABSTRACT OF THE PROPOSED RECOVERY OF THE SHORTFALL IN THE UC-ME

8. Reconciliation of Actual UC-ME. The reconciliation covers all amounts received against all disbursement made in CY 2021. NPC utilizes in its calculation the following documents:
 - a. Audited CY 2021 Financial Statements;
 - b. Actual Results of Operation for CY 2021; and
 - c. The actual disbursements of UC-ME Subsidy to NPPs and QTPs.
9. Total UC-ME Shortfall. Based on the foregoing documents and as a result of the calculations made, the total shortfall that NPC proposes to recover from the UC-ME is equivalent to Three Billion Two Hundred Eighty-Five Million Two Hundred Forty-Four Thousand Seven Hundred Forty-Seven and 90/100 (Php3,285,244,747.90) or an equivalent of PhPo.0293/kWh for twelve (12) months recovery period as summarized in Table 1 below.

Table 1. Summary of Shortfall

PARTICULARS	TOTAL	NPC	NPP	QTP
REVENUE REQUIREMENT	26,304,519,971.82	10,024,149,004.35	16,172,897,270.55	107,473,696.92
LESS: REVENUE FROM SALES	9,120,764,223.91	2,258,834,859.68	6,814,143,037.60	47,786,326.64
REQUIRED REVENUE FROM UCME	17,183,755,747.90	7,765,314,144.67	9,358,754,232.95	59,687,370.28
UCME IMPACT P/kWh	0.1525	0.0694	0.0736	0.0005
LESS:				
ACTUAL 2021 UCME REVENUE (BASIC)	13,898,511,000.00	4,480,069,396.77	9,358,754,232.95	59,687,370.28
UCME SHORTFALL P/Ph	3,285,244,747.90	3,285,244,747.90		
UCME RATE IMPACT P/kWh	0.0293	0.0293		
Projected Philippine Energy Sales, GWh	111,950.00			

10. In the reconciliation, the resulting shortfall in the revenue from UC-ME was calculated based on the following formula:

$$\text{UC-ME True-Up Shortfall} = \text{Total UC-ME Subsidy Requirement} - \text{Approved UC-ME}$$

Where:

**Total UC-ME Subsidy Requirement =
(NPC Revenue Requirement – Revenue from Sales) +
Subsidy Payment to NPPs and QTPs**

11. **The revenue is inclusive of the revenue from sales and the Basic UC-ME subsidy for CY 2021. Whereas the disbursement includes all allowable expenses related to NPC-SPUG's operation and subsidy fees paid to the New Power Providers ("NPPs") and Qualified Third Parties ("QTPs") inclusive of the applicable NPP/QTP Value Added Tax ("VAT").**
12. **In the calculation of the NPC Revenue Requirement, the following documents, accounts, and actual costs were prepared and/or considered:**
 - a. **Actual Fuel Costs for CY 2021;**
 - b. **Other Operating Expenses which includes Personnel Services and Maintenance and Other Operating Expenses for CY 2021;**
 - c. **Depreciation for CY 2021;**
 - d. **Disbursement on FOREX Fluctuation;**
 - e. **Rate Base (RORB) as of December 2021;**
 - f. **Revenue from Sales;**
 - g. **Audited Financial Statements for CY 2021;**
 - h. **Schedule of Rate Base per Region (Electric Plant In Service – EPS) for CY 2021**
 - i. **Projected Energy Sales;**
 - j. **Discussion on Revenue Requirement and Rate Base Components;**
 - k. **Summary of the Shortfall for CY 2021**
 - l. **Schedule of Renewable Energy Cash Incentive disbursed by PSALM**
 - m. **Actual UCME received from PSALM**
 - n. **Monthly GRAM and ICERA Compliances for January to December 2021 and Fuel Oil Consumption and Inventory Report (FOCIR)**
13. **The Monthly GRAM and ICERA Compliances for 2021 are being submitted for additional reference of this Honorable Commission.**
14. **It must be emphasized that the monthly GRAM Compliances were not utilized in the instant Petition. The Actual Fuel Cost for CY 2021 mentioned herein is the actual cost incurred from January 1 to December 31, 2021, which differs from the actual cost reflected in the GRAM. This is due to the timing difference, and adjustments made at the end of the accounting cycle which are not reflected in the FOCIR, at the time the GRAM is calculated.**
15. **The computation for the disbursement on FOREX fluctuation was based on the monthly ICERA compliances attached in the instant petition. The calculation is based on the actual**

- disbursement made for the period with carrying charges based on a 91-day T-bill rate plus a 3% allowance as per the ICERA IRR.
16. The amount of UC-ME Subsidy for NPPs and QTPs was based on the actual disbursements and payment made consistent with the UC-Settlement Agreement ("UCSA") and QTP Service and Subsidy Contract ("QSSC") between NPC and respective power providers considering their respective ERC-approved Power Supply Agreement ("PSA") and QSSC.
 17. Further, Petitioner NPC recognizes its expenses for the year on an accrual basis, wherein expenses are recorded when incurred rather than when paid.
 18. In the Honorable Commission's Order dated 09 June 2021 for ERC Case No. 2012-046 RC, it was ruled that Depreciation Expense and Capital Recovery allow an entity to recover the cost of investment and other capitalizable items. Thus, Petitioner NPC is entitled to recover the difference of its Depreciation Expense from the approved Capital Recovery as approved by this Honorable Commission. The same holds true for Petitioner NPC's Other Operating Expenses.
 19. The inclusion of Depreciation Expense and Other Operating Expenses in the Revenue Requirement is based on ERC Resolution No. 21, series of 2011 which considered depreciation for purposes of the computation of NPC SPUG TCGR. Article III, Section 1(a) of the said ERC Resolution provides:

"Section 1. Setting and Adjustment of NPC SPUG TCGR. In each of the NPC SPUG Areas, NPC SPUG shall be allowed to recover the NPC SPUG TCGR. In cases where the NPC SPUG TCGR is higher than the SAGR, NPC SPUG may recover the difference from the ME subsidy

(a) Determination of the NPC SPUG TCGR and its Adjustments. NPC SPUG shall file an application with the ERC for the setting and approval of the NPC SPUG TCGR. The NPC SPUG TCGR shall be used to determine the appropriate level of ME Subsidy to be allowed for NPC SPUG for the applicable period. The filing of the application, shall as far as practicable, coincide with NPC SPUG's filing of the UC-ME. In case of failure of NPC SPUG to file its TCGR application, its last approved TCGR shall be the basis of the ERC in resolving its UC-ME application

The NPC SPUG TCGR will serve as the revenue requirement of NPC SPUG that will be used to determine the National Power Corporation's (NPC) generation charges. In support of the

computation of the revenue requirement, NPC SPUG shall submit the following information:

- i. its current operating and maintenance costs, including the details of fuel purchases and deliveries, payroll, power purchase, depreciation and other costs;
- ii. Current value of its assets;
- iii. Its current energy sales; and
- iv. Such other information as the ERC may require.”

Hence, the depreciation expense is part of the NPC revenue requirement (TCGR) that is subject to reconciliation of the Actual UCME received.

20. Petitioner NPC further emphasizes that the items enumerated under Personnel Services (“PS”) and Maintenance and Other Operating Expense (“MOOE”) are all part of the True Cost of Generation Rate (“TCGR”) or Revenue Requirements of the NPC which are essential and directly connected to the missionary electrification operations. Moreover, said items are approved in the 2021 General Appropriations Act. The Description of Accounts¹ under said PS and MOOE are also attached to further support said expenses to be recovered under this Petition.
21. Also, Petitioner NPC included a 12% RORB in its calculation which is consistent with NPC Charter RA 6395 and was further strengthened by said Executive Order No. 86. Such Executive Orders are in effect until they are revoked or repealed by the President of the Philippines. This serves as the basis of NPC to charge its customers a 12% RORB.
22. The EPIRA likewise recognizes the granting of the RORB. Section 43(f) of the said law provides:
 - (f) In the public interest, establish and enforce a methodology for setting transmission and distribution wheeling rates and retail rates for the captive market of a distribution utility, taking into account all relevant considerations, including the efficiency or inefficiency of the regulated entities. **The rates must be such as to allow the recovery of just and reasonable costs and a reasonable return on rate base (RORB) to enable the entity to operate viably.** xxx” (Emphasis supplied)

¹ Part of Exhibit “E” of the Petition.

23. Petitioner NPC's 12% RORB covers other operating costs not included in the revenue requirements, such as interest expenses, taxes, financing charges. Further, it also covers PS, MOOE, and non-operating expenses of NPC Power Plants operating on standby mode in areas already taken by NPPs and QTPs. Without it, Petitioner NPC cannot continue to function viably. Worthy to emphasize is that a True-up shortfall is used for all related expenses incurred. Hence, the RORB can be used for other expenses not included in the revenue requirement.
24. In fact, this Honorable Commission also acknowledges the importance of the RORB in Petitioner NPC's operations. In its Decision dated 12 August 2013 for ERC Case No. 2012-085RC, this Honorable Commission approved NPC's recovery of the RORB as part of its CY 2011 True Up Adjustment. Also, in its Decision dated 30 July 2012 for ERC Case No. 2011-074RC, the Honorable Commission approved NPC's recovery of the 12% RORB, and stated that:

"Power rates are set to recover cost of service prudently incurred plus a reasonable rate of return. A regulated utility is allowed a return that will cover its operating costs and provide it an opportunity to earn a reasonable rate of return on the assets utilized in the business. Thus, the Commission finds it reasonable to grant NPC-SPUG a 12% RORB."
25. The twelve (12) months projected Philippine energy sales forecast in GWh under DOE's Power Development Plan ("PDP") was used to determine the proposed UC-ME True-up rate in PhP/kWh.
26. As can be gleaned from Table 1, the CY 2021 actual revenue received from the UC-ME was not sufficient to cover the total UC-ME requirement for NPC, NPPs and QTPs. As such, Petitioner NPC seeks to recover the deficiency pursuant to the rules and guidelines for the UC-ME.
27. The National Power Board authorized the filing of the instant Petition to recover the shortfall as evidenced by the National Power (NP) Board Resolution No. 2022-69 dated 12 December 2022.
28. In support of this Petition, the Judicial Affidavit of Ms. Margarita M. Egnisaban, Petitioner NPC's witness, is attached herein as Annex "A". The said witness' testimony shall prove the computations made and submitted in this Petition are all in accordance with the applicable and existing rules and guidelines. Attached to the Judicial Affidavit, which shall likewise form part of this Petition, are the following documents previously enumerated and/or mentioned by petitioner as basis in the calculations. These documents are identified by the witness in her Judicial Affidavit and pre-

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 8 OF 38

marked in accordance with the Judicial Affidavit rule are as follows:

Exhibit "A"	National Power (NP) Board Resolution No. 2022-69 dated 12 December 2022
Exhibit "B"	Summary of Shortfall and UC-ME True-up Adjustment Calculation
Exhibit "C"	Actual Results of Operation – Per Plant for CY 2021
Exhibit "D"	NPC's Audited Financial Statements for CY 2021
Exhibit "E"	Brief Discussion on Revenue Requirements and Rate Base Computation
Exhibit "F"	Schedule of CY 2021 Depreciation Expense – EPIS (GL531)
Exhibit "G"	Fuel Consumption per plant for the period ending December 31, 2021
Exhibit "G-1"	Monthly GRAM Compliances for CY 2021
Exhibit "G-2"	Fuel Oil Consumption and Inventory Report (FOCIR)
Exhibit "G-3"	Monthly ICERA Compliances for CY 2021
Exhibit "H"	Other Operating Expenses per Account for CY 2021
Exhibit "I"	Rate Base per Region (Electric Plant in Service – EPS) for CY 2021
Exhibit "J"	CY 2021 List of Construction Work in Progress (CWIP)
Exhibit "J-1"	Schedule of CY 2021 Construction Work Completed – Unclassified (CWCU)
Exhibit "K"	Summary of NPP/QTP Subsidy with Monthly Subsidy Payment Report for CY 2021 including the Process Flow for the processing of ME Subsidy Claims for NPP/QTP
Exhibit "K-1" to "K-24"	Audited NPP/QTP Disbursement Vouchers for CY 2021
Exhibit "L"	Electricity Sales Forecast, GWh for Luzon, Visayas, and Mindanao Grid from Power Development Plan (2020-2040)
Exhibit "M"	Updated Report on Renewable Energy Developers Cash Incentive by PSALM
Exhibit "N"	Summary of Actual UCME received from PSALM
Exhibit "O"	CY 2021 Net Utility Revenue per Plant per Account with Actual SAGR Report per Area
Exhibit "P"	FY 2021 General Appropriations Act

RATE IMPLICATIONS OF THE PROPOSED RECOVERY OF UCME SHORTFALL

29. Under the foregoing premises, the recovery of Three Billion Two Hundred Eighty-Five Million Two Hundred Forty-Four Thousand Seven Hundred Forty-Seven and 90/100 (Php3,285,244,747.90) or an equivalent monthly rate impact of PhPo.0293/kWh is proposed to be collected from the nationwide electricity end-consumers within a period of twelve (12) months.

30. The proposed recovery of the shortfall for twelve (12) months would be reasonable and timely for NPC to augment its financial requirements and to provide up to date recovery and adjustment of the ensuing years' subsidy requirements.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR THE
ISSUANCE OF A PROVISIONAL AUTHORITY OR
INTERIM RELIEF**

Petitioner NPC repleads the foregoing allegations and further states:

31. The recovery by NPC of only a portion of its costs of generation through the Subsidized Approved Generation Rate ("SAGR"), is not reflective of the TCGR or the Revenue Requirement in the island grid. It is only 49% of the total fuel cost for CY 2021. Thus, there is a need to recover immediately the amount prayed for the instant Petition for the continued operations of Petitioner NPC.
32. Further, the amount proposed for recovery is already an incurred cost of NPC and within the reasonable cost of servicing the consumers in the missionary areas considering the nature of operation and level of demand in the off-grid areas.
33. The provisionally approved UC-ME rate of Php0.1561/kWh for CYs 2015 and 2016 under ERC Case No. 2014-135RC was adopted by the Honorable Commission as the final rate in its Decision dated 15 September 2021. However, the rate granted is not sufficient to cover the expense incurred in CY 2021. Hence, the shortfall in the instant case requires a Provisional Authority or an Interim Relief to ensure an uninterrupted electricity supply as this would augment the funding requirements given the increasing demand for energy in line with the government's thrust of economic development in the off-grid areas.
34. The grant of Provisional Authority or Interim Relief will also help alleviate the financial burdens Petitioner NPC is currently experiencing. Due to the rise of the prices of fuel, Petitioner NPC is now operating on a loss just to sustain and deliver power in the missionary areas and to pay the NPPs and QTPs their UCME subsidies.
35. Petitioner NPC will recover from the UC-ME the amount of Php3,285,244,747.90 once the proposed UC-ME adjustment rate and spreads will be immediately approved provisionally by ERC as filed.
36. The issuance of a provisional authority or an interim relief is authorized under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the Honorable Commission to issue a provisional authority is confirmed by the Supreme Court in the case of *Freedom from Debt*

*Coalition, et. al. vs. ERC, et. al.,*² when it held that “the power to approve provisional rate increases is included among the powers transferred to the ERC by virtue of Section 44 since the grant of that authority is not inconsistent with the EPIRA; rather, it is in full harmony with the thrust of the law which is to strengthen the ERC as the new regulatory body.”

37. Petitioner NPC is thus imploring the kind consideration of this Honorable Commission and respectfully prays for the issuance of a provisional authority or an interim relief under the foregoing premises.

COMPLIANCE

38. In support of this petition and in compliance with Rule 6 of the ERC Rules of Practice and Procedures under ERC Resolution No. 38, Series of 2006 as well as Section 4(e) Rule 3 of the EPIRA Implementing Rules and Regulations, Petitioner NPC attaches and submits the following:
- a. Proof of service of this Petition to the Legislative Bodies of the Local Government Units where NPC principally operate, hereto attached as Annex “B”.
 - b. Affidavit of Publication hereto attached as Annex “C”.
 - c. Proof of Publication of the Petition once in a newspaper of general circulation hereto attached as Annex “D”.

PRAYER

WHEREFORE, premises considered, Petitioner National Power Corporation respectfully prays that:

- a. Pending the hearing on the merits, an Order be issued granting **PROVISIONAL APPROVAL OR INTERIM RELIEF** to the proposed UC-ME True-up for CY 2021 amounting to Three Billion Two Hundred Eighty-Five Million Two Hundred Forty-Four Thousand Seven Hundred Forty-Seven and 90/100 (Php3,285,244,747.90) for twelve (12) months recovery period or an equivalent monthly rate of PhPo.0293/kWh.
- b. After the hearing on the merits, the instant petition be **GRANTED** by the Honorable Commission.

Other reliefs, just and equitable, are likewise prayed for.

² G.R. No. 161113, 15 June 2004.

Finding the said *Petition* to be sufficient in form and 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 venue, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020³ and Resolution No. 01, Series of 2021⁴ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
12 September 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	Energy Regulatory Commission, Hearing Room, 11th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City	Determination of compliance with the jurisdictional requirements, and Expository Presentation for Luzon Stakeholders
19 September 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	Energy Regulatory Commission, Visayas Area Operations Division (VAOD), 7th Floor, Kepwealth Building, Samar Loop, Cebu Business Park	Expository Presentation for Visayas Stakeholders
26 September 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6th Floor, BIZ Bldg., c/o BORMAHECO, Inc., 209 J.P. Laurel Avenue, Bajada, Davao City	Expository Presentation for Mindanao Stakeholders
03 October 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)	MS Teams or Zoom Application	Pre-trial Conference and presentation of evidence
10 October 2023 (Tuesday)		Presentation of Evidence

³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date and Time	Platform	Activity
at nine o'clock in the afternoon (9:00 A.M.)	MS Teams or Zoom Application	
17 October 2023 (Tuesday) at nine o'clock in the afternoon (9:00 A.M.)		Presentation of Evidence

Petitioner NPC is directed to attend the said hearings at the designated venues.

RELATIVE THERETO, NPC is hereby directed to:

- 1) Cause the publication of the attached *Notice of Public/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 Public/Virtual Hearing* the Offices of the Provincial Governors, the City and Municipal Mayors and the respective Local Government Unit (LGU) legislative bodies within the affected areas and the City Mayor and LGU legislative body of Quezon City for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Petition*, its reasons therefor, and of the scheduled hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Public/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, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial hearing, NPC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Public/Virtual Hearing* consisting of the affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Public/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 Public/Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by NPC to inform the consumers within the affected areas of the filing of the *Petition*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Public/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 *Petition* 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, NPC 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 Offices of the Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

Petitioner NPC and all interested parties are also required to submit via e-mail at docket@erc.ph, and 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, which should be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Petitioner NPC 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 hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of NPC 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.

Petitioner NPC must also be prepared to make an expository presentation of the instant *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, the nature of the *Petition*. Relevant information and pertinent details substantiating the reasons and justifications for the *Petition* must be cited in support thereof.

Petitioner NPC is hereby directed to file a copy of its Expository Presentation via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, at **least five (5) calendar days** prior to the scheduled virtual hearing. NPC 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.

Petitioner NPC is hereby directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard printed copies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **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.

Finally, NPC, including its authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, 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 virtual hearing.

SO ORDERED.

Pasig City, 27 June 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:

Medimalanta

MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD2023-005573

LS: *JTB* / *LSP* / *MCCG*

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 16 OF 38

Copy Furnished:

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16. Office of the LGU Legislative Body
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Sabtang, Batanes
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ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 17 OF 38

19. Office of the Municipal Mayor
Mahatao, Batanes
20. Office of the LGU Legislative Body
Mahatao, Batanes
21. Office of the Municipal Mayor
Uyugan, Batanes
22. Office of the LGU Legislative Body
Uyugan, Batanes
23. Office of the Municipal Mayor
Ivana, Batanes
24. Office of the LGU Legislative Body
Ivana, Batanes
25. General Manager
Batanes Electric Cooperative, Inc. (BATANELCO)
26. Office of the Provincial Governor
Cagayan
27. Office of the LGU Legislative Body
Cagayan
28. Office of the Municipal Mayor
Calayan, Cagayan
29. Office of the LGU Legislative Body
Calayan, Cagayan
30. General Manager
Cagayan II Electric Cooperative, Inc. (CAGELCO II)
31. Office of the Provincial Governor
Apayao
32. Office of the LGU Legislative Body
Apayao
33. Office of the Municipal Mayor
Kabugao, Apayao
34. Office of the LGU Legislative Body
Kabugao, Apayao
35. Office of the Provincial Governor
Kalinga
36. Office of the LGU Legislative Body
Kalinga
37. Office of the Municipal Mayor
Lubuagan, Kalinga
38. Office of the LGU Legislative Body
Lubuagan, Kalinga
39. General Manager
Kalinga-Apayao Electric Cooperative, Inc. (KAELCO)
40. Office of the Provincial Governor
Isabela

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 18 OF 38

41. Office of the LGU Legislative Body
Isabela
42. Office of the Municipal Mayor
Palanan, Isabela
43. Office of the LGU Legislative Body
Palanan, Isabela
44. Office of the Municipal Mayor
Maconacon, Isabela
45. Office of the LGU Legislative Body
Maconacon, Isabela
46. Office of the Municipal Mayor
Dinapigue, Isabela
47. Office of the LGU Legislative Body
Dinapigue, Isabela
48. General Manager
Isabela II Electric Cooperative, Inc. (ISELCO II)
49. Office of the Provincial Governor
Aurora
50. Office of the LGU Legislative Body
Aurora
51. Office of the Municipal Mayor
Casiguran, Aurora
52. Office of the LGU Legislative Body
Casiguran, Aurora
53. Office of the Municipal Mayor
Dingalan, Aurora
54. Office of the LGU Legislative Body
Dingalan, Aurora
55. Office of the Municipal Mayor
Dilasag, Aurora
56. Office of the LGU Legislative Body
Dilasag, Aurora
57. Office of the Municipal Mayor
Dinalungan, Aurora
58. Office of the LGU Legislative Body
Dinalungan, Aurora
59. General Manager
Aurora Electric Cooperative, Inc. (AURELCO)
60. Office of the Provincial Governor
Quezon
61. Office of the LGU Legislative Body
Quezon
62. Office of the Municipal Mayor
Jomalig, Quezon

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 19 OF 38

63. Office of the LGU Legislative Body
Jomalig, Quezon
64. Office of the Municipal Mayor
Patnanungan, Quezon
65. Office of the LGU Legislative Body
Patnanungan, Quezon
66. Office of the Municipal Mayor
Polilio, Quezon
67. Office of the LGU Legislative Body
Polilio, Quezon
68. General Manager
Quezon II Electric Cooperative, Inc. (QUEZELCO II)
69. Office of the Provincial Governor
Batangas
70. Office of the LGU Legislative Body
Batangas
71. Office of the Municipal Mayor
Tingloy, Batangas
72. Office of the LGU Legislative Body
Tingloy, Batangas
73. General Manager
Batangas II Electric Cooperative, Inc. (BATELEC II)
74. Office of the Provincial Governor
Marinduque
75. Office of the LGU Legislative Body
Marinduque
76. Office of the Municipal Mayor
Boac, Marinduque
77. Office of the LGU Legislative Body
Boac, Marinduque
78. Office of the Municipal Mayor
Mogpog, Marinduque
79. Office of the LGU Legislative Body
Mogpog, Marinduque
80. Office of the Municipal Mayor
Santa Cruz, Marinduque
81. Office of the LGU Legislative Body
Santa Cruz, Marinduque
82. Office of the Municipal Mayor
Torrijos, Marinduque
83. Office of the LGU Body
Torrijos, Marinduque
84. Office of the Municipal Mayor
Buenvista, Marinduque

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 20 OF 38

85. Office of the LGU Legislative Body
Buenvista, Marinduque
86. Office of the Municipal Mayor
Gasán, Marinduque
87. Office of the LGU Legislative Body
Gasán, Marinduque
88. General Manager
Marinduque Electric Cooperative, Inc. (MARELCO)
89. Office of the Provincial Governor
Occidental Mindoro
90. Office of the LGU Legislative Body
Occidental Mindoro
91. Office of the City Mayor
Lubang, Occidental Mindoro
92. Office of the LGU Legislative Body
Lubang, Occidental Mindoro
93. Office of the Municipal Mayor
Mamburao, Occidental Mindoro
94. Office of the LGU Legislative Body
Mamburao, Occidental Mindoro
95. Office of the Municipal Mayor
Paluan, Occidental Mindoro
96. Office of the LGU Legislative Body
Paluan, Occidental Mindoro
97. Office of the Municipal Mayor
San Jose, Occidental Mindoro
98. Office of the LGU Legislative Body
San Jose, Occidental Mindoro
99. Office of the Municipal Mayor
Abra de Ilog, Occidental Mindoro
100. Office of the LGU Legislative Body
Abra de Ilog, Occidental Mindoro
101. Office of the Municipal Mayor
Calintaan, Occidental Mindoro
102. Office of the LGU Legislative Body
Calintaan, Occidental Mindoro
103. Office of the Municipal Mayor
Looc, Occidental Mindoro
104. Office of the LGU Legislative Body
Looc, Occidental Mindoro
105. Office of the Municipal Mayor
Magsaysay, Occidental Mindoro
106. Office of the LGU Legislative Body
Magsaysay, Occidental Mindoro

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 21 OF 38

107. Office of the Municipal Mayor
Rizal, Occidental Mindoro
108. Office of the LGU Legislative Body
Rizal, Occidental Mindoro
109. Office of the Municipal Mayor
Sablayan, Occidental Mindoro
110. Office of the LGU Legislative Body
Sablayan, Occidental Mindoro
111. Office of the Municipal Mayor
Sta. Cruz, Occidental Mindoro
112. Office of the LGU Legislative Body
Sta. Cruz, Occidental Mindoro
113. General Manager
Occidental Mindoro Electric Cooperative, Inc. (OMECECO)
114. General Manager
Lubang Island Electric Cooperative (LUBELCO)
115. Office of the Provincial Governor
Oriental Mindoro
116. Office of the LGU Legislative Body
Oriental Mindoro
117. Office of the City Mayor
Calapan, Oriental Mindoro
118. Office of the LGU Legislative Body
Calapan, Oriental Mindoro
119. Office of the Municipal Mayor
Baco, Oriental Mindoro
120. Office of the LGU Legislative Body
Baco, Oriental Mindoro
121. Office of the Municipal Mayor
San Teodoro, Oriental Mindoro
122. Office of the LGU Legislative Body
San Teodoro, Oriental Mindoro
123. Office of the Municipal Mayor
Puerto Galera, Oriental Mindoro
124. Office of the LGU Legislative Body
Puerto Galera, Oriental Mindoro
125. Office of the Municipal Mayor
Naujan, Oriental Mindoro
126. Office of the LGU Legislative Body
Naujan, Oriental Mindoro
127. Office of the Municipal Mayor
Victoria, Oriental Mindoro
128. Office of the LGU Legislative Body
Victoria, Oriental Mindoro

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 22 OF 38

129. Office of the Municipal Mayor
Socorro, Oriental Mindoro
130. Office of the LGU Legislative Body
Socorro, Oriental Mindoro
131. Office of the Municipal Mayor
Pola, Oriental Mindoro
132. Office of the LGU Legislative Body
Pola, Oriental Mindoro
133. Office of the Municipal Mayor
Pinamalayan, Oriental Mindoro
134. Office of the LGU Legislative Body
Pinamalayan, Oriental Mindoro
135. Office of the Municipal Mayor
Gloria, Oriental Mindoro
136. Office of the LGU Legislative Body
Gloria, Oriental Mindoro
137. Office of the Municipal Mayor
Bansud, Oriental Mindoro
138. Office of the LGU Legislative Body
Bansud, Oriental Mindoro
139. Office of the Municipal Mayor
Bongabong, Oriental Mindoro
140. Office of the LGU Legislative Body
Bongabong, Oriental Mindoro
141. Office of the Municipal Mayor
Roxas, Oriental Mindoro
142. Office of the LGU Legislative Body
Roxas, Oriental Mindoro
143. Office of the Municipal Mayor
Mansalay, Oriental Mindoro
144. Office of the LGU Legislative Body
Mansalay, Oriental Mindoro
145. Office of the Municipal Mayor
Bulalacao, Oriental Mindoro
146. Office of the LGU Legislative Body
Bulalacao, Oriental Mindoro
147. General Manager
Oriental Mindoro Electric Cooperative, Inc. (ORMECO)
148. Office of the Provincial Governor
Palawan
149. Office of the LGU Legislative Body
Palawan
150. Office of the City Mayor
Puerto Prinsesa, Palawan

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 23 OF 38

151. Office of the LGU Legislative Body
Puerto Prinsesa, Palawan
152. Office of the Municipal Mayor
Agulaya, Palawan
153. Office of the LGU Legislative Body
Agulaya, Palawan
154. Office of the Municipal Mayor
Araceli, Palawan
155. Office of the LGU Legislative Body
Araceli, Palawan
156. Office of the Municipal Mayor
Batabac, Palawan
157. Office of the LGU Legislative Body
Batabac, Palawan
158. Office of the Municipal Mayor
Busuanga, Palawan
159. Office of the LGU Legislative Body
Busuanga, Palawan
160. Office of the Municipal Mayor
Coron, Palawan
161. Office of the LGU Legislative Body
Coron, Palawan
162. Office of the Municipal Mayor
Cagayancillo, Palawan
163. Office of the LGU Legislative Body
Cagayancillo, Palawan
164. Office of the Municipal Mayor
Cullion, Palawan
165. Office of the LGU Legislative Body
Cullion, Palawan
166. Office of the Municipal Mayor
Cuyo, Palawan
167. Office of the LGU Legislative Body
Cuyo, Palawan
168. Office of the Municipal Mayor
El Nido, Palawan
169. Office of the LGU Legislative Body
El Nido, Palawan
170. Office of the Municipal Mayor
Linapacan, Palawan
171. Office of the LGU Legislative Body
Linapacan, Palawan
172. Office of the Municipal Mayor
Magsaysay, Palawan

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 24 OF 38

173. Office of the LGU Legislative Body
Magsaysay, Palawan
174. Office of the Municipal Mayor
Narra, Palawan
175. Office of the LGU Legislative Body
Narra, Palawan
176. Office of the Municipal Mayor
Rizal, Palawan
177. Office of the LGU Legislative Body
Rizal, Palawan
178. Office of the Municipal Mayor
Roxas, Palawan
179. Office of the LGU Legislative Body
Roxas, Palawan
180. Office of the Municipal Mayor
San Vicente, Palawan
181. Office of the LGU Legislative Body
San Vicente, Palawan
182. Office of the Municipal Mayor
Taytay, Palawan
183. Office of the LGU Legislative Body
Taytay, Palawan
184. Office of the Municipal Mayor
Aborlan, Palawan
185. Office of the LGU Legislative Body
Aborlan, Palawan
186. Office of the Municipal Mayor
Brooke's Point, Palawan
187. Office of the LGU Legislative Body
Brooke's Point, Palawan
188. Office of the Municipal Mayor
Española, Palawan
189. Office of the LGU Legislative Body
Española, Palawan
190. Office of the Municipal Mayor
Quezon, Palawan
191. Office of the LGU Legislative Body
Quezon, Palawan
192. Office of the Municipal Mayor
Bataraza, Palawan
193. Office of the LGU Legislative Body
Bataraza, Palawan
194. Office of the Municipal Mayor
Dumaran, Palawan

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 25 OF 38

195. Office of the LGU Legislative Body
Dumaran, Palawan
196. General Manager
Main Office
Palawan Electric Cooperative, Inc. (PALECO)
197. General Manager
Sub-Office
Palawan Electric Cooperative, Inc. (PALECO)
198. General Manager
Busuanga Island Electric Cooperative, Inc. (BISELCO)
199. Office of the Provincial Governor
Romblon
200. Office of the LGU Legislative Body
Romblon
201. Office of the City Mayor
Romblon, Romblon
202. Office of the LGU Legislative Body
Romblon, Romblon
203. Office of the Municipal Mayor
Banton, Romblon
204. Office of the LGU Legislative Body
Banton, Romblon
205. Office of the Municipal Mayor
Concepcion, Romblon
206. Office of the LGU Legislative Body
Concepcion, Romblon
207. Office of the Municipal Mayor
Corcuera, Romblon
208. Office of the LGU Legislative Body
Corcuera, Romblon
209. Office of the Municipal Mayor
Odiongan, Romblon
210. Office of the LGU Legislative Body
Odiongan, Romblon
211. Office of the Municipal Mayor
San Fernando, Romblon
212. Office of the LGU Legislative Body
San Fernando, Romblon
213. Office of the Municipal Mayor
San Jose, Romblon
214. Office of the LGU Legislative Body
San Jose, Romblon
215. Office of the Municipal Mayor
Alcantara, Romblon
216. Office of the LGU Legislative Body
Alcantara, Romblon

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 26 OF 38

217. Office of the Municipal Mayor
Calatrava, Romblon
218. Office of the LGU Legislative Body
Calatrava, Romblon
219. Office of the Municipal Mayor
Ferrol, Romblon
220. Office of the LGU Legislative Body
Ferrol, Romblon
221. Office of the Municipal Mayor
Looc, Romblon
222. Office of the LGU Legislative Body
Looc, Romblon
223. Office of the Municipal Mayor
San Agustin, Romblon
224. Office of the LGU Legislative Body
San Agustin, Romblon
225. Office of the Municipal Mayor
San Andres, Romblon
226. Office of the LGU Legislative Body
San Andres, Romblon
227. Office of the Municipal Mayor
Santa Fe, Romblon
228. Office of the LGU Legislative Body
Santa Fe, Romblon
229. Office of the Municipal Mayor
Sta. Maria (Imelda), Romblon
230. Office of the LGU Legislative Body
Sta. Maria (Imelda), Romblon
231. Office of the Municipal Mayor
Magdiwang, Romblon
232. Office of the LGU Legislative Body
Magdiwang, Romblon
233. Office of the Municipal Mayor
Cadidiocan, Romblon
234. Office of the LGU Legislative Body
Cadidiocan, Romblon
235. General Manager
Romblon Electric Cooperative, Inc. (ROMELCO)
236. General Manager
Tablas Island Electric Cooperative, Inc. (TIELCO)
237. Provincial Governor
Camarines Sur
238. Office of the LGU Legislative Body
Camarines Sur

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 27 OF 38

239. Office of the Municipal Mayor
Caramoan, Camarines Sur
240. Office of the LGU Legislative Body
Caramoan, Camarines Sur
241. Office of the Municipal Mayor
Garchitorena, Camarines Sur
242. Office of the LGU Legislative Body
Garchitorena, Camarines Sur
243. Office of the Municipal Mayor
Sagay, Camarines Sur
244. Office of the LGU Legislative Body
Sagnay, Camarines Sur
245. General Manager
Camarines Sur IV Electric Cooperative, Inc. (CASURECO IV)
246. Provincial Governor
Catanduanes
247. Office of the LGU Legislative Body
Catanduanes
248. Office of the Municipal Mayor
Bato, Catanduanes
249. Office of the LGU Legislative Body
Bato, Catanduanes
250. Office of the Municipal Mayor
Caramoran, Catanduanes
251. Office of the LGU Legislative Body
Caramoran, Catanduanes
252. Office of the Municipal Mayor
Viga, Catanduanes
253. Office of the LGU Legislative Body
Viga, Catanduanes
254. Office of the Municipal Mayor
Pandan, Catanduanes
255. Office of the LGU Legislative Body
Pandan, Catanduanes
256. Office of the Municipal Mayor
Bagamonoc, Catanduanes
257. Office of the LGU Legislative Body
Bagamonoc, Catanduanes
258. Office of the Municipal Mayor
Panganiban (Payo), Catanduanes
259. Office of the LGU Legislative Body
Panganiban (Payo), Catanduanes
260. Office of the Municipal Mayor
Gigmoto, Catanduanes

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 28 OF 38

261. Office of the LGU Legislative Body
Gigmoto, Catanduanes
262. Office of the Municipal Mayor
San Miguel, Catanduanes
263. Office of the LGU Legislative Body
San Miguel, Catanduanes
264. Office of the Municipal Mayor
San Andres, Catanduanes
265. Office of the LGU Legislative Body
San Andres, Catanduanes
266. Office of the Municipal Mayor
Virac, Catanduanes
267. Office of the LGU Legislative Body
Virac, Catanduanes
268. Office of the Municipal Mayor
Baras, Catanduanes
269. Office of the LGU Legislative Body
Baras, Catanduanes
270. General Manager
First Catanduanes Electric Cooperative, Inc. (FICELCO)
271. Provincial Governor
Albay
272. Office of the LGU Legislative Body
Albay
273. Office of the Municipal Mayor
Rapu-rapu, Albay
274. Office of the LGU Legislative Body
Rapu-rapu, Albay
275. General Manager
Albay Electric Cooperative, Inc. (ALECO)
276. Provincial Governor
Masbate
277. Office of the LGU Legislative Body
Masbate
278. Office of the City Mayor
Masbate, Masbate
279. Office of the LGU Legislative Body
Masbate, Masbate
280. Office of the Municipal Mayor
Aroroy, Masbate
281. Office of the LGU Legislative Body
Aroroy, Masbate
282. Office of the Municipal Mayor
Baleno, Masbate

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 29 OF 38

283. Office of the LGU Legislative Body
Baleno, Masbate
284. Office of the Municipal Mayor
Balud, Masbate
285. Office of the LGU Legislative Body
Balud, Masbate
286. Office of the Municipal Mayor
Batuan, Masbate
287. Office of the LGU Legislative Body
Batuan, Masbate
288. Office of the Municipal Mayor
Cataingan, Masbate
289. Office of the LGU Legislative Body
Cataingan, Masbate
290. Office of the Municipal Mayor
Cawayan, Masbate
291. Office of the LGU Legislative Body
Cawayan, Masbate
292. Office of the Municipal Mayor
Dimasalang, Masbate
293. Office of the LGU Legislative Body
Dimasalang, Masbate
294. Office of the Municipal Mayor
Esperanza, Masbate
295. Office of the LGU Legislative Body
Esperanza, Masbate
296. Office of the Municipal Mayor
Mandaon, Masbate
297. Office of the LGU Legislative Body
Mandaon, Masbate
298. Office of the Municipal Mayor
Milagros, Masbate
299. Office of the LGU Legislative Body
Milagros, Masbate
300. Office of the Municipal Mayor
Mobo, Masbate
301. Office of the Legislative Government Unit (LGU) Legislative Body Legislative Body
Mobo, Masbate
302. Office of the Municipal Mayor
Monreal, Masbate
303. Office of the LGU Legislative Body
Monreal, Masbate
304. Office of the Municipal Mayor
Palanas, Masbate

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 30 OF 38

305. Office of the LGU Legislative Body
Palanas, Masbate
306. Office of the Municipal Mayor
Pio V. Corpuz, Masbate
307. Office of the LGU Legislative Body
Pio V. Corpuz, Masbate
308. Office of the Municipal Mayor
Placer, Masbate
309. Office of the LGU Legislative Body
Placer, Masbate
310. Office of the Municipal Mayor
San Fernando, Masbate
311. Office of the LGU Legislative Body
San Fernando, Masbate
312. Office of the Municipal Mayor
San Jacinto, Masbate
313. Office of the LGU Legislative Body
San Jacinto, Masbate
314. Office of the Municipal Mayor
San Pascual, Masbate
315. Office of the LGU Legislative Body
San Pascual, Masbate
316. Office of the Municipal Mayor
Uson, Masbate
317. Office of the LGU Legislative Body
Uson, Masbate
318. General Manager
Masbate Electric Cooperative, Inc. (MASELCO)
319. General Manager
Ticao Island Electric Cooperative (TISELCO)
320. Office of the Provincial Governor
Iloilo
321. Office of the LGU Legislative Body
Iloilo
322. Office of the Municipal Mayor
Carles, Iloilo
323. Office of the LGU Legislative Body
Carles, Iloilo
324. Office of the Provincial Governor
Guimaras
325. Office of the LGU Legislative Body
Guimaras
326. Office of the Municipal Mayor
Nueva Valencia, Guimaras

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 31 OF 38

- 327. Office of the LGU Legislative Body
Nueva Valencia, Guimaras
- 328. Office of the Provincial Governor
Antique
- 329. Office of the LGU Legislative Body
Antique
- 330. Office of the Municipal Mayor
Caluya, Antique
- 331. Office of the LGU Legislative Body
Caluya, Antique
- 332. Office of the Municipal Mayor
Culasi, Antique
- 333. Office of the LGU Legislative Body
Culasi, Antique
- 334. General Manager
Antique Electric Cooperative, Inc. (ANTECO)
- 335. Office of the Provincial Governor
Cebu
- 336. Office of the LGU Legislative Body
Cebu
- 337. Office of the Municipal Mayor
Bantayan, Cebu
- 338. Office of the LGU Legislative Body
Bantayan, Cebu
- 339. Office of the Municipal Mayor
Pilar, Cebu
- 340. Office of the LGU Legislative Body
Pilar, Cebu
- 341. Office of the Municipal Mayor
Poros, Cebu
- 342. Office of the LGU Legislative Body
Poros, Cebu
- 343. Office of the Municipal Mayor
Santa Fe, Cebu
- 344. Office of the LGU Legislative Body
Santa Fe, Cebu
- 345. General Manager
Bantayan Electric Cooperative, Inc. (BANELCO)
- 346. General Manager
Camotes Electric Cooperative, Inc. (CELCO)
- 347. Office of the Provincial Governor
Siquijor
- 348. Office of the LGU Legislative Body
Siquijor

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 32 OF 38

349. Office of the Municipal Mayor
Larena, Siquijor
350. Office of the LGU Legislative Body
Larena, Siquijor
351. Office of the Municipal Mayor
Lazi, Siquijor
352. Office of the LGU Legislative Body
Lazi, Siquijor
353. Office of the Municipal Mayor
Siquijor, Siquijor
354. Office of the LGU Legislative Body
Siquijor, Siquijor
355. General Manager
Province of Siquijor Electric Cooperative, Inc. (PROSIELCO)
356. Office of the Provincial Governor
Biliran
357. Office of the LGU Legislative Body
Biliran
358. Office of the Municipal Mayor
Maripipi, Biliran
359. Office of the LGU Legislative Body
Maripipi, Biliran
360. General Manager
Maripipi Multi-Purpose Cooperative, Inc. (MMPC)
361. Office of the Provincial Governor
Southern Leyte
362. Office of the LGU Legislative Body
Southern Leyte
363. Office of the Municipal Mayor
Limasawa, Southern Leyte
364. Office of the LGU Legislative Body
Limasawa, Southern Leyte
365. General Manager
Southern Leyte Electric Cooperative, Inc. (SOLECO)
366. Office of the Provincial Governor
Samar
367. Office of the LGU Legislative Body
Samar
368. Office of the Municipal Mayor
Almagro, Samar
369. Office of the LGU Legislative Body
Almagro, Samar
370. Office of the Municipal Mayor
Santo Niño, Samar

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 33 OF 38

371. Office of the LGU Legislative Body
Santo Niño, Samar
372. Office of the Municipal Mayor
Tagapul-an, Samar
373. Office of the LGU Legislative Body
Tagapul-an, Samar
374. Office of the Municipal Mayor
Zumarraga, Samar
375. Office of the LGU Legislative Body
Zumarraga, Samar
376. General Manager
Samar I Electric Cooperative, Inc. (SAMELCO I)
377. General Manager
Samar II Electric Cooperative, Inc. (SAMELCO II)
378. Office of the Provincial Governor
Northern Samar
379. Office of the LGU Legislative Body
Northern Samar
380. Office of the Municipal Mayor
Biri, Northern Samar
381. Office of the LGU Legislative Body
Biri, Northern Samar
382. Office of the Municipal Mayor
Capul, Northern Samar
383. Office of the LGU Legislative Body
Capul, Northern Samar
384. Office of the Municipal Mayor
San Antonio, Northern Samar
385. Office of the LGU Legislative Body
San Antonio, Northern Samar
386. Office of the Municipal Mayor
San Vicente, Northern Samar
387. Office of the LGU Legislative Body
San Vicente, Northern Samar
388. General Manager
Northern Samar Electric Cooperative, Inc. (NORSAMELCO)
389. Office of the Provincial Governor
Bohol
390. Office of the LGU Legislative Body
Bohol
391. Office of the Municipal Mayor
Baclayon, Bohol
392. Office of the LGU Legislative Body
Baclayon, Bohol

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 34 OF 38

393. Office of the Municipal Mayor
Calape, Bohol
394. Office of the LGU Legislative Body
Calape, Bohol
395. Office of the Municipal Mayor
Inabanga, Bohol
396. Office of the LGU Legislative Body
Inabanga, Bohol
397. Office of the Municipal Mayor
Loon, Bohol
398. Office of the LGU Legislative Body
Loon, Bohol
399. Office of the Municipal Mayor
Panglao, Bohol
400. Office of the LGU Legislative Body
Panglao, Bohol
401. Office of the Municipal Mayor
Tubigon, Bohol
402. Office of the LGU Legislative Body
Tubigon, Bohol
403. Office of the Provincial Governor
Zamboanga del Sur
404. Office of the LGU Legislative Body
Zamboanga del Sur
405. Office of the Provincial Governor
Davao del Sur
406. Office of the LGU Legislative Body
Davao del Sur
407. Office of the Municipal Mayor
Jose Abad Santos, Davao del Sur
408. Office of the LGU Legislative Body
Jose Abad Santos, Davao del Sur
409. Office of the Provincial Governor
Sarangani
410. Office of the LGU Legislative Body
Sarangani
411. Office of the Provincial Governor
Davao del Norte
412. Office of the LGU Legislative Body
Davao del Norte
413. Office of the City Mayor
Samal, Davao del Norte
414. Office of the LGU Legislative Body
Samal, Davao del Norte

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 35 OF 38

415. General Manager
Davao del Norte Electric Cooperative, Inc. (DANECO)
416. Office of the Provincial Governor
Sultan Kudarat
417. Office of the LGU Legislative Body
Sultan Kudarat
418. Office of the Municipal Mayor
Kalamansig, Sultan Kudarat
419. Office of the LGU Legislative Body
Kalamansig, Sultan Kudarat
420. Office of the Municipal Mayor
Lebak, Sultan Kudarat
421. Office of the LGU Legislative Body
Lebak, Sultan Kudarat
422. Office of the Municipal Mayor
Palimbang, Sultan Kudarat
423. Office of the LGU Legislative Body
Palimbang, Sultan Kudarat
424. Office of the Municipal Mayor
Sen. Ninoy Aquino, Sultan Kudarat
425. Office of the LGU Legislative Body
Sen. Ninoy Aquino, Sultan Kudarat
426. General Manager
Sultan Kudarat Electric Cooperative, Inc. (SUKELKO)
427. Office of the Provincial Governor
Basilan
428. Office of the LGU Legislative Body
Basilan
429. Office of the City Mayor
Isabela, Basilan
430. Office of the LGU Legislative Body
Isabela, Basilan
431. Office of the Provincial Governor
Sulu
432. Office of the LGU Legislative Body
Sulu
433. Office of the Municipal Mayor
Jolo, Sulu
434. Office of the LGU Legislative Body
Jolo, Sulu
435. Office of the Municipal Mayor
Luuk, Sulu
436. Office of the LGU Legislative Body
Luuk, Sulu

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 36 OF 38

437. Office of the Municipal Mayor
Siasi, Sulu
438. Office of the LGU Legislative Body
Siasi, Sulu
439. Office of the Municipal Mayor
Bangulngi (Tongkil), Sulu
440. Office of the LGU Legislative Body
Bangulngi (Tongkil), Sulu
441. Office of the Municipal Mayor
Hadju Pangalima Tahil (Marungas), Sulu
442. Office of the LGU Legislative Body
Hadju Pangalima Tahil (Marungas), Sulu
443. Office of the Municipal Mayor
Lugus, Sulu
444. Office of the LGU Legislative Body
Lugus, Sulu
445. Office of the Municipal Mayor
Pangutaran, Sulu
446. Office of the LGU Legislative Body
Pangutaran, Sulu
447. Office of the Municipal Mayor
Pata, Sulu
448. Office of the LGU Legislative Body
Pata, Sulu
449. Office of the Municipal Mayor
Tapul, Sulu
450. Office of the LGU Legislative Body
Tapul, Sulu
451. General Manager
Sulu Electric Cooperative, Inc. (SULECO)
452. General Manager
Siasi Electric Cooperative, Inc. (SIASELCO)
453. Office of the Provincial Governor
Tawi-tawi
454. Office of the LGU Legislative Body
Tawi-tawi
455. Office of the Municipal Mayor
Bongao, Tawi-tawi
456. Office of the LGU Legislative Body
Bongao, Tawi-tawi
457. Office of the Municipal Mayor
Mapun, Tawi-tawi
458. Office of the LGU Legislative Body
Mapun, Tawi-tawi
459. Office of the Municipal Mayor

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 37 OF 38

- Pangalima Sugala, Tawi-tawi
460. Office of the LGU Legislative Body
Pangalima Sugala, Tawi-tawi
461. Office of the Municipal Mayor
Simunul, Tawi-tawi
462. Office of the LGU Legislative Body
Simunul, Tawi-tawi
463. Office of the Municipal Mayor
Sitangkai, Tawi-tawi
464. Office of the LGU Legislative Body
Stitangkai, Tawi-tawi
465. Office of the Municipal Mayor
Tandubas, Tawi-tawi
466. Office of the LGU Legislative Body
Tandubas, Tawi-tawi
467. Office of the Municipal Mayor
Sapa-sapa, Tawi-tawi
468. Office of the LGU Legislative Body
Sapa-sapa, Tawi-tawi
469. Office of the Municipal Mayor
South Ubian, Tawi-tawi
470. Office of the LGU Legislative Body
South Ubian, Tawi-tawi
471. General Manager
Tawi-tawi Electric Cooperative, Inc. (TAWELCO)
472. General Manager
Cagayan de Sulu Electric Cooperative, Inc. (CASELCO)
473. Office of the Provincial Governor
Dinagat Islands
474. Office of the LGU Legislative Body
Dinagat Islands
475. Office of the Municipal Mayor
San Jose, Dinagat Islands
476. Office of the LGU Legislative Body
San Jose, Dinagat Islands
477. Office of the Municipal Mayor
Loreto, Dinagat Islands
478. Office of the LGU Legislative Body
Loreto, Dinagat Islands
479. General Manager
Dinagat Islands Electric Cooperative, Inc. (DIELCO)
480. Office of the Provincial Governor
Surigao del Norte
481. Office of the LGU Legislative Body
Surigao del Norte

ERC CASE NO. 2023-034RC
ORDER/27 JUNE 2023
PAGE 38 OF 38

- 482. Office of the City Mayor
Surigao City, Surigao del Norte
- 483. Office of the LGU Legislative Body
Surigao City, Surigao del Norte
- 484. General Manager
Surigao del Norte Electric Cooperative, Inc. (SURNECO)
- 485. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower
1 Jade Dr. Ortigas Center, Pasig City