

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



**IN THE MATTER OF THE
APPLICATION FOR THE
CONFIRMATION AND
APPROVAL OF OVER/
UNDER RECOVERIES FOR
THE YEARS 2014 TO 2016
PURSUANT TO ERC
RESOLUTION NO. 16,
SERIES OF 2009, AS
AMENDED BY ERC
RESOLUTION NO. 21,
SERIES OF 2010,**

ERC CASE NO. 2017-048 CF

**SUBIC ENERZONE
CORPORATION (SEZ),
Applicant.**

X-----X

D O C K E T E D
Date: AUG 31 2017
By: [Signature]

ORDER

On 31 March 2017, Subic Enerzone Corporation (SEZ) filed an *Application* dated 22 March 2017 seeking the Commission's approval of its proposed over or under recoveries covering the period of 2014 to 2016.

SEZ alleged the following in its *Application*:

Applicant **SUBIC ENERZONE CORPORATION ("SEZ")**,
by counsel, respectfully states:

1. SEZ is a corporation existing under the laws of the Republic of the Philippines, with business address at Canal Road corner Labitan Street, Central Business District, Subic Bay Freeport Zone, Olongapo City. It is the duly authorized operator of the power distribution system of the Subic Bay Freeport Zone located in the provinces of Zambales and Bataan by virtue of the Distribution Management Service Agreement (DMSA) entered into with the Subic Bay Metropolitan Authority (SBMA) on May 15, 2003.

2. On July 13, 2009, the Honorable Commission promulgated Resolution No. 16, series of 2009, entitled "A Resolution Adopting The Rules Governing The Automatic Cost Adjustment And True Up Mechanisms And Corresponding Confirmation Process For Distribution Utilities" (the "True-Up Guidelines").
 - 2.1. The True-Up Guidelines provided the formulas for the determination of the Generation, Transmission, System Loss, Lifeline Subsidy, and Franchise and Business Taxes Rates.¹
 - 2.2. It likewise provided for the calculation of over- and under-recoveries on the said rates due to the variance in the allowable cost and the revenues billed using the applicable formula.²
3. On October 18, 2010, the Honorable Commission promulgated ERC Resolution No. 21, Series of 2010,³ wherein the Honorable Commission amended the formula for the calculation of over- and under-recovery for System Loss and updated the timelines set in Article 5 of the True-Up Guidelines.
4. The instant Application is being filed pursuant to the above Resolutions. Based on the formulas on the various automatic cost adjustments and true-up mechanisms, SEZ incurred over- and under-recoveries for the period from January 2014 until December 2016, summarized as follows:

	2014	2015	2016	(Over)/ Under Recoveries
Generation	1,347.35	240.75	15,352,925.91	15,354,514.01
Transmission	(250,060.05)	1,549,587.58	624,953.83	1,924,481.36
System Loss	(3,805,762.90)	41,169.97	(3,719,638.06)	(7,484,230.99)
Lifeline	(999.85)	37,885.60	7,076.03	43,961.78
Total (Over)/ Under Recovery	(4,055,475.46)	1,628,883.90	12,265,317.72	9,838,726.16

5. Based on the foregoing, SEZ has incurred a net under-recovery in the amount of PhP 9,838,726.16 for the billing periods from January 2014 to December 2016.
6. In support of the foregoing are the following documents covering the period January 2014 to December 2016, attached as Annexes of the instant Application, to wit:

¹ Article 2 of ERC Resolution No 16, Series of 2009.

² Article 4, *Ibid*.

³ Entitled "A Resolution Amending Section 4 of Article 4 and Section 1 of Article 5 of the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities".

- Annex A: Summary of the Over/Under Recoveries Computation (per charges and yearly basis);
- Annex B: Proposed Scheme of Refund/Collect using the latest kWh sales;
- Annex C: Fully Accomplished Supplier and Transmission Data Sheet;
- Annex D: Power Bills from Suppliers, Proof of Payment and Debit/Credit Memo;
- Annex E: Fully Accomplished Statistical Data Sheet;
- Annex F: Report on Other Implemented Adjustments;
- Annex G: Fully Accomplished Actual Implemented Rates Sheet;
- Annex H: Fully Accomplished Lifeline Discount Sheet;
- Annex I: Consumers Bills per Customer Class (Non-Lifeline);
- Annex J: Consumer Bills per Lifeline Bracket;
- Annex K: Fully Accomplished Uniform Reportorial Requirement (URR) Template; and
- Annex L: Rate Computations (Generation, Transmission, System Loss and Lifeline Rate)

PRAYER

WHEREFORE, it is respectfully prayed that the Honorable Commission, after due notice, hearing and examination, confirm and approve Applicant's over- and under-recoveries for the January 2014 to December 2016 billing periods and authorize SEZ to recover from its customers the amount of PhP 9,838,726.16 as net under-recovery.

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

Finding the said *Application* sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **04 October 2017 at ten o'clock in the morning (10:00 A.M.), at 15th Floor, ERC Hearing Room, Pacific Center Building, San Miguel Ave., Pasig City.**

Accordingly, SEZ is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing at its own expense, once (1x) in a newspaper of general circulation in the Philippines, at least ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, the Local Government Unit (LGU) legislative bodies within the affected service area, and the Office of the Administrator of SEZ for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public 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 at the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicant must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governors, LGU legislative bodies and Administrator, or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by Applicant to inform the consumers within the affected service area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Applicant and all other interested parties are also required to submit, at least five (5) days before the date of initial 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 therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicant 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.

SEZ must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and to explain, for the benefit of the consumers and other concerned parties, what the *Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 17 July 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:



ALFREDO J. NON
Officer-in-Charge of the ERC

LS: JEM/ARG/GLS/AV


COPY FURNISHED:

- 1. Subic Enerzone Corporation (SEZ)**
Applicant
Canal Road cor. Labitan Street, Central Business District,
Subic Bay Freeport Zone, Olongapo City
- 2. Atty. Paul B. Soriano and Atty. Ma. Margarita S. Lim**
Counsel for Applicant SEZ
16th Flr, NAC Tower, 32nd Street, Bonifacio Global,
Taguig City
- 3. Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
- 4. Commission on Audit**
Commonwealth Avenue, Quezon City
- 5. Senate Committee on Energy**
GSIS Bldg. Roxas Blvd., Pasay City
- 6. House Committee on Energy**
Batasan Hills, Quezon City
- 7. Philippine Chamber of Commerce and Industry (PCCI)**
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City
- 8. Office of the Governor**
Province of Zambales

- 9. Local Government Unit (LGU) legislative body**
Province of Zambales
- 10. Office of the Provincial Governor**
Province of Bataan
- 11. Office of the LGU legislative body**
Province of Bataan
- 12. Office of the Administrator**
Subic Bay Freeport Zone
Province of Zambales and Bataan
- 13. Investigation and Enforcement Division (IED)**
17th Floor, Pacific Center Building, San Miguel Avenue,
Ortigas Center, Pasig City