

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



**IN THE MATTER OF THE
PETITION FOR THE
APPROVAL OF THE
RECOVERY/REFUND FROM
THE UNIVERSAL CHARGE
OF THE
SHORTFALL/SURPLUS IN
THE MISSIONARY
ELECTRIFICATION
SUBSIDY FOR CY 2016 AND
THE CORRESPONDING
ADJUSTMENT OF THE
UNIVERSAL CHARGE FOR
MISSIONARY
ELECTRIFICATION (UC-
ME), WITH PRAYER FOR
THE ISSUANCE OF A
PROVISIONAL AUTHORITY
(PA)**

ERC CASE NO. 2019-004 RC

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

Promulgated:
MAR 27 2019

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 11 January 2019, the National Power Corporation (NPC) filed a *Petition* dated 27 December 2018 seeking the Commission's approval of the recovery or refund from the Universal Charge (UC) of the shortfall or surplus in the Missionary Electrification (ME) subsidy for Calendar Year (CY) 2016, and the corresponding adjustment of the UC-ME.

The pertinent portions of the said *Petition* are hereunder quoted as follows:

ERC CASE NO. 2019-004 RC
NOTICE OF PUBLIC HEARING/13 March 2019
PAGE 2 OF 9

1. Petitioner NPC is a government owned and controlled corporation created and existing under and by virtue of 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 with orders 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”), NPC shall remain as a National-Government owned and controlled corporation to perform the missionary electrification function through its Small Power Utilities Group (“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. NPC is filing this Petition in its capacity as the implementing agency for Missionary Electrification (“ME”) function. The said function shall be funded from the revenue from sales in missionary areas and from the universal charge (“UC”) to be collected from all electricity end-users as determined by the Energy Regulatory Commission (“ERC”) and in line with Section 2 (a) of the RA 9136 Implementing Rules and Regulations or EPIRA IRR.
4. Pursuant to Section 4 of Republic Act No. 6395, as amended, and Executive Order No. 86,¹ issued by virtue of the authority granted to the President of the Republic of the Philippines under R.A. 7684,² Petitioner NPC is duly authorized to charge twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital.
5. On 22 August 2011, the ERC approved and issued Resolution No. 21, Series of 2011,³ which provides for the guidelines for the setting and approval of electricity generation rates and subsidies for Missionary Electrification areas and for the fixing of and availment of subsidies for Missionary Electrification areas as well as the cash incentives for the Renewable Energy (RE) Developers for Missionary Electrification from the UC-ME.

Said resolution allows NPC and the New Power Providers (“NPPs”) to recover the TCGR as approved by the ERC. In cases where the TCGR is higher than the SAGR, then NPC and the NPPs shall be allowed to recover the difference between the TCGR and the SAGR from the UC-ME.⁴ Likewise in the same resolution, it is provided that if the reconciliation results in the

¹ “Fixing the Rate of Return on Rate Base of the National Power Corporation at twelve percent (12%) of the Rate Base as Defined in Section 4 of Republic Act No. 6395, as Amended”;

² “Electric Power Crises Act of 1993”;

³ Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas;

⁴ Article II Section 4;

NPC-SPUG having surplus, as confirmed by the ERC, the amount corresponding to the surplus shall be deducted from the UCME under the current petition to cover the surplus caused by several factors as therein specified (*i.e.* adjustments due to GRAM and ICERA, adjustments in the NPP TCGR and other analogous cases).⁵

6. The Honorable Commission likewise issued ERC Resolution No. 22, Series of 2006⁶ on 03 May 2006 which mandates NPC to file a quarterly application, if necessary, with the ERC to recover any shortfall in the UC-ME caused by factors such as collection shortfall, adjustments in the FCRR and other analogous cases.⁷ Furthermore, it is provided therein that “if the reconciliation results in the NPC-SPUG 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 deficiency, it shall be entitled to file an application with the ERC for an increase in the UC-ME to cover the shortfall.”⁸
7. NPC is filing this petition pursuant to Rule 20 (A) of the ERC Rules of Practice of Procedure as approved by this Honorable Commission on 22 June 2006 in Resolution No. 38, Series of 2006.

ABSTRACT OF THE PROPOSED RECOVERY/REFUND OF THE SHORTFALL/SURPLUS IN THE UC-ME

8. **Reconciliation of Actual UC-ME.** Based on CY 2016 test period, NPC utilizes in its calculation the following documents:
 - a. Certified CY 2016 NPC Financial Statements;
 - b. Actual Results of Operation;
 - c. The actual disbursements of UC-ME to NPPs, QTP and RED-CI;
9. **Total UC-ME Shortfall/Surplus.** Based on the foregoing documents and as a result of the calculations made, the total shortfall/surplus amounted to **(PhP1,483,845,466.67) or (PhPo.0162/kWh)** using the twelve (12) – month projected energy sales nationwide for CY 2019 and the shortfall for RED - CI are summarized in Table 1 below.

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⁵ Article V, Section 2 (c);

⁶ Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy;

⁷ Article IV, Section 3 (b);

⁸ Article IV Section 3 (d); and

Table 1: Summary of Shortfall/Surplus

PARTICULARS	TOTAL
REVENUE REQUIREMENT	12,712,682,724.86
Less: REVENUE FROM SALES	6,068,038,300.28
REQUIRED REVENUE FROM UC-ME	6,644,644,424.58
Add: Real Property Tax	4,375,087.60
REQUIRED REVENUE FROM UC-ME	6,649,019,512.18
CY 2016 ACTUAL UC-ME REVENUE (Basic)	8,132,864,978.94
NPC's SURPLUS, in PhP	(1,483,845,466.76)
Rate Impact, P/kWh in UCME	(0.0162)
Projected Energy Sales, MWh (1-year)	91,414,712.44
Renewable Energy Developer's Cash Incentive, in PhP	15,037,471.92
Rate Impact, P/kWh in UCME	0.0002

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

$$\text{UC-ME True-Up Shortfall/(Surplus)} = \text{Total UC-ME Requirement} - \text{Approved UC-ME}$$

Where:

$$\text{Total UC-ME Requirement} = (\text{NPC Allowable Revenue Requirement} - \text{Revenue from Sales}) + (\text{NPPs, QTP and RED-CI UCME requirements})$$

11. The total revenue considered was based on the amount granted and accrued from the UC-ME as well as from the revenue from sales based on approved SAGR. Likewise considered were all the allowable expenses accrued by NPC as well as total UC-ME paid to NPPs, QTP and RED-CI.
12. In the calculation of the NPC revenue requirement, the following accounts and actual costs were considered:
- Actual Fuel Costs
 - Other Operating Expenses, which includes Personal Services and Maintenance and Other Operating Expense
 - Depreciation
 - Foreign exchange rate fluctuation on debt servicing
 - Rate Base as of December 2016
 - Revenues from Sales
13. The amount of UCME for NPPs, QTP and RED-CI were based on the actual disbursements and payment made consistent with the UC-Settlement Agreement (SA) between NPC and respective power providers taking into account their respective ERC-approved Power Supply Agreement (PSA).
14. The Projected Energy Sales Forecast under DOE's Power Development Plan (PDP) for CY 2019 was utilized to determine the proposed UC-ME true-up charges in P/kWh.

15. As shown in Table 1 above, the CY 2016 actual revenue received from UC-ME was sufficient to cover the total UC-ME requirements for NPC, NPPs and QTP.
16. The following documents are submitted in support of the proposed recovery/refund of shortfall/surplus in the UC-ME:
- Annex "A" - Corporate Secretary's Certificate issued on 31 October 2018
 - Annex "B" - Summary of Shortfall and Adjustment Calculation
 - Annex "C" - NPC Results of Operations (ROO)
 - Annex "D" - NPC Income Statement and Balance Sheet
 - Annex "E" - Discussion on Revenue Requirement and Rate Base Components
 - Annex "F" - Summary of UC-ME Subsidy Fees Paid to NPPs and QTP
 - Annex "F-1" - Summary of RED-CI Availments
 - Annex "G" - Summary of Actual UC-ME Received from PSALM
 - Annex "H" - Projected Philippines Energy Sales

RATE IMPLICATIONS OF THE PROPOSED RECOVERY/REFUND OF UC-ME SHORTFALL/SURPLUS

17. Under the foregoing premises, NPC proposes (1) to offset the excess of the Basic UCME for CY 2016 under the existing Provisional Authority amounting to (PhP1,483,845,466.76) against the 2019 UCME Petition; or (2) to offset the excess of Basic UCME for CY 2016 against the unrecovered amounts under previous CY 2012, 2013, 2014, and 2015 petitions, detailed as follows:

Table 2: Estimated Balance/Recovery for UCME True-up

ERC Case No.	Particulars	Amount Filed in PhP
2013-191 RC	CY 2012 True-up	5,305,961,556.16
2014-089 RC	CY 2013 True-up	5,462,754,938.54
2016-008 RC	CY 2014 True-up	5,843,305,895.72
2017-006 RC	CY 2015 True-up	1,033,142,320.58
TOTAL		17,645,164,711.00
Total amount recovered as of December 2018		11,947,428,128.77
PENDING TRUE-UP BALANCE		5,697,736,582.23

and (3) recovery of unpaid balance on Renewable Energy (RE) Developer's Cash Incentive in the amount of PhP15,037,471.92 or equivalent to PhP0.0002/kWh, to be charged to all electricity end consumers.

18. The total True-up balance of PhP5.698 Bn using the existing Provisionally Approved True-up Recovery Rate shall be collected until October 2020 or until April 2020, six (6) months

earlier, if the offsetting will be approved by the Honorable Commission.

19. While the ERC Resolution 21, Series of 2011 provides that if there are any surplus resulting in any True Up applications, the surplus will be applied to the current UCME Application, Petitioner NPC finds it more prudent to likewise implore the discretion of this Honorable Commission to offset the amount of (PhP1,483,845,466.76) against the unrecovered total amount of PhP5,697,736,582.23, as these amounts have already been spent by Petitioner NPC. Further, this will lessen the impact of the pending True Up petitions to the consumers, once approved by the Honorable Commission.

ALLEGATIONS IN SUPPORT FOR THE PRAYER FOR PROVISIONAL AUTHORITY

Petitioner NPC repleads the foregoing allegations and further states:

20. NPC's Subsidized Approved Generation Charge (SAGR), is not reflective of the TCGR or the Revenue Requirement in the island grid. It is only 41% of the total fuel cost for CY 2016. Thus, the actual revenue from sales of Petitioner NPC is comparably lower to its actual fuel costs incur during its operations. Shown below is the details of the difference between Petitioner NPC's actual revenue from sales, and actual fuel costs.

Table 3: Actual Fuel Costs vis-à-vis Revenue from Sales

Particulars	Amount	Percentage
Actual Fuel Costs	2,714,796,036.	100%
Average, P/kWh	6.2879	
Actual Revenue from Sales	2,247,502,368	83%
Average, P/kWh	5.2055	
Difference	467,293,668	17%
PkWh	1.0823	
Actual Energy Sales, kWh	431,752,097.27	

21. The amount herein proposed for refund, if allowed to be offset from the unrecovered amounts under the previous True Up petitions, would significantly be beneficial in servicing the consumers in the missionary areas considering the nature of operation and the level of demand in the off-grid areas.
22. The approval of this instant Petition through offsetting against the unrecovered amounts under the previous petitions (excluding recovery of RE Cash Incentive) will not directly affect the existing rate and the cash flow of NPC for its operation and the subsidies of the NPP, QTP and RE-CI while the unrecovered amounts from previous applications will be reduced.

23. The issuance of a provisional authority 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.*,⁹ 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.”

COMPLIANCE WITH PRE-FILING REQUIREMENTS

24. In Compliance with Rule 6 of the ERC Rules of Practice and Procedure, Petitioner has furnished the legislative bodies of each of the local government units where it principally operates, a copy of this petition including all its annexes and accompanying documents.

Proof of receipts by the Sangguniang Panlungsod is attached hereto as **Annex “I”**. Proof of service to the legislative bodies of the local government units where NPC also operates is attached hereto as **Annex “J”**.

25. Furthermore, Petitioner caused the publication of the subject Petition in the newspaper of general circulation and copies of the newspaper and corresponding affidavit of publication are attached hereto as **Annexes “K “and “L”**, respectively.

PRAYER

WHEREFORE, premises considered, petitioner NPC respectfully prays that pending the hearing on the merits, an Order be issued granting **PROVISIONAL APPROVAL** to the instant Petition, thereby allowing Petitioner NPC offset the excess of the Basic UCME for CY 2016 under existing Provisional Authority amounting to (PhP1,483,845,466.76) against the unrecovered amount of PhP17,804,818,088.38 under the current CY 2019 UCME Petition under ERC Case No. 2018-076 RC; **or** allowing Petitioner NPC to offset the excess of the Basic UCME for CY 2016 under existing Provisional Authority amounting to (PhP1,483,845,466.76) against the unrecovered amounts under previous CY 2012, 2013, 2014 and 2015 petitions, as shown below:

Total pending petitions	PhP 17,645,164,711.00
Less: amount recovered	11,947,428,128.77
Pending True-up balances	PhP 5,697,736,582.23

Likewise, it is respectfully prayed that the recovery of unpaid balance on the Renewable Energy (RE) Developer’s Cash Incentive in the amount of PhP15,037,471.92 or equivalent to PhPo.0002/kWh be charged to all electricity end consumers.

⁹ G.R. No. 161113 (June 15, 2004).

ERC CASE NO. 2019-004 RC
NOTICE OF PUBLIC HEARING/13 March 2019
PAGE 8 OF 9

After the hearing on the merits, the instant Petition be **GRANTED** by the Honorable Commission.

Other just and equitable reliefs are likewise prayed for.

The Commission has set the *Petition* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and venues:

Date and Time	Venue	Particulars
03 June 2019 (Monday) at one o'clock in the afternoon (01:00 P.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional and Expository Presentation
20 June 2019 (Thursday) at two o'clock in the afternoon (02:00 P.M.)	Energy Regulatory Commission- Visayas Field Office (ERC-VFO), St. Mary's Drive, Banilad, Cebu City	Expository Presentation
09 July 2019 (Tuesday) at two o'clock in the afternoon (02:00 P.M.)	Energy Regulatory Commission- Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue cor. Sales Street, Davao City	Expository Presentation
15 July 2019 (Monday) at one o'clock in the afternoon (01:00 P.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-Trial Conference and Evidentiary Hearing

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name and address;
- 2) The nature of the 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Petitioner rests its case, subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

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

All such persons who wish to have a copy of the *Petition* may request from Petitioner that they be furnished with the same, prior to the date of the initial hearing. Petitioner is hereby directed to furnish all those making such request with copies of the *Petition* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Petition* and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairperson **AGNES VST DEVANADERA**, and the Honorable Commissioners **CATHERINE P. MACEDA** and **PAUL CHRISTIAN M. CERVANTES**, Energy Regulatory Commission, this 13th day of March in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal

LS:  /CLO
ROS: AMDB