

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

**IN THE MATTER OF THE  
PETITION FOR THE  
RECOVERY OF CY 2020  
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,**

ERC Case No. [2022-030 RC](#)

[April 22, 2022](#)

**NATIONAL POWER  
CORPORATION,**

*Petitioner.*

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**PETITION**

Petitioner **National Power Corporation** ("NPC"), through counsel, respectfully states:

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 2020. NPC utilizes in its calculation the following documents:

- a. Certified CY 2020 Financial Statements;
- b. Actual Results of Operation for CY 2020; 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 **Five Billion Five Hundred Forty-Two Million Nine Hundred Seventy-Eight Thousand Two Hundred Fifty-Four and 51/100 (PhP5,542,978,254.51)** or an equivalent of **PhP0.0490/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	22,399,695,023.89	8,710,839,554.27	13,525,669,756.28	163,185,713.35
LESS:				
REVENUE FROM SALES	8,791,615,382.62	2,168,036,101.37	6,524,373,010.68	99,206,270.56
<b>REQUIRED REVENUE FROM UCME</b>	<b>13,608,079,641.28</b>	<b>6,542,803,452.90</b>	<b>7,001,296,745.59</b>	<b>63,979,442.79</b>
UCME IMPACT, P/kWh	0.1203	0.0579	0.0619	0.0006
LESS:				
ACTUAL 2020 UCME REVENUE (BASIC)	8,388,011,024.47	1,322,734,836.09	7,001,296,745.59	63,979,442.79
<b>UCME SHORTFALL , PhP</b>	<b>5,220,068,616.81</b>	<b>5,220,068,616.81</b>	-	-
Add:				
Unrecovered NPP/QTP VAT in 2014 True-up	322,909,637.71	322,909,637.71		
<b>TOTAL UCME SHORTFALL , PhP</b>	<b>5,542,978,254.51</b>	<b>5,542,978,254.51</b>	-	-
<b>UCME RATE IMPACT, P/kWh</b>	<b>0.0490</b>	<b>0.0490</b>	-	-
Projected Philippine Energy Sales, GWh	113,078.99			

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 2020. 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 2020;
- b. Other Operating Expenses which includes Personal Services and Maintenance and Other Operating Expenses for CY 2020;
- c. Depreciation for CY 2020;
- d. Disbursement on FOREX Fluctuation;
- e. Rate Base as of December 2020;
- f. Revenue from Sales;
- g. Certified Statement of Financial Performance for CY 2020;
- h. Certified Statement of Financial Position for CY 2020;
- i. Schedule of Rate Base for CY 2020;
- j. Projected Energy Sales;
- k. Discussion on Revenue Requirement and Rate Base Components;
- l. Summary of the Shortfall for CY 2020
- m. Schedule of Renewable Energy Cash Incentive disbursed by PSALM
- n. Actual UCME received from PSALM

13. 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.

14. At this point, it is important to mention that the recovery of VAT payments to NPPs and QTPs in CY 2014 were included in the instant Petition pursuant this Honorable Commission's Order dated 09 June 2021 on ERC Case 2012-085RC.<sup>1</sup> The said Order basically approved the recovery of the VAT portion paid to NPPs and QTPs from the UCME.

15. The inclusion of the VAT paid in CY 2014 is without prejudice to the recovery of the VAT paid in CY 2015 to 2020 which are still subject of reconciliation. It is important to point out that prior to the promulgation of the Order dated 09 June 2021, the said VAT payments were not included in the True Up petitions. Thus, all prior VAT payments will be included in the future True Up petitions as

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<sup>1</sup> In the Matter of the Petition for the Approval of the Following Pursuant to ERC Resolution No. 21, series of 2011: (A) Availments from the Universal Charge of the Share for Missionary Electrification ("UCME") Subsidy for the years 2012 to 2016; and (B) Recovery from the Universal Charge of the Shortfall in Missionary Electrification Subsidy for CY 2011 and the Corresponding Adjustment of the UCME, with Prayer for the Issuance of Provisional Authority.

all were incurred and authorized to be recovered by this Honorable Commission.

16. Further, in this 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.

17. 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."

18. 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.

19. As can be gleaned from Table 1, the CY 2020 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.

20. The National Power Board authorized the filing of the instant Petition to recover the shortfall as evidenced by the Corporate Secretary's Certificate NPB OCS-21-0433 dated 16 December 2021.

21. In support to this Petition, the following documents previously enumerated and/or utilized by Petitioner as basis of its calculations, are hereto attached for easy reference of this Honorable Commission:

<b>Annex "A"</b>	Corporate Secretary's Certificate OCS-21-0433
<b>Annex "B"</b>	Summary of Shortfall and UC-ME True-up Adjustment Calculation
<b>Annex "C"</b>	Actual Results of Operation – Per Plant for CY 2020
<b>Annex "D"</b>	NPC's Statements of Financial Position as of December 31, 2020 and 2019

<b>Annex "D-1"</b>	NPC's Statements of Financial Performance for the years ended December 31, 2020 and 2019
<b>Annex "E"</b>	Brief Discussion on Revenue Requirements and Rate Base Computation
<b>Annex "F"</b>	Schedule of CY 2020 Depreciation Expense – EPIS (GL531)
<b>Annex "G" and series</b>	Fuel Consumption per plant for the period ending December 31, 2020 and Monthly GRAM Compliances for January to December 2020
<b>Annex "H"</b>	Other Operating Expenses per Account for CY 2020
<b>Annex "I"</b>	Rate Base per Region for CY 2020
<b>Annex "J"</b>	CY 2020 List of Construction Work in Progress (CWIP)
<b>Annex "J-1"</b>	Schedule of CY 2020 Construction Work Completed – Unclassified (CWCU)
<b>Annex "K"</b>	Summary of NPP/QTP Subsidy CY 2020
<b>Annex "K-1" to "K-35"</b>	Audited NPP/QTP Disbursement Vouchers for CY 2020, Summary of Unrecovered VAT in CY 2014 True-up with Disbursement Vouchers
<b>Annex "L"</b>	Electricity Sales Forecast, GWh for Luzon, Visayas, and Mindanao Grid from Power Development Plan (2015-2030)
<b>Annex "M"</b>	Updated Report on Renewable Energy Developers Cash Incentive by PSALM
<b>Annex "N"</b>	Summary of Actual UCME received from PSALM
<b>Annex "O"</b>	CY 2020 Net Utility Revenue per Plant per Account



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

22. Under the foregoing premises, the recovery of **Five Billion Five Hundred Forty-Two Million Nine Hundred Seventy-Eight Thousand Two Hundred Fifty-Four and 51/100 (PhP5,542,978,254.51)** or an equivalent monthly rate impact of **PhP0.0490/kWh** is proposed to be collected from the nationwide electricity end-consumers within a period of **twelve (12) months**.

23. 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 PROVISIONAL AUTHORITY**

Petitioner NPC repleads the foregoing allegations and further states:

24. 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 57% of the total fuel cost for CY 2020. Thus, there is a need to recover immediately the amount prayed for the instant Petition for the continued operations of Petitioner NPC.

25. 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.

26. While the provisional authority granted by the Honorable Commission on ERC Case No. 2014-135RC is extended until revoke or made permanent by the Honorable Commission, the Provisional approval granted is not sufficient to cover the expense incurred in CY 2020, hence the shortfall in the instant case requires Provisional

Authority to ensure an uninterrupted electricity supply as this would fully 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.

27. Petitioner NPC will recover from the UC-ME the amount of PhP5,542,978,254.51 once the proposed UC-ME adjustment rate and spreads will be immediately approved provisionally by ERC as filed.

28. 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.***,<sup>2</sup> 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."

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

## COMPLIANCE

30. 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 "P"**.

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<sup>2</sup> G.R. No. 161113, 15 June 2004.

- b. Affidavit of Publication hereto attached as **Annex "Q"**.
- c. Proof of Publication of the Petition once in a newspaper of general circulation hereto attached as **Annex "R"**.

**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 to the proposed UC-ME True-up for CY 2019 amounting to **Five Billion Five Hundred Forty-Two Million Nine Hundred Seventy-Eight Thousand Two Hundred Fifty-Four and 51/100 (PhP5,542,978,254.51)** or an equivalent monthly rate of **PhP0.0490/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.

Quezon City for Pasig City, 02 March 2022.

**FOR THE SOLICITOR GENERAL**

By:

  
**MELCHOR P. RIDULME**

Vice President

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Republic of the Philippines )  
Quezon City )S.S.

### VERIFICATION AND CERTIFICATE OF NON FORUM SHOPPING

I, **DONATO D. MARCOS**, of legal age, Filipino, with office address at NPC Office Building Complex Quezon Avenue corner BIR Road, Diliman, 1100 Quezon City, after being duly sworn hereby affirm and state that:

1. I am the President of National Power Corporation, the petitioner herein; I caused the preparation of this Petition, I have read the same and understood the allegations contained therein, and affirm that the contents thereof are true and correct based on authentic records at my disposal and on information of my own personal knowledge;
2. I am duly authorized by the Board of Directors to certify that petitioner NPC has not heretofore commenced any other action or proceeding involving the same issues before the Supreme Court, Court of Appeals or any other judicial, quasi-judicial or administrative tribunal. A copy of Resolution No. 2001-134 is attached as required by Rule 3, Section 4 of the Rules of Practice and Procedure.
3. To the best of my knowledge and belief, no such similar claim, action or proceeding is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency.
4. If I should hereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I undertake to report such fact within five (5) days therefrom to the Honorable Commission.

IN WITNESS WHEREOF I have hereunto affixed my signature this \_\_\_\_\_ day of 28 MAR 2022 2022 here at Quezon City.

  
**DONATO D. MARCOS**  
Affiant

SUBSCRIBED AND SWORN TO before me this 28 MAR 2022 day of March 2022 here at Quezon City, affiant exhibiting to me his NPC identification Card No. 99020017302 which is competent proof of his identity.

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Series of 2022.

**ATTY. RODOLFO M. DE GUZMAN, JR.**  
Notary Public for Quezon City  
Commission No. NP-127(2021-2022)  
Commission Expires on 31 December 2022  
Roll No. 44291  
IBP No. 201548; 02/08/2022; RSM  
PTR No. 2614399; 02/08/2022; Quezon City  
MCLE No. VI-0025196; 04/08/19, Pasig City  
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## National Power Corporation

### EXCERPTS FROM THE MINUTES OF THE REGULAR MEETING OF THE NATIONAL POWER BOARD HELD ON NOVEMBER 14, 2001

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#### RESOLUTION NO. 2001-134

**“WHEREAS**, while the President of the National Power Corporation is intrinsically vested with authority to represent such entity in judicial and/or quasi-judicial proceedings, the Office of the Solicitor General noted instances wherein corresponding board resolutions, though not really necessary, designating these officers to sign the “verification” and “certification of non-forum shopping” of initiatory pleadings are being required by the courts;

**WHEREAS**, to address this problem, the Office of the Solicitor General requested that the authority of the President or, in his absence, another ranking official, to sign such pleadings be supported by a corresponding Board Resolution;

**NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED**, That, based on the request of the Office of the Solicitor General, the recommended authority for the President and Chief Executive Officer, or in his absence, the Vice-President, General Counsel, to represent the Corporation in judicial and/or quasi-judicial proceedings, with full power and authority to file and/or respond to, any action, petition, motion or pleading, as may be necessary, before the Supreme Court, Court of Appeals and/or other lower courts, tribunals or agencies, to sign and execute the required ‘verification’ and ‘certification of non-forum shopping’ and to do all other necessary acts as mandated by the Rules of Court and other related circulars, memoranda, etc., be and is hereby approved and confirmed.”

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**APPROVED AND CONFIRMED,  
THRU REFERENDUM, NOVEMBER 16, 2001.**

CERTIFIED TRUE AND CORRECT:



  
**ALBERTO L. PANGCOG**  
Corporate Secretary