

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



**IN THE MATTER OF THE  
APPLICATION FOR THE  
CONFIRMATION AND  
APPROVAL OF  
CALCULATION OF  
(OVER)/UNDER  
RECOVERIES IN THE  
IMPLEMENTATION OF  
AUTOMATIC COST  
ADJUSTMENTS AND  
TRUE-UP MECHANISMS  
FOR THE PERIOD 2011 TO  
2013, PURSUANT TO ERC  
RESOLUTION NO. 16,  
SERIES OF 2009, AS  
AMENDED BY  
RESOLUTION NO. 21,  
SERIES OF 2010, AND  
RESOLUTION NO. 23,  
SERIES OF 2010,**

**D O C K E T E D**  
Date: FEB 10 2017  
By: W

**ERC CASE NO. 2014-043 CF**

**NUEVA ECIJA II ELECTRIC  
COOPERATIVE, INC. -  
AREA 2 (NEECO II-AREA 2),  
Applicant.**

x-----x

**ORDER**

On 2 April 2014, Nueva Ecija II Electric Cooperative, Inc. - Area II (NEECO II - AREA II) filed an application dated 31 March 2014 for the confirmation and approval of its calculation of (over)/under recoveries in the implementation of automatic cost adjustments and true-up mechanisms for 2011 to 2013, pursuant to the Commission's Resolution No. 16, Series of 2009, as amended by Resolution No. 21, Series of 2010, and Resolution No. 23, Series of 2010.

NEECO II – AREA 2 alleged the following in its Application:

1. Applicant is a non-stock, non-profit electric cooperative (EC) duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal offices at Maharlika Highway, Barangay Diversion, San Leonardo, Nueva Ecija;
2. It is engaged in the distribution of electric light and power in the City of Palayan and certain municipalities in the Province of Nueva Ecija, namely: San Leonardo, Sta. Rosa, Papaya (Gen. Tinio), Penaranda, Bongabon, Laur, Gabaldon, Rizal, Lianera and Gen. M. Natividad;
3. ERC Resolution No. 16, Series of 2009 as amended by Resolution No. 21, Series of 2010 established the procedure for the automatic recovery or refund of pass through costs and the confirmation process that would govern the automatic cost adjustment and true-up mechanisms approved by the Honorable Commission, with the objective of ensuring appropriate recovery of the pass through costs in an efficient manner and to put in place a fair and transparent process for the confirmation of the automatic cost adjustments implemented by Distribution Utilities (DUs) and the true-up of other pass-through charges, involving Generation Rate, Transmission Rate, System Loss Rate, Lifeline Rate Recovery, Inter-Class Cross-Subsidy Removal, Treatment of Prompt Payment Discount, as the case may be. The Commission's Resolution 23, Series of 2010, on the other hand, adopted the rules for implementing the discounts to qualified senior citizen end-users and subsidy from subsidizing end-users on their respective electricity consumption;
4. Applying the formulas provided under Resolution No. 16, Series of 2009 as amended by Resolution No. 21, Series of 2010 and Resolution No. 23, Series of 2010, applicant made calculations of the over recoveries charges or under-recoveries incurred as against its customers, in the implementation of the foregoing automatic cost adjustments and true-up mechanisms, covering the period January 2011 to December 2013;
5. The results of its calculations are presented hereunder, as follows:

<b>Particulars</b>	<b>Pass Through Cost (PhP)</b>	<b>Actual Revenue (PhP)</b>	<b>(Over)/Under Recovery (PhP)</b>
Generation Rate (GR)	1,827,491,249.24	1,858,216,441.06	(30,725,191.82)
Transmission Rate (TR)	444,793,944.14	402,284,187.62	42,509,756.52
System Loss Rate (SLR)	240,772,024.41	209,982,896.67	30,789,127.74
Lifeline Rate (LR)	13,937,574.10	(11,872,848.36)	(2,064,725.74)
Senior Citizen Discount	368,537.03	(273,817.92)	(94,719.11)
<b>Net Results</b>	-	-	<b>40,414,247.59</b>

Summaries of the results of individual computations on the foregoing pass through charges are attached hereto and made integral parts hereof as Annexes "A" to "E";

6. In support of the computations made, applicant is submitting the following data and documents, labeled together and made integral part hereof as Annex "F", to wit:
  - a. Supplier and Transmission Data Sheet;
  - b. Statistical Data Sheet;
  - c. Implemented Rates Data Sheet;
  - d. Power Bills of Power Suppliers;
  - e. Official Receipts (ORs) issued by Power Suppliers;
  - f. Breakdown of Payments with Official Receipts;
  - g. Debit/Credit Memo of Power Suppliers;
  - h. National Grid Corporation of the Philippines (NGCP) Invoices;
  - i. Official Receipts issued by NGCP;
  - j. Breakdown of Payments with ORs;
  - k. Debit/Credit Memo issued by NGCP;
  - l. Monthly Financial and Statistical Report (MFSR) (Sections B and E); and
  - m. Consumer Bills of Lifeliners (per level), Senior Citizens (per level) and Non-Lifeliners per customer class
  
7. Considering the foregoing, it is respectfully prayed that the cooperative's calculations of its over or under-recoveries be confirmed and approved by the Honorable Commission.

**Prayer**

**WHEREFORE**, premises considered, it is respectfully prayed that after due notice and hearing, NEECO II – AREA 2's calculations of over or under-recoveries in the implementation of automatic cost adjustments and true-up mechanisms covering the period January 2011 to December 2013, made pursuant to ERC Resolution 16, Series of 2009 as amended by Resolution 21, Series of 2010 and Resolution 23, Series of 2011, be confirmed and approved, and the cooperative be allowed to refund the over recoveries of collect the under recoveries as the case maybe, to or from its customers, summarized as follows, to wit:

<b>Particulars</b>	<b>Pass Through Cost (PhP)</b>	<b>Actual Revenue (PhP)</b>	<b>(Over)/Under Recovery (PhP)</b>
Generation Rate (GR)	1,827,491,249.24	1,858,216,441.06	(30,725,191.82)
Transmission Rate (TR)	444,793,944.14	402,284,187.62	42,509,756.52
System Loss Rate (SLR)	240,772,024.41	209,982,896.67	30,789,127.74
Lifeline Rate (LR)	13,937,574.10	(11,872,848.36)	(2,064,725.74)
Senior Citizen Discount	368,537.03	(273,817.92)	(94,719.11)
<b>Net Results</b>	-	-	<b>40,414,247.59</b>

On 20 October 2014, the Commission issued an Order and a corresponding Notice of Public Hearing setting the instant Application for initial hearing on 18 November 2014 at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.

During the hearing on 18 November 2014, Atty. Precious Ellen Pingol appeared for NEECO II – AREA 2. No intervenors or oppositors appeared nor was there any intervention or opposition registered.

After perusing the proofs of compliance with the Commission's requirements for publication and posting of Notice of Public Hearing, it was disclosed that Applicant NEECO II – AREA 2 failed to submit the required Certificate of Posting issued or to be issued by the Office of the Provincial Governor of Nueva Ecija. In view of such failure, the Commission ruled that Applicant NEECO II – AREA 2 did not comply with the Commission's Order dated 20 October 2014. Thus, it did not acquire jurisdiction over the case. There being no other manifestation, the hearing of the case was adjourned.

On 18 August 2016, NEECO II – AREA 2 filed a Motion to Set Hearing dated 18 August 2016. In its Motion, NEECO II – AREA 2 prayed that the case be set for hearing as soon as possible, to wit:

X X X

4. Applicant wishes to emphasize that based on its computations, the electric cooperative has an under recovery totaling more than Forty Million Pesos, a rather substantial amount. If confirmed, the funds to be collected would be a great help in improving its services to its consumers. Thus, there is urgent need to set the case for hearing and the evaluation thereof.
5. Considering the foregoing, applicant begs the indulgence of the Honorable Commission and prays that the instant case be set for initial hearing the soonest possible time.

X X X

Now, **THEREFORE**, the said Application is hereby set for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference, and presentation of evidence on **6 March 2017 (Monday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, NEECO II – AREA 2 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 nationwide 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 City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, 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 affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public 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 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 Applicant to inform of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 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 proofs of compliance with the requirements of the Commission.

Applicant NEECO II – AREA 2 and all 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 NEECO II – AREA 2 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.

NEECO II – AREA 2 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 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, 2 February 2017.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**JOSE VICENTE B. SALAZAR**  
*Chairman and CEO*

**ERC**   
*Office of the Chairman and CEO*

  
\*B-2017-009-OC-00068\*

LS:   
ppj/par/apv

Copy furnished:

1. Dechavez & Evangelista Law Offices  
*Counsel for Applicant NEECO II - AREA 2*  
Units 1609-1610, Tycoon Centre  
Pearl Drive, Ortigas Center, Pasig City 1605
2. Nueva Ecija II Electric Cooperative, Inc. - Area II (NEECO II - AREA 2)  
*Applicant*  
Maharlika Highway, Barangay Diversion,  
San Leonardo, Nueva Ecija
3. Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village  
Makati City, Metro Manila
4. Commission on Audit  
Commonwealth Avenue  
Quezon City, Metro Manila
5. Senate Committee on Energy  
GSIS Building, Roxas Boulevard  
Pasay City, Metro Manila
6. House Committee on Energy  
Batasan Hills  
Quezon City, Metro Manila
7. Office of the Provincial Governor  
Province of Nueva Ecija
8. Office of the LGU Legislative Body  
Province of Nueva Ecija
9. Office of the City Mayor  
Palayan City, Nueva Ecija

**ERC CASE NO. 2014-043 CF**  
**ORDER/2 February 2017**  
**Page 8 of 8**

---

10. Office of the LGU Legislative Body  
Palayan City, Nueva Ecija
11. Office of the Municipal Mayor  
San Leonardo, Nueva Ecija
12. Office of the LGU Legislative Body  
San Leonardo, Nueva Ecija
13. Office of the Municipal Mayor  
Sta. Rosa, Nueva Ecija
14. Office of the LGU Legislative Body  
Sta. Rosa, Nueva Ecija
15. Office of the Municipal Mayor  
Papaya (Gen. Tinio), Nueva Ecija
16. Office of the LGU Legislative Body  
Papaya (Gen. Tinio), Nueva Ecija
17. Office of the Municipal Mayor  
Peñaranda, Nueva Ecija
18. Office of the LGU Legislative Body  
Peñaranda, Nueva Ecija
19. Office of the Municipal Mayor  
Bongabon, Nueva Ecija
20. Office of the LGU Legislative Body  
Bongabon, Nueva Ecija
21. Office of the Municipal Mayor  
Laur, Nueva Ecija
22. Office of the LGU Legislative Body  
Laur, Nueva Ecija
23. Office of the Municipal Mayor  
Gabaldon, Nueva Ecija
24. Office of the LGU Legislative Body  
Gabaldon, Nueva Ecija
25. Office of the Municipal Mayor  
Rizal, Nueva Ecija
26. Office of the LGU Legislative Body  
Rizal, Nueva Ecija
27. Office of the Municipal Mayor  
Lianera, Nueva Ecija
28. Office of the LGU Legislative Body  
Lianera, Nueva Ecija
29. Office of the Municipal Mayor  
Gen. M. Natividad, Nueva Ecija
30. Office of the LGU Legislative Body  
Gen. M. Natividad, Nueva Ecija
31. Investigation and Enforcement Division  
Energy Regulatory Commission, Pacific Center Building,  
San Miguel Avenue, Ortigas Center 1600, Pasig City