

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



**IN THE MATTER OF
THE APPLICATION FOR
CONFIRMATION AND
APPROVAL OF OVER OR
UNDER RECOVERIES IN
THE IMPLEMENTATION OF
AUTOMATIC COST
ADJUSTMENT AND TRUE
UP MECHANISMS DURING
THE PERIOD 2018 – 2020
PURSUANT TO ERC
RESOLUTION No. 16,
SERIES OF 2009 AS
AMENDED BY
RESOLUTION Nos. 21 AND
23, SERIES OF 2010**

ERC CASE NO. 2021-005 CF

**LEYTE III ELECTRIC
COOPERATIVE, INC.
(LEYECO III),**

Applicant.

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Promulgated:
July 05, 2021

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 06 April 2021, Leyte III Electric Cooperative, Inc. (LEYECO III), filed an *Application* dated 20 March 2021 (Application), seeking the Commission's approval of its over or under recoveries in the implementation of automatic cost adjustment and true up mechanisms during the period 2018 – 2020 pursuant to ERC Resolution no. 16, Series of 2009 as amended by Resolution nos. 21 and 23, Series of 2010.

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

I. THE APPLICANT

1. The applicant, LEYTE III ELECTRIC COOPERATIVE, INC. (LEYECO III), is a non-stock, non-profit Electric Cooperative duly organized and existing under and by virtue of the Presidential Decree 269, as amended, with capacity to sue and be sued, with principal office address in Tunga, Leyte where it may be served with summons and other legal processes, represented in this instance by its General Manager, ALLAN L. LANIBA, who was authorized to file, execute verification and certification relative to this Application per Board Resolution No. 2021-01-019 (Annex A) with corresponding Secretary Certificate (Annex B).
2. Herein applicant is the exclusive franchise holder issued by the National Electrification Administration (NEA) to operate an electric light and power services in the North-Eastern part of Leyte covering nine (9) municipalities, namely: Carigara, Capoocan, Tunga, Barugo, San Miguel, Jaro, Alangalang, Sta. Fe and Pastrana. A copy of Applicant **LEYECO III's Certificate of Franchise** is hereto attached as "ANNEX E".

II. THE ANTECEDENT FATCS

3. Prior to this filing, herein Applicant had undergone computation and reportorial submission to Energy Regulatory Commission on its over or under recoveries incurred in the implementation of automatic cost adjustments and true-up mechanisms on pass through costs of LEYECO III following the formulas prescribed under ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21, Series of 2010, such as : automatic generation rate (GR) and system loss adjustment mechanism; transmission rate (TR) adjustment mechanism; Lifeline rate recovery mechanism; and senior citizen subsidy recovery mechanism.
4. In fact, herein Applicant had just completed its implementation of its approved 2004-2011 Over/Under Recoveries on March 2020 billing period. However, Applicant LEYECO III is still awaiting for the ERC decision of its pending previous two (2) applications: (a) Over/Under recoveries 2012-2014 docketed as ERC Case no. 2015-002 CF, and (b) Over/Under recoveries 2015-2017 docketed as ERC Case no. 2018-011 CF.
5. Under this recent application, herein Applicant had faithfully complied the required submissions - the yearly calculations from 2018 to 2020 of the over or under recovery in the implementation of automatic cost adjustment and true-up mechanisms. In support thereof, Applicant had submitted the following data and documents to ERC Investigation & Enforcement Division (ERC-IED), to wit:

- a) Power Supplier Data Sheet
- b) Statistical Data Sheet
- c) Implemented Rates Data Sheet
- d) Power Bills of Power Suppliers
- e) Official Receipts Issued by Power Suppliers and/or deposit slips of payment
- f) Debit/Credit Memo of Power Suppliers
- g) TRANSCO/NGCP Invoices
- h) Official Receipts Issued by TRANSCO/NGCP and/or deposit slips of payment
- i) Debit/Credit Memo issued by TRANSCO/NGCP
- j) DU-MO1 and DU-MO2, MFSR
- k) Consumer Bills of Lifeliners (per level) and Non-Lifeliners per customer class
- l) Senior Citizen Subsidy

III. LEGAL BASES FOR THE APPLICATION

- 6. Under Section 43 (t) of the Republic Act No. 9136, the Energy regulatory Commission (ERC) is mandated to promulgate rules and regulations and perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernizing of the electric power industry.
- 7. On July 13, 2009, pursuant to Section 43 (f) and (t) of the Republic Act No. 9136 or the Act, Rule 7 of its Implementing Rules and Regulations (IRR) and Section 10 of the Republic Act No. 7832, the ERC had resolved to approve and adopt the so called **“Rules Governing the Automatic Cost Adjustment and True –up Mechanisms and Corresponding Confirmation Process for Distribution Utilities”**, by virtue of **ERC Resolution No. 16, Series of 2009**.
- 8. However, the aforementioned rules promulgated under Resolution no. 16, series of 2009, failed to address the mismatch between meter reading periods at the wholesale and retail levels due to unequal number of billing days, which results to misalignment of kWh sales and purchase power. Recognizing the need to address and resolve the said misalignment of kWh sales and purchase power which causes spikes and dips in the computed monthly system loss and adversely affects the actual system loss of the DUs during certain billing months; The ERC had passed a **Resolution No. 21, series of 2010**, dated On October 18, 2010, which amended Section 4 of Article 4 and Section 1 of the Article 5 of the “Rules Governing the Automatic Cost Adjustment and True –up Mechanisms and Corresponding Confirmation Process for Distribution Utilities”.
- 9. On the other hand, ERC Resolution 23, Series of 2010 adopts the rules implementing the discounts to qualified senior

citizen end-users and subsidy from subsidizing end-users on electricity consumption.

10. Hence, this Application is pursuant to ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21 and 23, Series of 2010.

IV. THE RESULTING COMPUTED OVER OR UNDER RECOVERIES INCURRED IN THE IMPLEMENTATION OF AUTOMATIC ADJUSTMENT AND TRUE UP MECHANISMS FOR PERIOD 2018 TO 2020

11. In the application of formulas prescribed under ERC Resolution 16, Series of 2009, as amended by ERC Resolution 21 and 23, Series of 2010, Applicant's pass through cost vis-a-vis the actual collections, resulted to under-recoveries in the items of: Generation, Transmission and Lifeline Subsidy. On the other hand, over-recoveries were incurred in the items of: System Loss and Senior Citizen. The following table reflects the summary of over/under recoveries for years 2018 to 2020:

	YEAR	PASS THROUGH COST	ACTUAL REVENUE	DIFFERENCE (OVER) / UNDER
Generation Rate (GR)	2018	254,713,782.90	244,149,463.63	10,564,319.27
	2019	262,119,930.27	247,020,769.77	15,099,160.50
	2020	256,971,025.73	240,581,501.29	16,389,524.44
	TOTAL	773,804,738.90	731,751,734.69	42,053,004.20
Transmission Rate (TR)	2018	40,596,078.66	37,190,031.06	3,406,047.61
	2019	42,521,915.92	40,226,082.86	2,295,833.06
	2020	49,178,740.65	45,832,651.80	3,346,088.85
	TOTAL	132,296,735.23	123,248,765.72	9,047,969.51
System Loss Rate (SLR)	2018	38,290,857.22	43,692,181.01	(5,401,323.80)
	2019	37,688,159.86	44,849,354.47	(7,161,194.61)
	2020	38,307,118.65	46,876,744.03	(8,569,625.38)
	TOTAL	114,286,135.72	135,418,279.51	(21,132,143.78)
Lifeline Subsidy	2018	1,369,267.52	(1,529,726.11)	160,458.59
	2019	1,388,321.37	(1,316,972.37)	(71,349.00)
	2020	1,330,674.90	(1,244,902.89)	(85,772.01)
	TOTAL	4,088,263.78	(4,091,601.37)	3,337.58

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Senior citizen	2018	33,794.94	(35,180.20)	1,385.25
	2019	28,768.94	(27,516.96)	(1,251.98)
	2020	21,155.24	(26,670.66)	5,515.41
	TOTAL	83,719.13	(89,367.82)	5,648.69
GRAND TOTAL/DIFFERENCE, RESULTING TO UNDER RECOVERIES FOR YEARS 2018 TO 2020				29,977,816.20

Formulas used in computing the above over or under recoveries, as well as, the reasons for incurring the same are explained in the **Executive Summary**, hereto attached as **Annex “F”**.

V. THE PROPOSED REFUND AND COLLECTION SCHEMES:

12. Herein Applicant LEYECO III is proposing a staggering way to collect its computed under recoveries on items of: Generation, Transmission and Lifeline Subsidy. On the other hand, herein Applicant is proposing an instalment way to refund its computed over-recoveries on items of: System Loss and Senior Citizen. Thus, the computed resulting proposed rates of collection and refund are shown below, to wit:

PROPOSED REFUND AND COLLECTION SCHEMES:

No.	PARTICULAR	(Over)/Under Recovery	Using February 2021 kWh Sales as base month- (Annualized /forecasted)	Proposed No. of Years	Rate Php/kWh Collect/ (Refund)
1	Generation Cost	42,053,004.20	153,735,586	3 years	0.2735
2	Transmission Cost	9,047,969.51	153,735,586	3 years	0.0589
3	System Loss	(21,132,143.78)	153,735,586	3 years	(0.1375)
4	Lifeline	3,337.58	4,067,079	1 month	0.0008
5	Senior Citizen	5,648.69	4,067,079	1 month	0.0014
TOTAL		29,977,816.20			

VI. SUPPORTING DATA AND DOCUMENTS

13. In support to this Application, LEYECO III is submitting herewith the following data and documents, which are being made integral parts hereof, to wit:

ANNEX	NATURE OF DOCUMENT
G	Summary of Over / Under Recoveries
H	Proposed Recovery/Refund Scheme

I	Fully Accomplished Supplier & Data Sheet for the Years 2018-2020
J	Power Bills from Suppliers
K	Fully Accomplished Statistical Data Sheet for the Year 2018-2020
L	Manifestation of no Pilferage Cost Recoveries
M	Monthly Financial & Statistical Report (MFSR)
N	Fully Accomplished Actual Implemented Rates Sheet
O	Fully Accomplished Lifeline Discount Sheet
P	Fully Accomplished Senior Citizen Discount Sheet
Q	Two (2) Consumer Bills per Customer Class (Non- Lifeline)
R	One (1) Consumer Bill per Lifeline Bracket (Lifeline)
S	One (1) Senior Citizen Consumer Bill
T	Uniform Reportorial Requirements (URR) for the years 2018-2020
U	Computation of Implemented Rates (GR, SLR, TR, LRS, & SCS)

14. Further, in support of this Application, the “Judicial Affidavit” of LEYECO III’s Finance Services Department Manager, Lerma E. Advincula, CPA is hereto attached and made integral part of this application and marked as “ANNEX V”.

VII. COMPLIANCE WITH PRE-FILING REQUIREMENTS

15. In compliance with the ERC prescribed Pre-filing requirements for O/U applications filing, LEYECO III had provided copies of the Application and its annexes to Sangguniang Bayan of Municipality of Tunga where the principal office of LEYECO III is located, proof of which is the duly received Transmittal Letter and Certification hereto attached as “ANNEX W” and “ANNEX X”, respectively. Same copy of Application with annexes was given to Sangguniang Panlalawigan of Province of Leyte, proof of which are hereto attached as “ANNEX Y” and “ANNEX Z”, respectively.
16. Moreover, applicant LEYECO III had initiated the publication of this Application in a newspaper with of general circulation within the franchise area of LEYECO III in Leyte Province, proof of which are hereto attached as “ANNEX AA” and “ANNEX BB”.

PRAYER

WHEREFORE, premises considered it is respectfully prayed of this Honorable Commission that LEYECO III’s determination of its over or under recoveries in the implementation of automatic cost adjustment and true-up mechanisms be confirmed and approved, and that the applicant be allowed to collect the incurred computed under recoveries in the item of: Generation, Transmission and Lifeline Subsidy; likewise be allowed to refund the over-recoveries in the items of: System Loss and Senior Citizen, under the proposed collection and refund schemes.

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

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 online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):²

Date and Time	Platform	Activity
19 August 2021 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and Expository presentation
26 August 2021 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

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, 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, all persons who have 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, copy furnish 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 and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and

¹ Entitled: A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission;

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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Procedure, indicating therein the docket number and title of the case and stating 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 likewise file through e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised 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, mailing address and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

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

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

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WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 11th day of June 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO


LS: EDR/CLB/MCCG

