

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
PROPOSED RECOVERY OF
BUSINESS TAX PAYMENTS
TO THE MUNICIPAL
GOVERNMENT OF SAN
JOSE, OCCIDENTAL
MINDORO COVERING
YEARS 2003 TO 2015**

ERC CASE NO. 2015-039 CF

**OCCIDENTAL MINDORO
ELECTRIC COOPERATIVE,
INC., (OMEKO),
Applicant.**

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DOCKETED
Date: MAR 16 2016
By: [Signature]

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 24 July 2015, Occidental Mindoro Electric Cooperative, Inc. (OMEKO) filed an application for approval of the proposed recovery of business tax payments to the municipal government of San Jose, Occidental Mindoro covering years 2003 to 2015.

In the said application, OMEKO alleged, among others, the following:

1. OMEKO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at San Jose, Occidental Mindoro;

2. It holds an exclusive franchise from the National Electrification Commission, to operate an electric light and power distribution system in certain municipalities of the province of Occidental Mindoro, namely: Abra de Ilog, Calintaan, Magsaysay, Mamburao, Paluan, Rizal, Sablayan, San Jose and Santa Cruz. With respect to the municipality of Paluan, its power distribution service is being provided by the municipal government.

3. Pursuant to ERC Resolution No. 02, Series of 2006 and Resolution No. 36, Series of 2006, in relation to Resolution 16, Series of 2009, this application is being submitted to the Commission for review and approval of OMECO's proposed recovery of payments of business tax to the municipal government of San Jose, Occidental Mindoro.

4. The municipal government of San Jose levies, assesses and collects business tax on "wholesalers, distributors, producers of, or dealers in any article of commerce of whatever kind or nature" by virtue of its Municipal Ordinance No. 98-572 Series of 1998, which imposes a business tax at the rate of fifty percent of 1%(1/2 of 1%) of the gross receipts if the latter shall exceed Php 2,000,000.00, derived by the business during the next preceding calendar year;

5. By virtue of the said tax ordinance, the municipal government of San Jose assessed OMECO's business tax based on its gross receipts in the preceding year, covering the years 2003 to 2015, which OMECO paid, as follows:

Payments for the Year	Business Tax Rate	Amount Paid (PhP)	Date Paid
2003 to 2013	1/2 of 1%	380,485.36	February 28, 2014
	1/2 of 1%	403,777.57	March 07, 2014
	1/2 of 1%	401,589.81	April 14, 2014
	1/2 of 1%	434,185.26	May 13, 2014
	1/2 of 1%	453,227.88	June 10, 2014
	1/2 of 1%	519,012.46	July 08, 2014
	1/2 of 1%	341,825.68	August 06, 2014
	1/2 of 1%	326,502.30	September 05, 2014
	1/2 of 1%	330,462.55	October 14, 2014
	1/2 of 1%	369,714.89	November 03, 2014
	1/2 of 1%	364,395.73	December 11, 2014
	1/2 of 1%	473,728.35	January 14, 2015
2014	1/2 of 1%	463,689.68	January 2014
2015	1/2 of 1%	540,423.15	April 01, 2015
Grand Total		5,803,020.67	

6. Having paid the business tax due for each corresponding year to the municipal government of San Jose, OMECO now seeks approval from the Commission to pass on to its customers in San Jose the business tax paid to the municipal government of San Jose, applying the formula provided under ERC Resolution No. 16, Series of 2009;

7. For the business taxes paid from years 2003 to 2015 in the total amount of PhP5,803,020.67, based on kWh sold in year 2014, annual load growth of 10% and forecasted kWh sales in the municipality of San Jose for year 2015 of 41,276,832.85, OMECO proposes to recover the business tax payments from all its customers in the municipality of San Jose over a period of twelve (12) months or until the said amount is fully recovered, at the rate of PhPo.1406/kWh;

8. In support of this application, OMECO is submitting herewith the following documents which are being made integral parts hereof as follows, to wit:

ANNEX	NATURE OF DOCUMENT
A	Tax Recovery Adjustment Charge Computation for the Years 2003-2015
B	San Jose Tax Assessment
C	Municipal Tax Ordinance No. 98-572, Series of 1998
D	Board Resolution No. 62 Series of 2015 and Board Resolution No. 61 Series of 2015
E	Official Receipts issued by the Municipal Treasurer of San Jose covering Business Tax Payments for the years 2003 to 2015
F	KWH Sales – Historical and Projected for the years 2010 to 2017
G	KWH Purchase – Historical and Projected for the years 2010 - 2017
H	Summary of Tax Payments for Years 2003 - 2015
I	MFSR for Years 2003 - 2014

9. OMECO prays that the Commission, after due notice and hearing, authorize it to:
 - a. recover from all its customers in the municipality of San Jose, Occidental Mindoro, the business tax paid to the municipal government of San Jose covering years 2003 to 2015, in the total amount of PhP5,803,020.67, over a period of twelve (12) months or until the said amount is fully recovered, at the rate of PhP 0.1406/kWh.
 - b. include the amount of business tax recovery as separate line item in the electric bills to be issued to its customers in the municipality of San Jose, Occidental Mindoro.


The Commission has set the application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **21 April 2016 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

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

WITNESS, the Honorable Chairman, **JOSE VICENTE B. SALAZAR**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, and **GERONIMO D. STA. ANA**, **Energy Regulatory Commission**, this 07th day of March, 2016 at Pasig City.


ATTY. NATHAN J. MARASIGAN
Chief of Staff
Office of the Chairman and CEO


Mlmg/APV/LS-NPH-2015-039 CF