

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
OVER/UNDER
RECOVERIES BASED ON
THE FORMULA ON THE
VARIOUS AUTOMATIC
COST ADJUSTMENTS AND
TRUE-UP MECHANISM
AND CORRESPONDING
CONFIRMATION PROCESS
PURSUANT TO ERC
RESOLUTION NO. 16,
SERIES OF 2009, AS
AMENDED BY
RESOLUTION NOS. 21 AND
23, SERIES OF 2010**

ERC CASE NO. 2019-003 CF

**COTABATO ELECTRIC
COOPERATIVE, INC.
(COTELCO),**

Applicant.

X-----X

Promulgated:

APR 16 2019

ORDER

On 15 March 2019, Cotabato Electric Cooperative, Inc. (COTELCO) filed an *Application* dated 04 March 2019, seeking the Commission's approval of its over/under recoveries based on the formula on the various automatic cost adjustments and true-up mechanism and corresponding confirmation process pursuant to the Commission's Resolution No. 16, Series of 2009, as amended by Resolution Nos. 21 and 23, Series of 2010.

In the said *Application*, COTELCO alleged the following, among others:

THE APPLICANT

1. COTELCO is an Electric Cooperative created and existing pursuant to the provisions of Presidential Decree No. 269 as amended, with principal office located at Manubuan, Matalam, North Cotabato, Philippines, represented herein by its General Manager, Godofredo B. Homez, duly authorized by virtue of Board Resolution No. 09, Series of 2019 dated February 8, 2019, of the Board of Directors, copy of which is attached to the Application and made an integral part thereof.

The filing of the instant Application is likewise authorized under the aforesaid Board Resolution;

2. COTELCO has been granted by the National Electrification Administration (NEA) an authority to operate and distribute electric light and power within the coverage area comprising the City of Kidapawan and the Municipalities of Makilala, Kabacan, Carmen, Mlang, Tulunan, Matalam, Pres. Roxas, Magpet, Antipas, Arakan, and Banisilan, all in the Province of North Cotabato;

THE APPLICATION AND ITS PURPOSE

3. This Application is filed in compliance with ERC RESOLUTION NO. 16, Series of 2009, otherwise known as "A RESOLUTION ADOPTING THE RULES GOVERNING THE AUTOMATIC COST ADJUSTMENT AND TRUE-UP MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS FOR DISTRIBUTION UTILITIES" adopted pursuant to the mandate of Section 43 of Republic Act No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) and its implementing Rules and Regulations, in relation to ERC Resolutions No. 17, and 23, all Series of 2009, and Resolution No. 21, series of 2010, mandating the filing of consolidated application for the over/under recoveries of all distribution utilities for the approval/confirmation of the Commission;
4. The aforesaid Guidelines were adopted and issued by the Honorable Commission in the furtherance of the following reasons, to wit:
 - 4.a. The Commission has adopted several automatic cost adjustment mechanisms in separate issuances and it is deemed ideal to consolidate, update, and rationalize the requirements under all said separate issuances;
 - 4.b. The Commission finds it necessary to establish a systematized confirmation process that conform to the due process requirement of the law for the following automatic cost adjustment and true-up mechanisms:

1. Automatic Generation Rate and System Loss Adjustment Mechanism;
 2. Transmission Rate Adjustment Mechanism;
 3. Lifeline Rate Recovery Mechanism;
 4. Local Franchise Tax Recovery Mechanism;
 5. Local Business Tax Recovery Mechanism;
 6. Guidelines for the Calculation of the Over or Under Recovery in the Implementation of Lifeline Rates by Distribution Utilities;
 7. Guidelines for a True-Up Mechanism of the Over or Under Recovery in the Implementation of the Inter-Class Cross Subsidy Removal by Distribution Utilities;
 8. ERC Resolution No. 12, Series of 2005, "A Resolution Approving a New Policy on the Treatment of Prompt Payment Discount (PPD)";
 9. Guidelines for the Calculation of the Over or Under Recovery in the Implementation of System Loss Rate by Distribution Utilities; and
 10. Rules for the Calculation of the Over or Under Recovery in the Implementation of Transmission Rates.
5. For purposes of determining the under/over recoveries on the implementation of the afore-enumerated automatic cost adjustments and true-up mechanisms, the formula provided for under Resolution No. 16, series of 2009, as amended by Resolution No. 21 and 23, series of 2010 was applied by the Applicant;
 6. A summary of the pass true cost vis-a-vis the actual collection on the above-mentioned implementation of various automatic cost adjustments and true up mechanisms are presented hereunder, as follows:

6.a. Excluding Sale for Resale

Particulars	Allowable Cost/Pass Thru Cost (PhP)	Actual Recovery (PhP)	Over)/Under Recoveries (PhP)
GENERATION	2,901,095,995.13	2,889,606,164.90	11,489,830.23
TRANSMISSION	500,781,217.29	509,457,328.68	(8,676,111.39)
SYSTEM LOSS	488,061,955.43	487,317,862.32	744,093.12
LIFELINE	37,218,856.68	37,350,768.54	(131,911.86)
Sr. CITIZEN	476,093.39	474,519.02	1,574.37
TOTAL	3,927,634,117.92	3,924,206,643.46	3,427,474.46

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6.b. Sale for Resale (Municipality of Banisilan)

Particulars	Allowable Cost/Pass Thru Cost (PhP)	Actual Recovery (PhP)	(Over)/Under Recoveries (PhP)
GENERATION	59,235,497.77	56,560,164.35	2,675,333.42
SYSTEM LOSS	8,373,362.11	8,032,888.54	340,473.57
TOTAL	67,608,859.88	64,593,052.88	3,015,806.99

The foregoing amounts are based on the computations attached to this Application;

7. That, COTELCO proposes to recover/refund the foregoing amounts based on the December 2018 kWh sales hereunder presented:

7.a. Excluding Sale for Resale

Particulars	No. of Months	(OVER) UNDER RECOVERIES	kWh Sales (DEC 2018)	RECOVERY (REFUND)
GENERATION	36	11,489,830.23	17,363,907.68	0.0184
TRANSMISSION	36	(8,676,111.39)	17,363,907.68	(0.0139)
SYSTEM LOSS	36	744,093.12	17,363,907.68	0.0012
LIFELINE	36	(131,911.86)	17,363,907.6e	(0.0002)
Sr. CITIZEN	36	1,574.37	17,363,907.68	0.0000

7.b. Sale for Resale (Municipality of Banisilan)

Particulars	No. of Months	(OVER) UNDER RECOVERIES	kWh Sales (DEC 2018)	RECOVERY (REFUND)
GENERATION	36	2,675,333.42	17,363,907.68	0.0043
SYSTEM LOSS	36	340,473.57	17,363,907.68	0.0005

8. Further, in support of the foregoing, Applicant submits the following data and documents, to wit:

Folder 2 – Supplier and Transmission Data

As Annex:

- “C” - Power Supplier and Transmission Data Sheet
- “D” - Power Bills from Suppliers in the following order:

- a. Power Bill
- b. Official Receipts issued by the Power Supplier
- c. Debit/Credit Memo issued by the Power Supplier

“E” - NGCP bills in the following order:

- a. NGCP Bill
- b. Official Receipts issued by NGCP
- c. Debit/Credit Memo issued by NGCP

Folder 3 – Statistical Data

As Annex:

- “F” - Statistical Data Sheet
- “G” - Summary of Pilferage Cost Recoveries
- “H” - Report of Implemented Other Adjustments
- “I” - MFSR (Sections B and E)

Folder 4 – Actual Implemented Rates Data

As Annex:

- “J” - Actual Implemented Rates Sheet
- “K” - Lifeline Discount Sheet
- “L” - Senior Citizen Discount Sheet
- “M” - Two (2) Consumer Bills per customer Class (Non-Lifeline)
- “N” - One (1) Consumer Bill per Lifeline Bracket (Lifeline)
- “O” - Senior Citizen consumer bills

Folder 5 – Other Documents

As Annex:

- “P” - Submitted URR for the year
- “Q” - Computation of Generation Rate

“R”	-	Computation of System Loss Rate
“S”	-	Computation of Transmission Rate
“T”	-	Computation of Lifeline Subsidy Rate
“U”	-	Computation of Senior Citizen Subsidy Rate

COMPLIANCE WITH PRE-FILING REQUIREMENTS

9. In compliance with Section 2, Rule 6 of the ERC Rules of Practice and Procedure, copies of this Application together with all its annexes and accompanying documents had been furnished by Applicant the Legislative Body of the Municipality of Matalam where Applicant principally operates and the Legislative Body of the Province of North Cotabato. Likewise, the Application was published in a newspaper of general circulation within the franchise area of the Applicant;
10. As proof of compliance of the service of the copies of the Application together with all its annexes are the Certifications issued by the Authorized Representatives of the Local Government Units and/or the Affidavit of Service executed by an employee of the Applicant and the first page of the Application bearing the receiving stamp of the aforementioned Offices. Likewise attached to the Application are the Affidavit of Publication and the newspaper issue containing the published Application;
11. Moreover, prior to the filing of this Application, a pre-filing conference with the concerned staff of the Commission was conducted pursuant to Section 4 of Rule 6, and for purposes of determining completeness of the supporting documents attached to the Application;

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Commission that the computations of over/under recoveries presented in the instant application be approved, and COTELCO be allowed to refund/collect said over/under recoveries.

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

Finding the said *Application* to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on **14 May 2019 (Tuesday) 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.

Accordingly, COTELCO is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, the date of the publication to be made not later than ten (10) days before the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor, 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) 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 Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 4) Inform the consumers within the affected areas, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon;
- 5) 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
- 6) 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, COTELCO 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 affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published, and the complete issues of the said newspaper;
- 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 Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by COTELCO to inform the consumers affected of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the OSG, 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.

COTELCO and all interested parties are also required to submit, at least five (5) days before the date of the 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 COTELCO 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.

COTELCO 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, the nature of the Application, with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 08 April 2019.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner

LS: LVB/LSA/GLO


Copy Furnished:

1. A.C. GAVIOLA LAW OFFICE
Counsel for Applicant COTELCO
Rm. 203, 2/F Crown Port View Hotel
3rd Ave., North Reclamation Area, Cebu City
2. COTABATO ELECTRIC COOPERATIVE, INC. (COTELCO)
Manubuan, Matalam, North Cotabato
3. The Office of the Solicitor General
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
4. The Commission on Audit
Commonwealth Avenue
Quezon City, Metro Manila
5. The Senate Committee on Energy
GSIS Bldg., Roxas Blvd., Pasay City
Metro Manila
6. The House Committee on Energy
Batasan Hills, Quezon City, Metro Manila

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7. Philippine Chamber of Commerce and Industry (PCCI)
3rd floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
8. Office of the City Mayor
Kidapawan City, North Cotabato
9. Office of the Local Government Unit (LGU) legislative body
Kidapawan City, North Cotabato
10. Office of the City Mayor
Makilala, North Cotabato
11. Office of the Local Government Unit (LGU) legislative body
Makilala, North Cotabato
12. Office of the Municipal Mayor
Kabacan, North Cotabato
13. Office of the Local Government Unit (LGU) legislative body
Kabacan, North Cotabato
14. Office of the Municipal Mayor
Carmen, North Cotabato
15. Office of the Local Government Unit (LGU) legislative body
Carmen, North Cotabato
16. Office of the Municipal Mayor
Mlang, North Cotabato
17. Office of the Local Government Unit (LGU) legislative body
Mlang, North Cotabato
18. Office of the Municipal Mayor
Tulunan, North Cotabato
19. Office of the Local Government Unit (LGU) legislative body
Tulunan, North Cotabato
20. Office of the Municipal Mayor
Matalam, North Cotabato
21. Office of the Local Government Unit (LGU) legislative body
Matalam, North Cotabato
22. Office of the Municipal Mayor
Pres. Roxas, North Cotabato
23. Office of the Local Government Unit (LGU) legislative body
Pres. Roxas, North Cotabato
24. Office of the Municipal Mayor
Magpet, North Cotabato
25. Office of the Local Government Unit (LGU) legislative body
Magpet, North Cotabato
26. Office of the Municipal Mayor
Antipas, North Cotabato
27. Office of the Local Government Unit (LGU) legislative body
Antipas, North Cotabato
28. Office of the Municipal Mayor
Arakan, North Cotabato

29. Office of the Local Government Unit (LGU) legislative body
Arakan, North Cotabato
30. Office of the Municipal Mayor
Banisilan, North Cotabato
31. Office of the Local Government Unit (LGU) legislative body
Banisilan, North Cotabato
32. Office of the Governor
Province of North Cotabato
33. Office of the Local Government Unit (LGU) legislative body
Province of North Cotabato
34. Regulatory Operations Service (ROS)
17th Floor, Pacific Center Bldg., San Miguel Ave., Pasig City