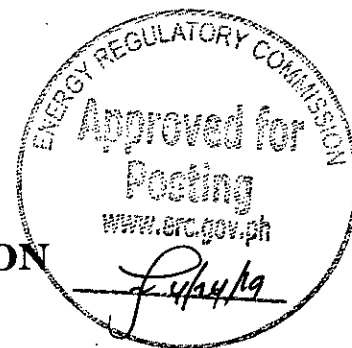


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE  
APPLICATION FOR  
CONFIRMATION AND  
APPROVAL OF  
OVER/UNDER-  
RECOVERIES FOR THE  
YEARS 2016 TO 2018  
WITH MOTION FOR  
CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2019-014 CF**

**COTABATO LIGHT AND  
POWER COMPANY  
(CLPC),**

**Applicant.**

X-----X

Promulgated:

APR 22 2019

**ORDER**

On 01 April 2019, Cotabato Light and Power Company (CLPC) filed an *Application* dated 22 March 2019, seeking the Commission's approval of its over/under-recoveries for the years 2016 to 2018 with motion for confidential treatment of information.

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

**THE APPLICANT**

1. CLPC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at Sinsuat Avenue, Cotabato City. CLPC is duly authorized distribution utility of electric power to the end-users in the City of Cotabato, and portions of the Municipalities of Sultan Kudarat and Datu Odin Sinsuat, province of Maguindanao pursuant to its franchise under Republic Act No. 10637. It may be served with orders and other processes of the Honorable Commission through its undersigned counsel at the address indicated below;

2. On 13 July 2009, the Honorable Commission promulgated Resolution No. 16, Series of 2009, entitled “A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities” (the True-Up Guidelines);
  - 2.1 The True-Up Guidelines provided the formulas for the determination of the Generation, Transmission, System Loss, Lifeline Subsidy, and Franchise and Business Taxes Rates.<sup>1</sup>
  - 2.2 It likewise provided for the calculation of over- and under-recoveries on the said rates due to the variance in the allowable cost and the revenues billed using the applicable formula.<sup>2</sup>
3. On 18 October 2010, the Honorable Commission promulgated ERC Resolution No. 21, Series of 2010,<sup>3</sup> wherein the Honorable Commission amended the formula for the calculation of over- and under-recovery for System Loss and updated the timelines set in Article 5 of the True-Up Guidelines;
4. On 15 December 2010, the Honorable Commission promulgated ERC Resolution No. 23, Series of 2010.<sup>4</sup>
  - 4.1 The Resolution provided the formulas for the calculation of the senior citizen discount rates,<sup>5</sup> the calculation of the subsidy rate to be charged to subsidizing end-users,<sup>6</sup> and the over- or under-recovery in the implementation of the senior citizen discount and subsidy rates.<sup>7</sup>
  - 4.2 It also provided that the ERC shall verify the over- and under recovery in the senior citizen discount and subsidy rates once every three (3) years to coincide with the time frames set forth under Article 5 of the True-up Guidelines.<sup>8</sup>
5. The confirmation and approval of CLPC’s over and under recoveries for the period January 2016 to December 2018 are being submitted pursuant to the above Resolutions as well as the fact of CLPC not being able to recover the cost of fuel from the operation of its Diesel Power Plant. The over and under recoveries covered by this Application is summarized as follows:

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<sup>1</sup> Article 2 of ERC Resolution No. 16, Series of 2009.

<sup>2</sup> Article 4, *Ibid.*

<sup>3</sup> Entitled “A Resolution Amending Section 4 of Article 4 and Section 1 of Article 5 of the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities”.

<sup>4</sup> Entitled “A Resolution Adopting the Rules Implementing the Discounts to Qualified Senior Citizen End-Users and Subsidy from the Subsidizing End- Users on Electricity Consumption under Sections 4 and 5 of Republic Act No. 9994”.

<sup>5</sup> Article 4 of ERC Resolution No. 23, Series of 2010.

<sup>6</sup> Article 5, *Ibid.*

<sup>7</sup> Article 7, *Id.*

<sup>8</sup> Section 3, Article 7, *Id.*

**ERC CASE NO. 2019-014 CF**  
**ORDER/o8 APRIL 2019**  
**PAGE 3 OF 8**

	2016	2017	2018	(Over)/Under Recoveries
Generation	10,402,259	(4,219,206)	5,245,286	11,428,339
Transmission	(214,414)	741,364	930,903	1,457,853
System Loss	2,046,794	60,886	364,507	2,472,187
Lifeline	82,509	(101,491)	244,302	225,320
Senior Citizen	207	(1,333)	2,031	905
Local Franchise Tax	3,291,718	3,835,980	4,407,686	11,535,383
Fuel Cost	6,093,746	572,243	465,989	7,131,978
Total (Over) / Under Recovery	21,702,819	888,443	11,660,704	34,251,965

Based on the foregoing, CLPC has incurred a net under-recovery in the amount of PhP 34,251,965 for the billing periods from January 2016 to December 2018;

6. In support of the foregoing are the following documents covering the period January 2016 to December 2018, attached as Annexes of the instant Application, to wit:

Annex A: Summary of the Over/Under Recoveries Computation;

Annex B: Proposed Scheme of Refund/Collection;

Annex C: Supplier and Transmission Data Sheets;

Annex D: Power Bills from Suppliers, Proof of Payment and Debit/Credit Memo;

Annex E: Summary of Fuel and Lubricants Purchases and Consumption;

Annex F: Statistical Data Sheets;

Annex G: Reports on Other Adjustments Implemented;

Annex H: Actual Implemented Rates Sheets;

Annex I: Summary of Pilferage Cost Recoveries;

Annex J: Uniform Reportorial Requirement (URR) Template;

Annex K: Lifeline Discount Sheets;

Annex L: Senior Citizen Discount Sheets;

Annex M: Consumer Bills per Customer Class (Non-Lifeline);\*

Annex N: Consumer Bills per Lifeline Bracket;\*

Annex O: Consumer Bills per Senior Citizen Discount Level;\*

Annex P: Local Franchise Tax Revenue Summary and Proof of Payment;

Annex Q: Rate Computations (Generation, Transmission, System Loss, Lifeline, Senior Citizen Discount Rate, and Local Franchise Tax);

*\* Confidential*

**MOTION FOR CONFIDENTIAL TREATMENT  
OF INFORMATION**

7. Under Rule 4 of the ERC Rules of Practice and Procedure, the Honorable Commission may, upon request of a party and determination of the existence of conditions, which would warrant such remedy, treat certain information submitted to it as confidential;
8. Annexes "M", "N" and "O" contain information on customers' personal details, which are confidential in nature. As such, CLPC respectfully requests that the foregoing documents and the information contained therein be treated as confidential and privileged, and not be disclosed to persons other than the necessary officers and staff of this Honorable Commission;
9. Accordingly, CLPC hereby submits one (1) copy of Annexes "M", "N" and "O" in sealed packages, with the packaging and each page of the confidential document stamped with the word "Confidential".

**PRAYER**

**WHEREFORE**, it is respectfully prayed that the Honorable Commission, after due notice, hearing and examination:

1. Confirm and approve Applicant's under-recoveries for January 2016 to December 2018 billing periods and authorize to collect the amount of PhP 34,251,965 as net under-recovery.
2. Treat Annexes "M", "N" and "O" and the information contained therein as confidential, and direct their non-disclosure to persons other than the authorized representatives of CLPC and necessary officers and staff of this Honorable Commission, and issue the corresponding Protective Order in accordance with Rule 4 of the ERC Rules of Practice and Procedure.

Other just and equitable relief 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 **09 May 2019 (Thursday) at two**

**o'clock in the afternoon (2:00 P.M.), at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, CLPC 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, CLPC 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 CLPC 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.

CLPC 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 CLPC 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.

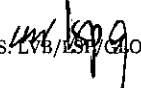
CLPC must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *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/EST/ALO

Copy Furnished:

1. Atty. Katrina M. Platon, Paul B. Soriño, Ma. Margarita S. Lim, and Celeni Kristine G. Guinto  
Counsels for Applicant  
16<sup>th</sup> Floor NAC Tower, 32<sup>nd</sup> St. Bonifacio Global  
Taguig City
2. COTABATO LIGHT AND POWER COMPANY (CLPC)  
Sinsuat Avenue, Cotabato City
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

**ERC CASE NO. 2019-014 CF**  
**ORDER/o8 APRIL 2019**  
**PAGE 8 OF 8**

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6. The House Committee on Energy  
Batasan Hills, Quezon City, Metro Manila
7. Philippine Chamber of Commerce and Industry (PCCI)  
3<sup>rd</sup> 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  
City of Cotabato, Maguindanao
9. Office of the Local Government Unit (LGU) legislative body  
City of Cotabato, Maguindanao
10. Office of the City Mayor  
Sultan Kudarat, Maguindanao
11. Office of the Local Government Unit (LGU) legislative body  
Sultan Kudarat, Maguindanao
12. Office of the Municipal Mayor  
Datu Odin Sinsuat, Maguindanao
13. Office of the Local Government Unit (LGU) legislative body  
Datu Odin Sinsuat, Maguindanao
14. Office of the Provincial Governor  
Province of Maguindanao
15. Office of the Local Government Unit (LGU) legislative body  
Province of Maguindanao
16. Regulatory Operations Service (ROS)  
17<sup>th</sup> Floor, Pacific Center Bldg., San Miguel Ave., Pasig City