

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



IN THE MATTER OF THE APPLICATION FOR CONFIRMATION AND APPROVAL OF CALCULATIONS OF OVER OR UNDER RECOVERIES IN THE IMPLEMENTATION OF AUTOMATIC COST ADJUSTMENTS AND TRUE-UP MECHANISMS FOR THE PERIOD 2017 TO 2019, PURSUANT TO ERC RESOLUTION NO. 16, SERIES OF 2009 AS AMENDED BY RESOLUTION NO. 21, SERIES OF 2010 AND ERC RESOLUTION 23, SERIES OF 2010

ERC CASE NO. 2020-015 CF

PENINSULA ELECTRIC COOPERATIVE, INC. (PENELCO),

Applicant.

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Promulgated:
January 18, 2021

ORDER

On 28 August 2020, Peninsula Electric Cooperative, Inc. (PENELCO) filed an *Application* dated 12 August 2020 (Application), seeking the Commission's confirmation and approval of its calculations of over or under recoveries in the implementation of automatic cost adjustments and true-up mechanisms for the period 2017 to 2019, 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.

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

THE APPLICANT

1. PENELCO 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 the Roman Superhighway, Brgy. Tuyoy, Balanga City, Bataan;
2. It holds an exclusive franchise from the National Electrification Commission, to operate an electric light and power distribution service in the whole province of Bataan, with one (1) city, and eleven (11) municipalities, namely: Balanga City, Dinalupihan, Hermosa, Orani, Samal, Abucay, Pilar, Orion, Limay, Mariveles, Bagac and Morong.

LEGAL BASES FOR THE APPLICATION

3. ERC Resolution No. 16, Series of 2009 as amended by Resolution No. 21, Series of 2010 establishes 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 and the true-up of other pass-through charges, involving Generation Rate, Transmission Rate, System Loss Rate and Lifeline Rate Recovery, as the case may be;
4. 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;
5. Foregoing resolutions further require the distribution utilities to file their respective consolidated applications once every three (3) years.
6. Hence, the filing of the instant application, covering the period January 2017 to December 2019.

OVER OR UNDER RECOVERIES OF ALLOWABLE COSTS

7. Applying the formulas provided under Resolution 16, Series of 2009 as amended by Resolution 21, Series of 2010 and Resolution 23, Series of 2010, PENELCO made calculations of the over recoveries charged or under- recoveries incurred as against its customers, in the implementation of certain automatic cost adjustments and true-up mechanisms, covering the period January 2017 to December 2019;
8. The results of its calculations are presented hereunder, as follows:

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	Allowable Cost (PhP)	Actual Revenue (PhP)	(Over)/Under Recovery (PhP)
Generation Rate (GR)	8,683,933,311.14	8,615,101,529.21	68,831,781.93
Transmission Rate (TR)	1,548,623,400.59	1,517,746,939.84	30,876,460.76
System Loss Rate (SLR)	696,281,905.51	752,791,309.63	(56,509,404.12)
	Discount (PhP)	Subsidy (PhP)	
Lifeline Rate (LR)	(63,158,810.51)	61,706,359.38	1,452,451.13
Senior Citizen Discount and Subsidy	(87,002.96)	69,904.83	17,098.13
Net Results			44,668,387.83

9. Regarding the calculated under recoveries of PhP30,876,460.76 on the Transmission Rate, PhP10,144,341.04 of which represents Transmission Demand Charges collected by PENELCO from its Retail Electricity Suppliers (RES) customers for the account of Contestable Customers (CCs) located within its franchise area for the billing months of February to April 2018. Said amount was deducted from the total transmission cost billed by NGCP thus, lowering the transmission rate charged to its captive customers. Since the initially collected Transmission Demand Charges from RES for the account of CCs should be refunded to concerned CCs through their respective current RES, the resulting under recovery of Transmission Cost from the captive customers should likewise be recovered. In view thereof, applicant respectfully prays that the adjustment in the computation of Transmission Demand Charge be duly considered by the Honorable Commission in its evaluation and verification of the instant application and PENELCO be allowed to simultaneously refund the initially collected Transmission Demand Charge through the issuance of Credit Memo to RES for the account of CC and recover the under recovery from its captive customers over the same period of time.

SUPPORTING DATA AND DOCUMENTS

10. In support of the foregoing calculations, PENELCO is submitting the following data and documents covering the period January 2017 to December 2019, attached hereto and made integral parts hereof, as follows:

FOLDER NO.	ANNEX MARKINGS	NATURE OF DOCUMENTS
Folder 1	Annex A	Fully accomplished Supplier and Transmission Data Sheet Per Year
	Annex B	Fully accomplished Statistical Data Sheet Per Year
	Annex C	URR Addendum/DSL Data Per Year
	Annex D	Actual Implemented Rates Sheet Per Year
	Annex E	Lifeline Discount Sheet Per Year
	Annex F	Senior Citizen Discount Sheet Per Year
	Annex G	Summary of O/U Recoveries Computation
	Annex H	Proposed Refund/Collect Scheme
Folder 2	SUPPLIER AND TRANSMISSION DATA	

	Annex I	Power Bills from Suppliers (Power Bill; Proof of Payment; Adjusted Bill/Debit and Credit Memo)
Folder 3	STATISTICAL DATA	
	Annex J	Summary of Pilferage Cost Recoveris
	Annex K	Summary of Implemented Orders/Decisions
	Annex L	MFSR – Sections B and E
	Annex M	Demand (kW) Sales Summary Report
Folder 4	ACTUAL IMPLEMENTED RATES DATA	
	Annex N	Consumer Bills per Customer Class (Non-Lifeline)
	Annex O	Consumer Bills per Lifeline Bracket (Lifeline)
	Annex P	Senior Citizen Consumer Bills
Folder 5	OTHER DOCUMENTS	
	Annex Q	Submitted Monthly URR
	Annex R	Submitted Monthly URR Addendum
	Annex S	Single Line Diagram
	Annex T	Submitted Monthly Reports pursuant to ERC Resolution No. 10, Series of 2018
	Annex U	Generation Rate; System Loss Rate; Transmission Rate; Lifeline Rate Subsidy; Senior Citizen Subsidy

11. Additionally, PENELCO is likewise submitting herewith the required electronic files of the Application and supporting data and documents;
12. Further, in compliance with the pre-filing requirements under the ERC Rules of Practice and Procedure, PENELCO is submitting the following documents to form integral parts hereof, as follows:

ANNEX MARKINGS	NATURE OF DOCUMENT
Annexes V and series	Proof of furnishing copies of the Application to the Sangguniang Panglungsod of Balanga and Sangguniang Panlalawigan of Bataan
Annexes W and series	Proof of publication of the Application in a newspaper of general within the PENELCO's franchise area or where it principally operates

13. Considering the foregoing, it is respectfully prayed that PENELCO's calculations of over or under recoveries in the implementation of subject automatic cost adjustments and true-up mechanisms be confirmed and approved, and the cooperative be allowed to refund the over recoveries or collect the under recoveries, as the case maybe, to or from its customers.

PRAYER

WHEREFORE, premises considered, applicant PENELCO respectfully prays of this Honorable Commission that after due notice and hearing:

1. the adjustment in the computation of Transmission Demand Charge be duly considered in the evaluation and verification, and PENELCO be allowed to simultaneously refund the initially

collected Transmission Demand Charge through the issuance of Credit Memo to Retail Electricity Suppliers (RES) for the account of Contestable Customers located within its franchise area and recover the under recovery from its Captive Customers over the same period of time; and

2. the over-all calculations of over or under recoveries in the implementation of the concerned automatic cost adjustments and true- up mechanisms covering the period January 2017 to December 2019, made pursuant to ERC Resolution 16, Series of 2009 as amended by Resolution 21, Series of 2010 and ERC Resolution 23, Series of 2011, be confirmed and approved, and the cooperative be allowed to refund the over recoveries or collect the under recoveries, as the case maybe, to or from its customers, summarized as follows, to wit:

	Allowable Cost (PhP)	Actual Revenue (PhP)	(Over)/Under Recovery (PhP)
Generation Rate (GR)	8,683,933,311.14	8,615,101,529.21	68,831,781.93
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Senior Citizen Discount and Subsidy	(87,002.96)	69,904.83	17,098.13
Net Results			44,668,387.83

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

Finding the said Application to be sufficient in substance with the required fees having been paid, the same is hereby set for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ dated 24 September 2020:

Date	Platform	Activity
23 February 2021 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and expository presentation
2 March 2021 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-Trial Conference and Presentation of Evidence

¹ "A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission".

Accordingly, **PENELCO** is hereby directed to host the virtual hearing at **PENELCO's Main Office in Roman Superhighway, Brgy. Tuyo, Balanga City, Bataan**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, PENELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, PENELCO is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual 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 Virtual Hearing* the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within PENELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within PENELCO's franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual 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.

Within five (5) calendar days prior to the date of the virtual hearing, PENELCO must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of 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 Virtual Hearing* consisting of the affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual 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 PENELCO to inform the consumers within the affected area 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 Virtual Hearing* by the OSG, the 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 proof of compliance with the requirements of the Commission.

Moreover, PENELCO is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Mayors, or Provincial Governor and Local Legislative Bodies, and to submit proof of its posting thereof.

PENELCO and all interested parties are also required to submit via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled virtual 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 therefor; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

PENELCO must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of PENELCO 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.

PENELCO 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.

PENELCO is hereby directed to file a copy of its Expository Presentation via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. PENELCO shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via 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.

PENELCO is further directed to submit, either through personal service, registered or ordinary mail/private courier, its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date

that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, PENELCO, including its authorized representative/s and witness/es, is hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 08 January 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES YST DEVANADERA
Chairperson and CEO


LS: MSIA/MCC/CLB/MCCG

Copy Furnished:

1. Peninsula Electric Cooperative, Inc. (PENELCO)
Applicant
Roman Superhighway, Brgy. Tuyo, Balanga City, Bataan
2. Dechaver Larios-Amboy and Evangelista Law Offices
Counsel of Applicant
Unit 2008, Tycoon Centre, Pearl Drive, Ortigas Center, Pasig City
Email Address: powerlawfirm@gmail.com
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village Makati City, Metro Manila
4. Commission on Audit (COA)
Commonwealth Avenue, Quezon City, Metro Manila
5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City, Metro Manila
6. House Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila

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7. Office of the Provincial Governor
Province of Bataan
8. Office of the Sangguniang Panlalawigan
Province of Bataan
9. Office of the City Mayor
Balanga City, Bataan
10. Office of the LGU Legislative Body
Balanga City, Bataan
11. Office of the Municipal Mayor
Dinalupihan, Bataan
12. Office of the LGU Legislative Body
Dinalupihan, Bataan
13. Office of the Municipal Mayor
Hermosa, Bataan
14. Office of the LGU Legislative Body
Hermosa, Bataan
15. Office of the Municipal Mayor
Orani, Bataan
16. Office of the LGU Legislative Body
Orani, Bataan
17. Office of the Municipal Mayor
Samal, Bataan
18. Office of the LGU Legislative Body
Samal, Bataan
19. Office of the Municipal Mayor
Abucay, Bataan
20. Office of the LGU Legislative Body
Abucay, Bataan
21. Office of the Municipal Mayor
Pilar, Bataan
22. Office of the LGU Legislative Body
Pilar, Bataan
23. Office of the Municipal Mayor
Orion, Bataan
24. Office of the LGU Legislative Body
Orion, Bataan
25. Office of the Municipal Mayor
Limay, Bataan
26. Office of the LGU Legislative Body
Limay, Bataan
27. Office of the Municipal Mayor
Mariveles, Bataan
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Mariveles, Bataan
29. Office of the Municipal Mayor
Bagac, Bataan

30. Office of the LGU Legislative Body
Bagac, Bataan
31. Office of the Municipal Mayor
Morong, Bataan
32. Office of the LGU Legislative Body
Morong, Bataan
33. 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
34. Regulatory Operations Service (ROS)
Energy Regulatory Commission
17th Floor Pacific Center Building, San Miguel Avenue, Pasig City