



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 MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS PURSUANT TO ERC RESOLUTION NO. 16, SERIES OF 2009 AND RESOLUTION NO. 21, SERIES OF 2010

ERC CASE NO. 2020-010 CF

**CABANATUAN ELECTRIC CORPORATION (CELCOR),
*Applicant.***

Promulgated:
March 24, 2021

X-----X

ORDER

On 28 August 2020, Cabanatuan Electric Corporation (CELCOR) filed an *Application* dated 13 August 2020 (Application), seeking the Commission’s approval of its calculations of over or under recoveries based on the formula for the various automatic cost adjustments and true-up mechanisms, and corresponding confirmation process, pursuant to the Commission’s Resolution No. 16, Series of 2009¹, as amended by Resolution No. 21, Series of 2010² and Resolution No. 23, Series of 2010³, for the period 2017 to 2019.

¹ A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities.

² 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.

³ 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 Section 4 & 5 of Republic Act No. 9994.

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

THE APPLICANT

Applicant, **CABANATUAN ELECTRIC CORPORATION**, hereinafter referred to as **CELCOR** for brevity is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Maharlika Highway, Cabanatuan City.

CELCOR is the duly authorized distribution utility (“DU”) serving the power requirements of the consumers in the City of Cabanatuan, Province of Nueva Ecija. The City of Cabanatuan is a Chartered City per Republic Act No. 526 entitled “**An Act Creating the City of Cabanatuan**”.

CELCOR is represented in this Application by its Chairperson, **Mrs. ADORACION C. YATCO**. Attached and marked as Annex “A” of this Application is a copy of the Secretary’s Certificate executed by Atty. Reginal Beltran authorizing Ms. Yatco to sign the instant Application and the law firm of undersigned counsel to file the same and represent CELCOR.

An electronic copy of the instant Application in MS-Word format is likewise being submitted in compliance with this Honorable Commission’s pre-filing requirements.

RESOLUTION NO. 16, SERIES OF 2009
AND
RESOLUTION NO. 21, SERIES OF 2010

On 13 July 2009, this Honorable Commission issued its 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**” directing Luzon DUs to file their respective consolidated applications on or before 30 October 2009.

On 18 October 2010, this Honorable Commission issued its Resolution No. 21, Series of 2010 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**”. Said filing by Luzon DUs of the required consolidated application was moved to 31 March 2011 for adjustments implemented until the billing month of December 2010 and filing period of March 31, 2014 for adjustments covered by January 2011 to December 2013.

In compliance with the aforementioned Resolution, CELCOR filed in ERC Case No. 2011-005CF and ERC Case No. 2014-012

CF dated 31 March 2011 and 24 March 2014, respectively, its Application entitled **“IN THE MATTER OF THE APPLICATION FOR APPROVAL OF (OVER)/UNDER RECOVERIES BASED ON THE FORMULA ON THE VARIOUS AUTOMATIC COST ADJUSTMENTS AND TRUE-UP MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS PURSUANT TO ERC RESOLUTION NO. 16, SERIES OF 2009 AND RESOLUTION NO. 21, SERIES OF 2010”**.

On 25 February 2013 and 24 November 2014, this Honorable Commission issued its Decisions approving with modifications CELCOR’s Applications in ERC Case No. 2011-005CF and ERC Case No. 2014-012 CF, respectively. The aforementioned Decisions were received by CELCOR on May 30, 2013 and January 21, 2015 respectively and implemented starting on June 2013 and March 2015, respectively

Article 5, Section 1 of Resolution No. 21, Series of 2010 likewise mandates all Luzon Distribution Utilities (DUs) to file their respective consolidated application every three (3) years following the sequence of period of filing.

Thus, on 29 March 2017, CELCOR filed another **APPLICATION FOR APPROVAL OF THE OVER/UNDER RECOVERIES BASED ON THE FORMULA ON THE VARIOUS AUTOMATIC COST ADJUSTMENTS AND TRUE-UP MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS PURSUANT TO ERC RESOLUTION NO. 16, SERIES OF 2009 AND RESOLUTION NO. 21, SERIES OF 2010** docketed as ERC Case No. 2017-015CF. Said Application is now pending resolution by this Honorable Commission.

On 14 January 2020, this Honorable Commission, through **Commissioner PAUL CHRISTIAN CERVANTES**, wrote CELCOR reminding it of the 31 March 2020 deadline within which to file its application **“covering the adjustment period from January 2017 to December 2019”**⁴ and the dates for the pre-filing conference from **“05 February 2020 to 20 March 2020.”**⁵

In compliance, therefore, with the aforementioned provision of Resolution No. 21, Series of 2010, CELCOR herein submits for this Honorable Commission’s confirmation/approval the following under-recoveries for the period January 2017 to December 2019:

Category	(Over)/Under Recovery
Generation Under recovery	PhP 6,318,119.61
Transmission Over recovery	(2,791,369.26)

⁴ 1st paragraph, letter dated 14 January 2020 of Com. Paul Christian M. Cervantes. Underscoring supplied.

⁵ 2nd paragraph, *ibid.* Underscoring supplied.

ERC CASE NO. 2020-010 CF
ORDER/ 18 MARCH 2021
PAGE 4 OF 13

System Loss Under recovery	918,999.76
Lifeline Under recovery	4,099,662.51
Senior Citizen Under recovery	13,893.77
Total Under recovery	PhP 8,559,306.39

Shown below is the breakdown of CELCOR's (over)/under-recoveries per line item:

1. GENERATION

Generation Allowable Cost	P 3,763,265,002.35
Generation Revenue	<u>P 3,756,946,882.74</u>
Under Recovery	<u>P 6,318,119.61</u>

2. TRANSMISSION

Transmission Allowable Cost	P 664,164,519.12
Transmission Revenue	<u>P 666,955,888.38</u>
Over Recovery	<u>(P 2,791,369.26)</u>

3. SYSTEM LOSS

System Loss Allowable Cost	P 371,047,646.36
System Loss Revenue	<u>P 370,128,646.60</u>
Under Recovery	<u>P 918,999.76</u>

4. LIFELINE SUBSIDY

Lifeline Discount	P 50,788,621.25
Lifeline Charge	<u>P 46,688,958.74</u>
Under Recovery	<u>P 4,099,662.51</u>

5. SENIOR CITIZEN

Pass Through Cost	P 134,700.01
Lifeline Charge	<u>P 120,806.24</u>
Under Recovery	<u>P 13,893.77</u>

Finally, in compliance with the pre-filing requirements of this Honorable Commission and in further support of the instant Application, CELCOR herein submits the following:

- 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
- f. Breakdown of Payments with Official Receipts
- g. Debit/Credit Memo of Power Suppliers
- h. NGCP Invoices
- i. Official Receipts issued by NGCP
- j. Breakdown of Payments with Official Receipts
- k. Debit/Credit Memo issued by NGCP
- l. DU-MO1 and DU-MO2, and
- m. Consumer Bills of Lifeliners (per level) and Non-Lifeliners per customer class

APPLICANT’S COMPLIANCE

WITH THE

PRE-FILING REQUIREMENTS

In compliance with Rule 6, Section 2 of the Rules of Practice and Procedure of this Honorable Commission, CELCOR has furnished the Sangguniang Panlungsod of Cabanatuan City with a copy of its Application, inclusive of its Annexes (in CD).

Attached and marked as **Annexes “B”** is the Certifications issued by the Sangguniang Panlungsod of Cabanatuan City acknowledging receipt of the aforementioned documents.

CELCOR has likewise caused the publication of the Application (*sans* Annexes) in a newspaper of general circulation. The Affidavit of Publication and the newspaper issue containing the published Application are hereto attached as **Annexes “C” and “D”**, respectively.

PRAYER

WHEREFORE, in view of all the foregoing, it is respectfully prayed that after due notice, hearing and evaluation, the (over)/under-recoveries of **CABANATUAN ELECTRIC CORPORATION** for the period January 2017 to December 2019, as presented in the instant application, be confirmed and approved accordingly.

Category	Amounts
Generation Under recovery	PhP 6,318,119.61
Transmission Over recovery	(2,791,369.26)
System Loss Under recovery	918,999.76
Lifeline Under recovery	4,099,662.51
Senior Citizen Under recovery	13,893.77
Total Under recovery	PhP8,559,306.39

Finally, CELCOR likewise prays for the approval of its proposed scheme to implement the above over/under recoveries as shown below:

CABANATUAN ELECTRIC CORPORATION			
PROPOSED SCHEME OF RECOVERY			
ERC CASE NO. 2020-___ CF			
AUTOMATIC COST ADJUSTMENTS AND TRUE-UP MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS			
	(OVER)/UNDER RECOVERY	PESO PER KILOWATTHOUR	RECOVERY PERIOD
GENERATION UNDER RECOVERY	6,318,119.61	0.0248	1 Yr
TRANSMISSION OVER RECOVERY	- 2,791,369.26	-0.0110	1 Yr
SYSTEM LOSS UNDER RECOVERY	918,999.76	0.0036	1 Yr
LIFELINE UNDER RECOVERY	4,099,662.51	0.0161	1 Yr
SENIOR CITIZEN UNDER RECOVERY	13,893.77	0.0007	* 1MO.
TOTAL	8,559,306.39		
TOTAL KWH SOLD for 2019	254,754,083		
NOTE:			
* divisor based on average 12 mos of 2016 kw h sold.			

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

On 08 January 2021, having found the instant *Application* sufficient in form, with the required fees having been paid, the Commission issued an *Order and Notice of Virtual Hearing* of even date setting the case for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms, *to wit*:

Date and Time	Platform	Activity
05 March 2021 (Friday) at nine o'clock in the morning (9:00 AM)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository Presentation
12 March 2021 (Friday)	Microsoft Teams	Pre-Trial Conference and Presentation of Evidence

at nine o'clock in the morning (9:00 AM)		
--	--	--

On 28 January 2021, Applicant CELCOR filed a *Manifestation with Urgent Ex-Parte Motion* of even date wherein it prayed that the Commission exclude the Office of the Provincial Governor or Nueva Ecija and the Sangguniang Panlalawigan of Nueva Ecija from the list of parties to be furnished with copies of the *Order and Notice of Virtual Hearing* dated 08 January 2021.

On 17 February 2021, the Commission issued an *Order* resolving the *Manifestation with Urgent Ex-Parte Motion* filed by CELCOR, the dispositive portion of which reads, *to wit*:

WHEREFORE, PREMISES CONSIDERED, the *Manifestation with Urgent Ex-Parte Motion* dated 28 January 2021 filed by Applicant Cabanatuan Electric Corporation (CELCOR) on even date is hereby **GRANTED**.

IN VIEW OF THE FOREGOING, the Commission hereby **EXCLUDES** the Office of the Provincial Governor or Nueva Ecija and the Sangguniang Panlalawigan of Nueva Ecija from the list of offices/parties to be furnished with copies of the *Order and Notice of Virtual Hearing* dated 08 January 2021. To clarify, Applicant CELCOR is hereby **DIRECTED** to furnish only the Office of the City Mayor of Cabanatuan and the Sangguniang Panlungsod of Cabanatuan City with copies of the said *Order and Notice of Virtual Hearing*.

SO ORDERED.

On 22 February 2021, Applicant CELCOR filed a *Manifestation with Motion for the Issuance of a Second (2nd) Notice of Virtual Hearing* of even date wherein it prayed that: (a) the scheduled virtual hearing on 05 March 2021 and 12 March 2021 be cancelled for its failure to comply with the Commission's directives⁶; (b) the Commission issue a Second (2nd) Notice of Virtual Hearing setting the instant case for (i) determination of compliance with the jurisdictional requirements; (ii) expository presentation, on 07 April 2021; and (iii) pre-trial conference; and (iv) presentation of evidence on 14 April 2021

⁶ Paragraph 4 of the *Manifestation and Motion for the Issuance of a Second (2nd) Notice of Virtual Hearing* states:

Given the proximity of the initial scheduled virtual hearing on 05 March 2021, CELCOR will not be able to comply with all the directives of this Honorable Commission particularly the directive to have the Notice of Virtual Hearing published in "**a newspaper of nationwide circulation in the Philippines, the date of the publication to be made not later than ten (10) days before the scheduled hearing.**"

both at nine o'clock (9:00 a.m.) in the morning or any date thereafter. In the said *Motion*, CELCOR likewise reiterated its prayer that the Office of the Provincial Governor of Nueva Ecija and the Sangguniang Panlalawigan of Nueva Ecija be excluded from the list of parties to be furnished with copies of the Order and Second (2nd) Notice of Virtual Hearing.

During the virtual hearing on 05 March 2021, Applicant CELCOR appeared and reiterated its *Motion*. There being no objections, the Commission resolved to grant the same.

Finding the said *Application* to be sufficient in form, with the required fees having been paid, the Commission hereby resets the scheduled hearings 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 2020⁷, dated 24 September 2020:

Date and Time	Platform	Activity
07 April 2021 (Wednesday) at nine o'clock in the morning (9:00 AM)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository Presentation
14 April 2021 (Wednesday) at nine o'clock in the morning (9:00 AM)	Microsoft Teams	Pre-Trial Conference and Presentation of Evidence

RELATIVE THERETO, CELCOR 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 Office of the City Mayor and the

⁷ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

Sangguniang Panglungsod of Cabanatuan City, for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within CELCOR'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, CELCOR 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 City Mayor and LGU legislative body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by CELCOR 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, CELCOR 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.

CELCOR 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.

CELCOR 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 CELCOR 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.

CELCOR 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.

CELCOR is further 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. CELCOR 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.

CELCOR is hereby 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.

(This space is intentionally left blank.)


Finally, Applicant, 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, 18 March 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: MCC/CLB/MCCG

ERC CASE NO. 2020-010 CF
ORDER/ 18 MARCH 2021
PAGE 13 OF 13

Copy Furnished:

1. Cabanatuan Electric Corporation (CELCOR)
Applicant
Maharlika Highway, Cabanatuan City
2. The Law Firm of Manjares & Manjares
c/o Atty. Norberto C. Manjares, III
Counsel of Applicant
No. 6 Saint Anne, Provident Villages, Marikina City
Email Address: jcmanjaresiii@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
7. Office of the City Mayor
Cabanatuan City, Nueva Ecija
8. Office of the LGU Legislative Body
Cabanatuan City, Nueva Ecija
9. 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
10. Regulatory Operations Service (ROS)
Energy Regulatory Commission
17th Floor Pacific Center Building, San Miguel Avenue, Pasig City