

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



**IN THE MATTER OF THE  
APPLICATION FOR THE  
CONFIRMATION AND  
APPROVAL OF OVER/  
UNDER RECOVERIES FOR  
THE YEARS 2018 TO 2020  
PURSUANT TO ERC  
RESOLUTION NO. 16,  
SERIES OF 2009, AS  
AMENDED BY ERC  
RESOLUTION NO. 21,  
SERIES OF 2010, AND ERC  
RESOLUTION NO. 23,  
SERIES OF 2010 WITH  
MOTION FOR  
CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2021-003 CF**

**VISAYAN ELECTRIC  
COMPANY, INC. (VECO),**

***Applicant.***

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**O R D E R**

On 31 March 2021, Visayan Electric Company, Inc. (VECO), filed an *Application* dated 17 March 2021 (Application), seeking the Commission's approval of its over/under recoveries for the years 2018 to 2020 pursuant to ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21, Series of 2010, and ERC Resolution No. 23, Series of 2010 with motion for confidential treatment of information.

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

1. Visayan Electric is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at J. Panis Street, Banilad,

Cebu City. It is a grantee of a legislative franchise under Republic Act No. 9339 to construct, operate and maintain a distribution system for the conveyance of electric power in the municipalities of San Fernando, Minglanilla, Consolacion and Lilo-an and the Cities of Naga, Talisay, Cebu and Mandaue, Province of Cebu

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 adjusted rates in Generation, Transmission, System Loss, Lifeline Subsidy, and Local Franchise and Business Taxes.<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- and 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>

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

<sup>2</sup> *Id.* at Article 4.

<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> *Id.* at Article 5

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

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

5. The instant Application is being filed pursuant to the above Resolutions. Based on the formulas on the various automatic cost adjustments and true-up mechanisms, Visayan Electric incurred over- and under – recoveries for the period from January 2018 to December 2020, summarized as follows:

<b>(Over )/Under Recoveries</b>				
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>Total</b>
Generation	23,061,326	40,537,313	20,768,571	84,367,210
Transmission	(570,013)	(39,633,578)	838,580	(39,365,010)
System Loss	(9,676,822)	(5,412,264)	12,472,197	(2,616,889)
Lifeline/Senior	(115,922)	1,455,394	2,538,694	3,878,166
<b>Total</b>	<b>12,698,568</b>	<b>(3,053,135)</b>	<b>36,618,042</b>	<b>46,263,476</b>

Based on the foregoing, Visayan Electric has incurred a net under-recovery in the amount of **PhP 46,263,476** for the billing periods from January 2018 to December 2020.

6. In support of the foregoing are the following documents covering the period January 2018 to December 2020, attached as Annexes of the instant Application, to wit:

Annex A: Calculated Over/Under Recoveries;  
 Annex B: Proposed Scheme of Refund/Collection;  
 Annex C: Power Bills from Suppliers and Proof of Payment;  
 Annex D: Summary of Pilferage Cost Recoveries;  
 Annex E: Report on Other Implemented Adjustments;  
 Annex F: Consumer Bills per Customer Class (Non-Lifeline)\*;  
 Annex G: Consumer Bills per Lifeline Bracket\*;  
 Annex H: Consumer Bills per Senior Citizen Discount Level\*;  
 Annex I: Fully Accomplished Uniform Reportorial Requirement(URR) with URR Addendum Template;  
 Annex J: Single Line Diagram;  
 Annex K: Distribution System Loss Reportorial Submission;  
 Annex L: Rate Computations (Generation, Transmission, System Loss, Lifeline and Senior Citizen Discount Rate)

*\*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 “F”, “G”, and “H” contain information on customers’ personal details, which are confidential in nature. As such, Visayan Electric 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, for the duration of the case and even after the case has been decided with finality by the Honorable Commission

9. Accordingly, Visayan Electric hereby submits one (1) copy of Annexes “F”, “G”, and “H” in a sealed envelope, with the envelope and each page of the confidential document stamped with the word “Confidential”.<sup>9</sup>

**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 2018 to December 2020 billing periods and authorize Visayan Electric to collect the amount of PhP 46,263,476 as net under-recovery.
2. Treat Annexes “F”, “G”, and “H” and the information contained therein as confidential, and direct their non-disclosure to persons other than the authorized representatives of Visayan Electric 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 with the required fees having been paid, the Commission hereby sets the same 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 2020<sup>10</sup> dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):<sup>11</sup>

*(This space is intentionally left blank)*

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<sup>9</sup> Soft copies of the confidential annexes provided to this Honorable Commission are password protected

<sup>10</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission

<sup>11</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

<b>Date and Time</b>	<b>Platform</b>	<b>Activity</b>
19 August 2021 ( <b>Thursday</b> ) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and Expository presentation
26 August 2021 ( <b>Thursday</b> ) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

**RELATIVE THERETO**, VECO 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 publication to be made not later than ten (10) days before the date of 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 VECO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within VECO's franchise area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearing thereon;
- 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 the resolution of the pending prayer for confidential treatment of

information, and reimbursement of reasonable photocopying costs.<sup>12</sup>

Within five (5) calendar days prior to the date of the virtual hearing, VECO must submit to the Commission via electronic mail (e-mail) at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), the scanned copies of their 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 VECO 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, except those covered by any motion for confidential treatment of information, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, VECO 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.

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<sup>12</sup> For the e-mail address of the applicant, please see page 9.

VECO and all interested parties are also required to submit via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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.

VECO 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 VECO 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.

VECO 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.

VECO is hereby directed to file a copy of its Expository Presentation via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days prior to the scheduled virtual hearing. VECO 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](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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.

VECO is further directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of 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, VECO, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto: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, 11 June 2021.

FOR AND BY AUTHORITY  
OF THE COMMISSION:



**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS: EDR/CLB/MCCG

**ERC**  
Office of the Chairperson  
  
\*AVSTD-2021-06-510-0079\*



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