

Republic of the Philippines
ENERGY REGULATORY COMMISSION
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

ERC CASE NO. 2021-011 CF

CEBU III ELECTRIC COOPERATIVE, INC. (CEBECO III),

Applicant.

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Promulgated:

June 29, 2021

ORDER

On 08 April 2021, Cebu III Electric Cooperative, Inc. (CEBECO III) filed an Application dated 25 March 2021 (Application), seeking the Commission's 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.

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

1. Applicant CEBECO III is an Electric Cooperative created and existing pursuant to the provisions of Presidential Decree No. 269 as amended, with principal office located at Luray II, Toledo City, Cebu, Philippines, represented herein by its General Manager, Virgilio C. Fortich, Jr., duly authorized by virtue of Resolution No. 18, Series of 2021 dated February 13, 2021 of the Board of Directors, copy of which is attached hereto as Annex "A" and made an integral part hereof.

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

2. Applicant 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 Toledo and the Municipalities of Aloguinsan, Pinamungajan, Balamban and Asturias, all in the Province of Cebu;

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, Resolution No. 21, series of 2010, and Resolution No. 10, series of 2018, mandating the filing of consolidated application for the over/under recoveries of all distribution utilities for the approval/confirmation of the Commission;
4. The aforecited 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 and Resolution 10, series of 2018 was applied by the Applicant;

6. A summary of the pass true cost I the actual collection on the above-mentioned implementation of various automatic cost adjustments and true up mechanisms are presented hereunder, as follows:

Particulars	Allowable Cost/Pass Thru Cost (PhP)	Actual Recovery (PhP)	(Over)/Under Recoveries (PhP)
GENERATION	2,291,781,158.50	2,306,646,364.99	(14,865,206.49)

TRANSMISSION	129,339,582.41	132,083,314.83	(2,743,732.42)
SYSTEM LOSS	234,547,452.08	234,727,147.10	(179,695.02)
LIFELINE	50,559,785.78	50,258,023.63	301,762.15
Sr. CITIZEN	559,483.41	554,497.66	4,985.75
TOTAL	2,706,787,462.18	2,724,269,348.21	(17,481,886.03)

The foregoing amounts are based on the computations hereto attached as Annex “B”;

7. That, CEBECO III proposes to recover/refund the foregoing amounts based on the January 2021 kWh sales hereunder presented:

Particulars	(Over)/Under Recoveries PhP	kWh sales for January 2021	(REFUND)/RECOVER RATE	
			No. of Months	(PhP/k Wh)
Generation (captive consumers)	14,865,206.49)	13,645,039	36	(0.0303)
Transmission	(2,743,732.42)	13,905,558	36	(0.0055)
Systems Loss	(179,695.02)	13,645,039	36	(0.0004)
Lifeline Subsidy	301,762.15	13,080,473	36	0.0006
Senior Citizen Subsidy	4,985.75	13,041,537	1	0.0004
TOTAL	(17,481,886.03)			

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 or Certifications 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

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 City of Toledo where Applicant principally operates and the Legislative Body of the Province of Cebu. 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 as **Annexes “Q” and “R”** respectively. Likewise attached hereto

as Annexes “S” and “T” 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, foregoing premises considered, Applicant most respectfully prays:

1. That the submitted monthly reports on the Distribution System Loss Data be considered as substantial compliance in accordance with ERC Resolution No. 10, series of 2018; and
2. That the computations of over/under recoveries presented in the instant application be approved and confirmed, and CEBECO III 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 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 2020¹, dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)²:

Date	Platform	Activity
10 August 2021 (Tuesday) at nine o'clock in the morning (9:00 AM)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and expository presentation

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

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

17 August 2021 (Tuesday) at nine o'clock in the morning (9:00 AM)	Microsoft Teams	Pre-trial Conference and presentation of evidence
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RELATIVE THERETO, CEBECO III 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, with 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 Mayors and the Local Government Unit (LGU) legislative bodies within its franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the franchise area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearings 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 and attend 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 prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.³

Within five (5) calendar days prior to the date of the initial virtual hearing, CEBECO III 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

³ For the e-mail address of the applicant, please see page 11 of this *Order*.

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 CEBECO III to inform the consumers within the franchise 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, CEBECO III 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, Governor and Local Legislative Bodies, and to submit proof of its posting thereof.

CEBECO III 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, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

CEBECO III 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 CEBECO III 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.

CEBECO III 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.

CEBECO III 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. CEBECO III 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.

CEBECO III is hereby 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, CEBECO III, including its authorized representative/s and witness/es, are 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, 15 June 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:



AGNES VST DEVANADERA
Chairperson and CEO



LS: EDR/MCCG



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COPY FURNISHED:

1. A.C Gaviola Law Office
Alan C. Gaviola
Alan Byrne S. Gaviola
Counsel for Applicant Cebu III Electric Cooperative, Inc. (CEBECO III)
Luray II, Toledo City, Cebu
E-mail: acgaviola_lawoffice@gaviolalaw.com
2. Cebu III Electric Cooperative, Inc. (CEBECO III)
Luray II, Toledo City, Cebu
3. Office of the Mayor
City of Toledo, Cebu
4. Office of the Local Government Unit (LGU) Legislative Body
City of Toledo, Cebu
5. Office of the Municipal Mayor
Municipality of Aloguinsan, Cebu
6. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Aloguinsan, Cebu
7. Office of the Municipal Mayor
Municipality of Pinamungajan, Cebu
8. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Pinamungajan, Cebu
9. Office of the Municipal Mayor
Municipality of Balamban, Cebu
10. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Balamban, Cebu
11. Office of the Municipal Mayor
Municipality of Asturias, Cebu
12. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Asturias, Cebu
13. Office of the Governor
Province of Cebu
14. Office of the Local Government Unit (LGU) Legislative Body
Province of Cebu
15. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
E-mail: doCKET@osg.gov.ph
16. Commission on Audit
Commonwealth Avenue, Quezon City
E-mail: citizensdesk@coa.gov.ph
17. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
E-mail: senateenergycommittee@gmail.com
18. House Committee on Energy
Batasan Hills, Quezon City
E-mail: committee.energy@house.gov.ph
19. 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
E-mail: pcci@philippinechamber.com / secretariat@philippinechamber.com
20. Regulatory Operations Service
Energy Regulatory Commission
17th Floor Pacific Center Building
San Miguel Avenue, Pasig City