

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City



**IN THE MATTER OF THE  
APPLICATION FOR  
AUTHORITY TO  
IMPLEMENT MICROGRID  
PROJECTS IN UNVIABLE  
AREAS IN THE  
MUNICIPALITY OF LOOC,  
OCCIDENTAL MINDORO  
AND APPROVAL OF FULL  
COST RECOVERY RATE  
(FCRR) THEREFOR WITH  
URGENT PRAYER FOR  
ISSUANCE OF  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2021-016 RC**

**LUBANG ELECTRIC  
COOPERATIVE, INC.  
(LUBELCO),**

*Applicant.*

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**Promulgated:**  
July 26, 2021

**ORDER**

Before the Commission for consideration is the prayer for the issuance of a Provisional Authority as contained in the *Application* dated 07 October 2020 filed by Lubang Electric Cooperative, Inc. (LUBELCO) on 10 March 2021.

**FACTUAL ANTECEDENTS**

On 10 March 2021, LUBELCO filed the instant *Application* seeking the Commission's approval of its authority to implement its Microgrid Projects in unviable Areas in the Municipality of Looc, Occidental Mindoro and the Full Cost Recovery Rate (FCRR) thereof, with prayer for the issuance of provisional authority.

The pertinent provisions of the *Application* relevant to the prayer for provisional authority are hereunder quoted as follows:

URGENT PRAYER FOR ISSUANCE OF PROVISIONAL  
AUTHORITY OR INTERIM RELIEF

26. The lack of reliable and affordable electricity in LUBELCO's Unviable areas has stymied the economic growth in the Lubang Group of Islands. Most of the households rely on income from the live fishing industry. A lack of reliable freezer-storage facilities for their catch limits the entrepreneurial opportunities of the fishermen. Hence, the community clamors for 24/7 reliable electricity to allow for economic growth and a better standard of living.
27. The clamor of the people, the urge for LUBELCO to decrease the percentage of its unelectrified customers, the requirement of the DOE for LUBELCO to meet the Renewable Portfolio Standards, and requirement of the Department of Energy's for DUs including the Electric Cooperatives to meet 100% electrification by the year 2022 has driven LUBELCO to act swiftly and begin immediate operations in Sitio Tabao, Barangay Ambil.
28. After the public consultation in Barangay Ambil last 6 December 2018, a technical assessment on the distribution system was undertaken. The final design of the micro-grid system and site selection were completed in April 2019. The construction of the power house began in July 2019 and interconnection was completed in September 2019. Commercial operations started on 30 October 2019. The current installation is a partial six-hour service to the community delivering to 132 households.
29. Consistent with the amended COC guidelines, the application has been filed.
30. LUBELCO is in the process of completing the other permitting requirements for the Projects as soon as possible.<sup>1</sup>
31. Accordingly, pending final approval, there is an urgent need for a provisional approval or interim relief for LUBELCO to implement the microgrid projects in the four (4) unviable areas and collect the full cost recovery rate from the end-users.

**Proceedings Conducted  
by the Commission**

On 19 March 2021, the Commission issued an *Order and Notice of Virtual Hearing*, both dated 17 March 2021, setting the instant *Application* for determination of compliance with the jurisdictional

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<sup>1</sup> A list of permits and government approvals is attached as Annex "R" with copies of said permits further attached as Annex "R1", "R2", "R3", and "R4".

requirements and expository presentation on 11 May 2021, and Pre-Trial Conference and presentation of evidence on 18 May 2021.

On 06 May 2021, the Association of Isolated Electric Cooperatives, Inc. (AIEC) filed its *Petition in Intervention* dated 05 May 2021, praying that it be allowed to participate and intervene in the instant case.

On 10 May 2021, LUBELCO filed its undated *Pre-Trial Brief*, and *Compliance (with Jurisdictional Requirements)* dated 05 May 2021.

During the 11 May 2021 hearing, LUBELCO and AIEC appeared. In the said hearing, LUBELCO presented its proof of compliance with the Commission's jurisdictional requirements, *to wit*:

1. *Affidavit of Publication* dated 23 April 2021,<sup>2</sup> executed by Ma. Cristina N. Ambas, Finance Manager of *The Manila Times*;
2. *Affidavit of Publication* dated 05 May 2021,<sup>3</sup> executed by Mario R. Policarpio Jr., Chief Accountant of the *Manila Standard*;
3. Electronic copies of the 15 and 23 April 2021 issues of *The Manila Times*<sup>4</sup> where the *Notice of Virtual Hearing* was published;
4. Electronic copies of the 15 and 23 April 2021 issues of the *Manila Standard*<sup>5</sup> where the *Notice of Virtual Hearing* was published;
5. *Certificates of Posting* issued by the respective Offices of the Governor<sup>6</sup> and the Sangguniang Panlalawigan<sup>7</sup> of the Province of Occidental Mindoro;
6. *Certificates of Posting* issued by the respective Offices of the Mayor<sup>8</sup> and the Sangguniang Bayan<sup>9</sup> of the Municipality of Looc, Occidental Mindoro;

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<sup>2</sup> Exhibits "Z.1".

<sup>3</sup> Exhibit "AA.1".

<sup>4</sup> Exhibits "Z.2" and "Z.4".

<sup>5</sup> Exhibits "AA.2" and "AA.4".

<sup>6</sup> Exhibit "BB.1".

<sup>7</sup> Exhibit "BB.2".

<sup>8</sup> Exhibit "CC.1".

<sup>9</sup> Exhibit "CC.2".

7. *Certificates of Posting* issued by the respective Offices of the Mayor<sup>10</sup> and the Sangguniang Bayan<sup>11</sup> of the Municipality of Lubang, Occidental Mindoro;
8. *Affidavit of Service* dated 21 April 2021,<sup>12</sup> executed by Julius Cesar M. Bueza, Liason Officer of Island Light and Water Energy Development Corp., attesting to the fact that LUBELCO furnished copies of the Commission's *Order* and *Notice of Virtual Hearing* dated 19 March 2021 to the respective Offices of the Solicitor General, Commission on Audit, and Committees on Energy of both Houses of Congress;
9. *Affidavit of Posting* dated 03 May 2021,<sup>13</sup> executed by Arnaldo D. Insigne, Member Services Department Clerk of LUBELCO, attesting to the fact that LUBELCO informed the consumers within the affected franchise area through LUBELCO Facebook page, and through the respective Offices of Brgy. Bulacan, Ambil and Talaotao of Municipality of Looc, Occidental Mindoro; and
10. *Certificate of Posting* dated 05 May 2021<sup>14</sup> issued by LUBELCO to attest that the scanned copies of the abovementioned jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Mayors, provincial Governor and Local Legislative Bodies were posted in the bulletin boards of LUBELCO.

Upon perusal of the foregoing submissions, the Commission noted that the attached *Affidavit of Publication* issued by Mario R. Policarpio Jr. of the *Manila Times* did not contain a competent evidence of identity and the scanned copy of the printed version of the newspapers did not bear the page numbers and issue therein. In view thereof, the Commission directed LUBELCO to submit a re-executed copy of the *Affidavit of Publication* containing a competent evidence of identity of Mr. Policarpio and the scanned copy of the printed version of the said newspapers, bearing the page number and issue. Thereafter, the Commission noted that LUBELCO had substantially complied with the Commission's publication and posting of notice requirements pursuant to the *Order* dated 17 March 2021. Thus, the Commission acquired jurisdiction over the instant *Application*.

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<sup>10</sup> Exhibit "DD.1".

<sup>11</sup> Exhibit "DD.2".

<sup>12</sup> Exhibit "EE.1".

<sup>13</sup> Exhibit "FF.1".

<sup>14</sup> Exhibit "GG.1".

LUBELCO then conducted its expository presentation through Mr. Arnold Insigne, Member Services Department Clerk of LUBELCO, and Mr. Carlo Borlaza, Project Management Consultant of Joint Venture of AIEC. Both Mr. Insigne and Mr. Borlaza conducted their respective expository presentations under oath. Mr. Insigne's presentation covered the following topics: (1) Project background; (2) LUBELCO Mini-Grid Sites: Ambil and Golo Islands; (3) Communities situation regarding reliance to informal electricity; (4) LUBELCO's course of action for Golo and Ambil; (5) LUBELCO's solution; (6) Rationale/premises of the *Application*; and (7) Legal bases of the *Application*. On the other hand, Mr. Borlaza's presentation covered the following topics: (1) Project implementation structure; (2) Technical studies; (3) Technical configuration and details of equipment; (4) sample pictures of the facilities to be constructed; (5) Financing from AIEC – Island Light and Water Energy Development Corp. (ILAW); (6) Tariff setting; (7) Proposed tariff; (8) Tariff comparison; and (9) Project impact and benefits.

At the end of the expository presentation, the Commission and AIEC propounded questions relative thereto. Thereafter, the expository presentation was terminated.

On 17 May 2021, LUBELCO filed its *Comment on the Petition in Intervention* of AIEC.

During the 18 May 2021 hearing, the Commission resolved to grant the *Petition in Intervention* of AIEC and admitted it as intervenor in the instant case. Thereafter, AIEC moved for the deferment of the scheduled Pre-Trial Conference and presentation of evidence, on the basis of the non-inclusion of LUBELCO in its *Application* of any prayer relative to the availment of the Universal Charge-Missionary Electrification (UCME) subsidy. AIEC manifested that LUBELCO should amend its *Application* for the inclusion of the said prayer, otherwise, the consumers of LUBELCO in the barangays where the microgrid projects would be implemented would end up paying higher rates. The Commission noted AIEC's manifestation and directed it to reduce the same into writing. Thereafter, the Commission cancelled the Pre-Trial Conference and presentation of evidence and reset the same on 04 June 2021.

## **DISCUSSION**

After due deliberation and thorough evaluation of all evidence submitted and all information gathered by the Commission pursuant

to its regulatory powers, the Commission hereby resolves to **DENY** LUBELCO's prayer for provisional authority.

**Authority of the Commission  
to Grant Provisional  
Authority in the Instant  
Application**

The authority of the Commission to grant provisional authority is provided for in Section 8 of Executive Order No. 172,<sup>15</sup> *to wit*:

Sec. 8. Authority to Grant Provisional Relief. The Board may, upon the filing of an application, petition or complaint or at any stage thereafter and **(1) without prior hearing, on the basis of supporting papers duly verified or authenticated, grant provisional relief on motion of a party in the case** or **(2) on its own initiative, without prejudice to a final decision after hearing**, should the Board find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support the provisional order: Provided, That the Board shall immediately schedule and conduct a hearing thereon within thirty (30) days thereafter, upon publication and notice to all affected parties. (*Emphasis and underscoring supplied.*)

The transfer of the Energy Regulatory Board's (ERB) authority to issue provisional authority to the Commission was upheld by the Supreme Court in the landmark case of *Freedom from Debt Coalition (FDC) vs. Energy Regulatory Commission (ERC)*:<sup>16</sup>

The ERC is endowed with the statutory authority to approve provisional rate adjustments under the aegis of Sections 44 and 80 of the EPIRA. The sections read, thus:

SEC 44. Transfer of Powers and Functions. – The powers and function of the Energy Regulatory Board not inconsistent with the provisions of this Act are hereby transferred to the ERC. The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property and personnel as may be necessary.

SEC 80. Applicability and Repealing Clause. – The applicability provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Service Act," Republic Act 6395, as amended, revising the charter of NPC; Presidential Decree 269, as amended,

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<sup>15</sup> Entitled, "Creating the Energy Regulatory Board".

<sup>16</sup> G.R. No. 161113, 15 June 2004.

referred to as the National Electrification Decree; Republic Act 7638, otherwise known as the “Department of Energy Act of 1992,” Executive Order 172, as amended, creating the ERB; Republic Act 7832, otherwise known as the “Anti-Electricity and Electric Transmission Lines / Materials Pilferage Act of 1994,” shall continue to have full force and effect except insofar as they are inconsistent with this Act.

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Similarly, Sections 8 and 14 of E.O. No. 172 or the ERB Charter continue to be in full force by virtue of Sections 44 and 80 of the EPIRA.

Relative thereto, the Commission’s *Revised Rules of Practice and Procedure* (Revised RPP), particularly Sections 2, 3 and 4 of Rule 14 thereof, provide that:

**Section 2. Allegations in the Motion and Supporting Documents.** – The motion must allege such facts and circumstances that would justify the Commission’s exercise of discretion in granting provisional authority or interim relief prior to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegations therein.

**Section 3. Action on the Motion.** – The Commission shall act on the motion for provisional authority or interim relief on the basis of the allegations in the application or petition, supporting documents and other pieces of evidence that the applicant or petitioner has submitted, as well as the comments or oppositions filed by interested persons, if there be any.

Motions for provisional authority or interim relief may be acted upon with or without hearing.

The Commission may act on the motion for provisional authority within seventy-five (75) days from the filing of the application or petition. If the Commission, through an order, acts on the motion without hearing, it shall schedule and start the hearing on the application or petition within thirty (30) days from date of issuance of the order. If such motion is included in the application or petition covered by Section 1, Rule 6 of these Rules, the Commission shall hold in abeyance its resolution on the said motion until after the lapse of thirty (30) days from the receipt of a copy of the application or petition by the Offices of the Governor, Mayor, and the *Sanggunian* concerned within the franchise and/or affected areas or publication of the application or petition in a newspaper of general circulation, whichever comes later.

**Section 4. Effects of Final Determination.** – The provisional authority or interim relief granted by the Commission shall be subject to adjustment, if upon final evaluation of the case, the Commission determines that the applicant or petitioner was not

entitled to the full amount of the provisional or interim rate allowed. The Commission may likewise impose such other conditions as it may deem necessary.

Based on the foregoing, the authority to grant provisional authority is a discretionary act exercised by the Commission as a regulator of the electric power industry. Consequently, such discretion implies therein its authority to deny the same.

### **Commission's Evaluation for the Issuance of Provisional Authority**

Upon initial evaluation of the submissions of LUBELCO, the Commission resolves to deny the prayer for provisional authority contained in the instant *Application*, for reasons discussed in detail hereinafter.

In the instant *Application*, LUBELCO prayed for the issuance of a provisional authority to implement the microgrid projects in unviable areas within its franchise, namely, Sitios Tabao and Tambo in Barangay Ambil, Barangay Bulacan, and Barangay Talaotao, all in the Municipality of Looc, Occidental Mindoro. According to LUBELCO, there is a need for a reliable and affordable electricity in these unviable areas in order to spur economic growth in its live fishing industry. Likewise, LUBELCO stated that the consumers within these areas clamored for a 24/7 reliable electricity.

Further, in the *Judicial Affidavit* executed by Mr. Arnaldo D. Insigne, one of LUBELCO's witnesses, he alleged that the foregoing unviable areas are relying on informal electricity from private generation set owners and individual solar home systems. Furthermore, Mr. Insigne alleged that the islands of Ambil and Golo, where the project barangays are located, only have electricity service for four (4) hours at most on a nightly basis, with a monthly price paid by each resident ranging from Four Hundred Fifty Pesos (PhP450.00) to One Thousand Fifty Pesos (PhP1,050.00).

As alleged in its *Application*, LUBELCO filed the instant case pursuant to the provisions of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) and Republic Act No. 10531 or the National Electrification Administration Reform Act of 2013 (NEA Act), *to wit*:



3. LUBELCO seeks the Honorable Commission's approval to provide 24/7 electricity to end-users in the Unviable<sup>17</sup> areas within its franchise area, consistent with the mandate under **Section 23 of Republic Act 9136 or the Electric Power Industry Reform Act ("EPIRA")** that "a distribution utility shall have the obligation to provide distribution services and connections to its system for any end-user within its franchise area consistent with the distribution code. Any entity engaged therein shall provide open and non-discriminatory access to its distribution system to all users."
4. The same section in the EPIRA further states that: "[d]istribution utilities shall provide universal service within their franchise, over a reasonable time from the requirement thereof, including unviable areas, as part of their social obligations, in a manner that shall sustain the economic viability of the utility, subject to the approval by the ERC in the case of private or government-owned utilities. To this end, distribution utilities shall submit to the DOE their plans for serving such areas as part of their distribution development plans."
5. LUBELCO plans to construct, acquire, own, operate and maintain its own microgrid systems<sup>18</sup> in Unviable areas, specifically Barangays Ambil, Bulacan, and Talaotao, located within the Municipality of Looc (herein referred to individually as a Project and collectively as the Projects) in order to provide universal service within its franchise area. **This is pursuant to Section 16 (j-1) of Republic Act 10531 that allows an electric cooperative to undertake power generation.**
6. Further, **Section 26 of the EPIRA that allows a DU** to directly or indirectly engage in any related business undertaking which maximizes the use of its assets subject to, among others, the separation of its business accounts to ensure that such undertaking does not subsidize its distribution business or encumber its distribution assets. In compliance with this requirement, LUBELCO filed an application for its Business Separation Unbundling Plan (BSUP) with the ERC.<sup>19</sup>

*(Emphasis and underscoring supplied.)*

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<sup>17</sup> "Unviable" refers to a geographic area within the franchise area of a Distribution Utility where the immediate extension of the distribution line is not feasible. Rule 4, (ssss), RA 9136 Implementing Rules and Regulations (IRR).

<sup>18</sup> "Microgrid systems" refers to a group of interconnected loads and distributed utilities with clearly defined electrical boundaries that act as a single controllable entity with respect to the generation and distribution grid.

<sup>19</sup> Docketed as ERC Case No. 2019-009 MC filed on 16 April 2019.

**A. Salient Feature of the Microgrid Project**

The Microgrid Project of LUBELCO has the following salient features:

Technology: Diesel Genset; Solar Panels; and Battery

Installed Capacity:	Diesel Genset	180 kW
	Solar Panels	166 kW
	Battery	194 kW

Assets Life: 20 years

Proposed Project Cost: PhP94,896,503

Terms of Financing:	Creditor	AIEC ILAW	
	Loan Term	13 years	
	Interest rate	1.1% per Annum	
	Gearing Ratio	100% Debt:0%Equity	

Proposed Full Cost Recovery Rate (FCRR):	<b>Consumption</b>	<b>FCRR</b>
	Up to 7kWh	PhP360.50
	In excess of 7kWh	PhP26.50/kWh

**B. The Commission's Initial Findings**

In the evaluation for the issuance of provisional authority, the Commission's primary consideration is the reasonableness of LUBELCO's proposed rates, which were found to be a new recovery scheme in *Small Grid Areas*. The Commission's initial evaluation of the proposed rates took into consideration the documents submitted by LUBELCO and other information attached to its *Application*.

LUBELCO alleged in its *Application* that it seeks to apply by analogy Rule 7, Section 6 (b) and Rule 14 of the EPIRA

Implementing Rules and Regulations (IRR),<sup>20</sup> and Article 2, Section 6 of the Commission's Resolution No. 22, Series of 2006,<sup>21</sup> pertaining to Qualified Third Parties (QTPs) since according to it there were no rules and regulations which cover the cost recovery of a Distribution Utility (DU)-owned microgrid assets, *to wit*:

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8. **In terms of determining the rate-setting mechanism, Applicant seeks to apply by analogy EPIRA IRR Rule 7, Section 6(b) and Rule 14, which refer to the provision of electricity in Unviable areas.** The regulation is not applicable on all fours since LUBELCO is not acting as a Qualified Third Party (QTP) provider. Before a QTP may enter into a remote and Unviable area, the DU shall first waive the area but LUBELCO has no intention of waiving the areas.
  
9. Consistent with the foregoing, the Application refers to **Article 2, Section 6 of the ERC Resolution 22, series of 2006** that allows a DU to provide electricity in its Unviable areas subject to certain conditions which have been met by the Projects. The section states:

“Special Rules for Small QTPs not Requiring Subsidies – An Entity providing Electricity Service in a Declared Unviable Area which:

- (a) has a generating capacity below 200 kW; or
- (b) has a fewer than 100 connections; and
- (c) does not seek to avail of a Missionary Electrification Subsidy because its retail rate is equal to or lower than the ERC-approved SARR in the Declared Unviable Area where it operates.

shall be deemed qualified and authorized to act as QTP upon issuance of a COC<sup>22</sup> in its favor, provided that such authorization shall be valid only during the effectivity of the COC, while the above conditions are satisfied, or upon

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<sup>20</sup> Rules and Regulations to Implement Republic Act No. 9136, Entitled “Electric Power Industry Reform Act of 2001.”

<sup>21</sup> Entitled, “A Resolution Promulgating the Rules for the Regulation of Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy.”

<sup>22</sup> Refers to the Certificate of Compliance issued by the ERC to generation facilities.

revocation by the ERC, whichever comes earlier.”

10. Moreover, **given the consent<sup>23</sup> of the customers, the Application does not contain a prayer for subsidy availment.** This is dependent on Rule 10 of DOE Circular No. DC2019-01-0001 regarding the formulation of a subsidy rationalization policy.<sup>24</sup>

Based on the foregoing, LUBELCO seeks to apply by analogy the rule on QTPs with regard to the instant *Application*. However, the Commission would like to emphasize that LUBELCO is neither acting as a QTP nor is it qualified to act as one. Likewise, LUBELCO’s *Application* did not include a prayer for the availment of UCME subsidy since the consumers in the concerned barangays where the project will be implemented have expressed their willingness to pay the proposed tariffs during the public consultations conducted by LUBELCO.

However, the Commission notes that in LUBELCO’s *Comment on the Petition in Intervention* of AIEC, it alleged that while no subsidy availment was included in its *Application*, it does not waive its right to apply for UCME subsidy. Instead, it would submit a separate filing once the Department of Energy (DOE) issues the new tariff and subsidy rationalization policy pursuant to Rule 10 of the DOE Department Circular No. DC2019-01-0001.<sup>25</sup>

1. **LUBELCO needs to further substantiate its Proposed Full Cost Recovery Rate (FCRR)**

As previously shown in the salient features of the project, the proposed cost for the project amounted to Ninety-Four Million Eight Hundred Ninety-Six Thousand Five Hundred Three Pesos (PhP94,896.503.00) to be financed through a loan from AIEC ILAW at an interest rate of 1.1% per annum for a loan term of thirteen (13) years.

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<sup>23</sup> Refers to the Barangay Resolutions for Talaotao, Bulacan, and Ambil, attached as Annex O, Annex P, and Annex Q of the Application.

<sup>24</sup> Entitled, “Prescribing the Omnibus Guidelines on Enhancing Off-Grid Power Development and Operation.

<sup>25</sup> *Id.*

In order to recover the cost of the project, LUBELCO proposed a monthly two-tiered rates for each connected customer based on the Full Cost Recovery Rate (FCRR), as shown in Table 1:

**Table 1. LUBELCO's Proposed Rates**

<b>Consumption</b>	<b>FCRR</b>
Up to 7kWh	PhP360.50
In excess of 7kWh	PhP26.5/kWh

Table 2 shows the affected households who will benefit from the Project:

**Table 2. Affected End-users of LUBELCO**

	<b>No. of Households</b>	<b>Hours of Electricity</b>
Island of Golo	675	4 hours
Island of Ambil	450	4 hours

As alleged by LUBELCO, the current monthly bill paid by its residents ranges from Four Hundred Fifty Pesos (PhP450.00) to One Thousand Fifty Pesos (PhP1,050.00). This amount is higher than its proposed FCRR of Three Hundred Sixty Pesos and Fifty Centavos (PhP360.50) per customer who consume up to 7 kWh of electricity.

Upon perusal of the document submitted by LUBELCO, the Commission notes that its proposed projects cost does not include distribution and transmission costs which constitute the proposed FCRR.

Under the DOE Department Circular No. DC2019-01-0001,<sup>26</sup> FCRR refers to the rate expressed in peso per kilowatt-hour, covering the full efficient costs of generating, distributing, and supplying electricity in unviable areas. True Cost Generation Rate (TCGR), on the other hand, refers to the full efficient cost of generating power in an area. The TCGR differs from the FCRR in such a way that the former covers only the cost of power generation, while the latter covers the cost of generation,

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<sup>26</sup> *Id.*

transmission, and distribution of electricity service in unviable area.

Based on the foregoing definition, the proposed rates of LUBELCO may be considered as TCGR and not FCRR. In view thereof, the Commission needs to further validate whether LUBELCO's cost includes the distribution and transmission costs, and other cost items, considering that its proposed cost is FCRR. It is worth noting that the instant case is the only microgrid project filed before the Commission using the mechanism of Full Cost Recovery Rate (FCRR) by a DU, hence, the Commission deems it proper to subject the same to further evaluation with respect to how the specific components of the proposed rates will affect the pricing to LUBELCO's customers.

## **2. LUBELCO's Proposed Rates are Higher than its Effective Rate as a Small Grid Distribution Utility**

The DOE Department Circular No. DC2019-01-0001,<sup>27</sup> defines a *Small Grid* as an interconnected high voltage or medium voltage Off-grid system.<sup>28</sup> Likewise, a *Small Grid* is described as a backbone system interconnecting High Voltage (HV) or Medium Voltage (MV) lines, substations and other related facilities not connected to the Grid in Luzon, Visayas and Mindanao. A *Small Grid* is composed of various generating plants, which may be provided by private generating companies, the National Power Corporation (NPC), or qualified Distribution Utilities (DUs), including electric cooperatives.

Pursuant to the foregoing, the operation of LUBELCO of its microgrid system in unviable areas in the Municipality of Looc, Occidental Mindoro is considered as a DU operating in a *Small Grid*.

As a *Small Grid* DU, the effective rate of LUBELCO includes the following rate components, as shown in Table 3:

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*, Rule 2.19.

<b>Rate Components</b>	<b>Effective Rate for March 2021 (PhP/kWh)</b>
Generation	5.2487
System Loss	0.5285
Distribution	2.714
Supply	2.5229
Metering	0.0794
Universal Charge	0.1561
Value Added Tax (VAT)	0.7176
<b>Effective Rate</b>	<b>11.9672</b>

Table 3 shows that the effective rate of LUBELCO amounts to PhP11.9672/kWh. Using this effective rate, the Commission computed the monthly electricity price to be paid by a resident who consumes 7kWh and arrived at the amount of Eighty-Three Pesos and Seventy-Seven Centavos (PhP83.77). The Commission compared this calculated amount with that of LUBELCO's proposed FCRR to determine the indicative rate impact to the electricity bill of LUBELCO's consumers, as shown in Table 4:

<b>Consumption</b>	<b>7 kWh</b>
LUBELCO's Proposed FCRR	PhP 360.50
Current Bill (Effective Rate)	PhP 83.7704
<b>Difference</b>	<b>PhP 276.7296</b>

Based on Table 4, upon implementation of LUBELCO's microgrid project, the monthly electricity price of a resident who consumes 7 kWh is expected to increase by Two Hundred Seventy-Six Pesos and Seventy-Three Centavos (PhP276.73). In return, however, LUBELCO alleged that residents in the project barangays will have a 24/7 access to electricity.

Further, the Commission looked into the generation rate component of the existing rate of LUBELCO. Notably, in *Small Grid Areas*, the generation rate component includes Subsidized Approved Generation Rate (SAGR),

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<sup>29</sup> Effective Retail Rate for March 2021 per LUBELCO's submitted Uniform Reportorial Requirements (URR)

TCGR, and the UCME. For LUBELCO, its subsidized rate in Lubang is shown in Table 5:

**Table 5. Subsidized Rate in Lubang**

<b>Lubang Diesel Power Plant (DPP)</b>	<b>Rate (PhP/kWh)</b>
TCGR <sup>30</sup>	17.6268
SAGR (Generation Rate Charge to LUBELCO's customers) <sup>31</sup>	5.6404
UCME Subsidy	11.9864

As shown in Table 5, the generation rate being charged to LUBELCO's customers is only the Subsidized Approved Generation Rate (SAGR) in the amount of PhP5.6404/kWh. On the other hand, the difference between the TCGR of PhP17.6268/kWh and the said SAGR is being charged against the UCME subsidy in the amount of PhP11.9864/kWh.

LUBELCO did not include a UCME subsidy in the instant *Application*. Consequently, a higher tariff will be charged against the consumers in the subject unviable areas if the microgrid project is approved. Nonetheless, LUBELCO allegedly sought the consent of its consumers for this higher rate through the public consultations it conducted relative to the implementation of the instant project.

The Commission notes that while the proposed project has its benefits, particularly in terms of improvement in the quality of life in the project barangays, the rate impact in implementing the microgrid projects is significantly high compared to the existing rate implemented in Lubang. In view of this, the Commission needs additional data and information to further assess the reasonableness of LUBELCO's proposed rates.

**3. LUBELCO has not yet secured other documents required for the commencement of its commercial operation.**

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<sup>30</sup> Actual Results of Operation of National Power Corporation (NPC) for CY 2019.

<sup>31</sup> Pursuant to the Commission's *Decision* dated 07 March 2011, under ERC Case No. 2006-020 RC entitled, "In the Matter of the Application for the Approval of a Socially Acceptable Generation Rate (SAGR) for Sixty (60) remaining NPC-SPUG Areas."



Relative to its prayer for provisional authority, the Commission notes that there are other required documents which have not yet been secured by LUBELCO in order for it to commence commercial operation. As of date, LUBELCO has not yet applied for its Certificate of Compliance (COC) before the Commission on the subject microgrid project. Likewise, LUBELCO has not yet secured its Certificate of Endorsement (COE) and Renewable Energy Service Contract (RESC) from the DOE. Other requirements pursuant to Republic Act No. 10531 National Electrification Administration Reform Act of 2013 and its implementing rules and regulations, DOE Department Circular DC2019-01-0001, among other relevant government rules and regulations, will also need to be complied with.

In view of the foregoing discussion, LUBELCO needs to further substantiate its proposed FCRR in order for the Commission to validate and fully assess the reasonableness of the subject proposed rates.

Relative thereto, the Commission shall need the following information and documents from LUBELCO:

1. Clarification on whether the proposed project cost includes distribution and transmission costs, considering that the proposed rate is FCRR;
2. COE and RESC from the DOE;
3. The Distribution Utility Development Plan (DDP), duly approved and endorsed by NEA, reflecting the plans and activities of LUBELCO relative to power generation, subject to the cross ownership and market share limitations and standards set forth in EPIRA and its IRR;
4. Supporting documents for the cost component of Operation and Maintenance (O&M) expense, such as, but not limited to the contract with the third party that will operate and maintain the microgrid project;
5. Timeline of activities prior to the Commercial Operation Date (COD) of the microgrid project;

6. Technical information or details of the hybrid power plants pertaining to the expected running hours and capacity factor for Solar with Energy Storage System (ESS) and Diesel Power Plants, and details on which power plant will be the primary generating unit
7. Consumer profiles in the area whether commercial or residential, and expected power consumption; and
8. Additional proof of the conducted public consultation in the area (*e.g.* Minutes of Meeting, presentation material used, signed waiver, *etc.*) in relation to the instant project, particularly on the willingness of the consumers to pay the proposed rate.

**WHEREFORE**, the foregoing premises considered, the prayer for the issuance of provisional authority contained in the *Application* dated 07 October 2020 filed by Lubang Electric Cooperative, Inc. (LUBELCO) on 10 March 2021 is hereby **DENIED**.

**RELATIVE THERETO**, LUBELCO is hereby **DIRECTED** to submit, within **thirty (30) days** from receipt of this *Order*, the following documents to support the final evaluation of the instant *Application*:

1. Clarification on whether the proposed project cost includes distribution and transmission costs considering that the proposed rate is a Full Cost Recovery Rate (FCRR);
2. Certificate of Endorsement (COE) and Renewable Energy Service Contract (RESC) from the Department of Energy (DOE);
3. The Distribution Utility Development Plan (DDP), duly approved and endorsed by NEA, reflecting the plans and activities of LUBELCO relative to power generation, subject to the cross ownership and market share limitations and standards set forth in EPIRA and its IRR;
4. Supporting documents for the cost component of Operation and Maintenance (O&M) expense, such as, but not limited to the contract with the third party that will operate and maintain the microgrid project;

5. Timeline of activities prior to the Commercial Operation Date (COD) of the microgrid project;
6. Technical information or details of the hybrid power plant pertaining to the expected running hours and capacity factor for Solar with Energy Storage System (ESS) and Diesel Power plants and details as to how the system will run (e.g. which power plant will be the primary generating unit, will the Solar plant directly supply during day time or charge the ESS only, etc.);
7. Consumer profiles in the area whether commercial or residential, and expected power consumption; and
8. Additional proof of the conducted public consultation in the area (e.g. Minutes of Meeting, presentation material used, signed waiver, etc.) in relation to the instant project, particularly on the willingness of the consumers to pay the proposed rate.

**SO ORDERED.**

Pasig City, 26 May 2021.



**AGNES YST DEVANADERA**  
*Chairperson and CEO*



**ALEXIS M. LUMBATAN**  
*Commissioner*



**CATHERINE P. MACEDA**  
*Commissioner*



**FLORESINDA G. BALDO-DIGAL**  
*Commissioner*



**MARKO ROMULO L. FUENTES**  
*Commissioner*

  
LS: VMA/LSP/MCCG

  
ROS: GCM/AMBL/AJMO/LLG

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**ORDER/26 MAY 2021**  
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