

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

**IN THE MATTER OF THE  
APPLICATION FOR:**

**(1) CONFIRMATION OF  
TRUE-UP CALCULATION OF  
THE ACTUAL WEIGHTED  
AVERAGE TARIFF IN  
RELATION TO THE  
APPROVED AVERAGE RATE  
IN THE PREVIOUS  
REGULATORY RESET  
UTILIZED AND  
IMPLEMENTED DURING THE  
LAPSED REGULATORY  
PERIOD; AND  
(2) APPROVAL OF RECOVERY  
SCHEME FOR THE LAPSED  
REGULATORY YEARS,  
WITH MOTION FOR  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2022-077 RC**

**MACTAN ELECTRIC  
COMPANY, INC. (MECO),**  
*Applicant.*

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**Promulgated:**  
November 14, 2022

**ORDER**

On 24 October 2022, Mactan Electric Company, Inc. (MECO) filed an *Application* dated 19 July 2022, seeking the Commission's (1) confirmation of its true-up calculations of the Actual Weighted Average Tariff (AWAT) in relation to the approved average rate in the previous regulatory reset utilized and implemented during the lapsed regulatory period, and (2) approval of the recovery scheme for the lapsed regulatory years, with motion for provisional authority.

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

1. MECO is a private distribution utility with legislative franchise<sup>1</sup> and certificate of public convenience<sup>2</sup> to construct, install, establish, operate and maintain a distribution system for the conveyance of electric power to the end users in the City of Lapu-Lapu and Municipality of Cordova. For this application, MECO is represented by its General Manager and Senior Vice President, Engr. Gilbert A. Pagobo as shown in the attached *Secretary's Certificate*.
2. Applicant may be served notices and other official documents at its principal office located at MECO Building, Sangi Road, Pajo, Lapu-Lapu and through its counsel, Rubio-Aguinaldo & Attorneys Law Firm, with office address at 802 Prime Land Tower, Market Street, Ayala Alabang, 1780 Muntinlupa City. Official documents may also be transmitted electronically at applicant's registered e-mail addresses: [atty.mish@gmail.com](mailto:atty.mish@gmail.com), [julito.gultiano@mecomactan.com](mailto:julito.gultiano@mecomactan.com), [nitoytolentino@mecomactan.com](mailto:nitoytolentino@mecomactan.com)
3. Under Resolution No. 24, Series of 2007, entitled, "*Resolution Adopting a New Grouping for Privately Owned Distribution [Utilities] Entering Performance Based Regulation (PBR)*" dated October 24, 2007, MECO was grouped under the Second Entry Group (Group B). PBR is the rate-setting methodology adopted by the Commission to fix the distribution wheeling rates of privately-owned DUs.
4. As part of Second Entry Group, MECO has already completed its Second Regulatory Reset Process for the Second Regulatory Period (2RP) which covers the period from April 1, 2009 to March 31, 2013.
5. A regulatory reset process, under Annex A of Resolution No. 10, Series of 2021, entitled, "*Resolution Modifying the Rules for Setting the Distribution Wheeling Rates (RDWR) for Privately-Owned Distribution Utilities Entering Performance-Based Regulation (PBR)*" dated December 2, 2021 or the Revised RDWR, refers to the actions prior to the start of any Regulatory Period, through which the price control arrangements are established that will apply to a Regulated Entity with regard to the provision of Regulated Distribution Services for the next Regulatory Period. The Revised RDWR also provides for MECO's 3RP which covers the period April 1, 2013 to March 31, 2023, the lapsed period.
6. As a price control principle, the Revised RDWR requires that the maximum distribution wheeling rates that a private DU may charge during each Regulatory Year for its distribution system will be set at a Maximum Annual Price cap. Therefore, the maximum average price during the regulatory year must not exceed the Maximum Annual Price cap.

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<sup>1</sup> Pursuant to Republic Act No. 10890 dated July 17, 2016.

<sup>2</sup> Pursuant to the Decision dated April 23, 2018 in ERC Case No. 2016-045 MC.

7. In ERC Case No. 2011-180 RC, the Commission approved a maximum average price or MAP<sub>2013</sub> of PhP1.1851/kWh for regulatory year 2013 which MECO continues to implement to date. The same ERC-approved Distribution, Supply, and Metering (DSM) rates were also applied, adopted, and continuously being implemented by MECO.
8. Details of MECO's historical DSM Revenue, Energy (KWH) Sales, and Regulated Business Revenue (RBR) from April 2012 are shown below:

Regulatory Years	(a) Historical DSM Revenue (Lapsed Period: Apr 2012 to June 2022), in Php	(b) Historical KWH Sales (Lapsed Period: Apr 2012 to June 2022), in KWH	Regulated Business Revenue (RBR), in Php	(g) 50% of RBR, In PhP
2013	364,167,841.45	341,667,049.11	20,434,389.24	10,217,194.62
2014	378,037,187.17	357,229,312.47	5,051,239.15	2,525,619.58
2015	418,705,944.49	385,789,869.00	24,705,459.97	12,352,729.99
2016	490,485,006.19	430,366,511.00	6,016,591.95	3,008,295.98
2017	529,803,386.32	458,961,902.00	11,709,558.12	5,854,779.06
2018	532,082,981.67	463,234,533.00	8,449,342.91	4,224,671.46
2019	573,353,663.82	506,254,746.00	8,309,525.34	4,154,762.67
2020	650,552,301.19	571,397,788.50	22,330,807.78	11,165,403.89
2021	567,220,217.28	469,351,464.67	20,441,370.19	10,220,685.10
2022	550,512,581.19	457,553,054.79	3,290,203.65	1,645,101.83
2023	155,181,560.14	132,335,351.00	5,398,899.04	2,699,449.52
<b>TOTAL</b>	<b>5,210,102,670.91</b>	<b>4,574,141,581.54</b>	<b>136,137,387.34</b>	<b>68,068,693.67</b>

9. To determine any resulting over or under recovery from the previous Regulatory Years or Lapsed Period, MECO's historical DSM revenue (a) was divided by its total historical kWh sales (b). The resulting actual average rate at PhP/kWh shows the Actual Weighted Average Tariff (AWAT) (c) for the Lapsed Period equivalent to PhP1.1390 per kWh. *Formula: (a)/(b) = (c)*
10. Based on the calculation of the AWAT of PhP1.1390/kWh (c), as against the ERC-approved MAP of PhP1.1851/kWh (d), the result yielded a variance of PhP0.0461 per kWh (e) lower than the MAP, which is the approved price cap. *Formula: (d)-(c) = (e)*
11. Since the AWAT is below the price cap, there is a resulting under recovery amounting to PhP210,867,926.91 (f). This amount was computed by multiplying the KWH sales (b) with the variance (e). *Formula: (b)\*(e) = (f)*
12. Furthermore, MECO derived the rate on RBR from the 50% RBR requirement of the Revised RDWR *vis-a-vis* the average energy sales for 5 years thereby generating a *Php/kWh* rate of PhP0.0181 per kWh which will be deducted from the tariff of each customer class.

13. The approved DSM charges per customer class implemented by MECO pursuant to the *Decision dated April 2, 2012* in ERC Case No. 2011-180 RC are as follows:

Customer Class	Description	Approved DSM Rate 2011-180 RC
Schedule 4	230V Residential	1.4408
Schedule 3	230V Non-Residential	1.1914
Schedule 2	13.8kV with <1MW demand	0.9962
Schedule 1	13.8kV with >1MW demand	0.8855
Total		1.1851

14. MECO proposes the following computation and recovery scheme pursuant to Articles IV and VII of the Revised RDWR which will be implemented over a period of five (5) years. The recovery rate is based on the proportional share of each customer class and will have the following rate impact, *viz*:

Customer Class	Recovery Rate on DSM	RBR (PhP/kwh)	Total Recovery Rate = Recovery Rate on DSM - Rate on RBR
Schedule 4	0.0684	0.0181	0.0503
Schedule 3	0.0556		0.0375
Schedule 2	0.0488		0.0307
Schedule 1	0.0385		0.0204

15. Therefore, the proposed DSM charges per customer class are as follows:

Customer Class	DSM Rate	Recovery Rate	Final Rate
Schedule 4	1.4408	0.0503	1.4911
Schedule 3	1.1914	0.0375	1.2289
Schedule 2	0.9962	0.0307	1.0269
Schedule 1	0.8855	0.0204	0.9059

MOTION FOR PROVISIONAL AUTHORITY

16. Finally, a provisional authority to implement the proposed recovery scheme pending final approval of the Commission will give meaning to the purpose and objective of the true-up mechanism and allow full recovery of investment on regulated assets at an appropriate rate of return which is allowed by R.A. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA). The current economic crisis caused a tremendous shift in global prices – fluctuating fuel prices and surge in the cost of goods, commodities, and raw materials. The immediate recovery will augment MECO’s financial constraints. Otherwise, the failure to recover the same at this point in time, or a much-prolonged recovery, may translate into losses that may in turn affect the operational efficiency of the DU.
17. In support of this Application, MECO submits the electronic file of the following supporting documents:

Annex	Description
A	Breakdown of the Distribution, Supply and Metering Revenues and Actual Energy Sales (kWh) for the covered period (in excel format);

Annex	Description
B	Detailed Computation of the Under Recoveries or the AWAT computation (in <i>excel</i> format);
C	Detailed Computation of the Proposed Refund Rate per Customer Class (in <i>excel</i> format);
D	Detailed Computation of the Proposed Refund Period (forecast energy sales) (in <i>excel</i> format);
E	Summary of the approved Average rate by Rate Schedule or Customer Class with Rate Impact Simulation (in <i>excel</i> format);
F	Document to Support Related Business Revenue
G	Judicial Affidavit of Engr. Juanito O. Tolentino, Jr., Head of MECO's Engineering Department (in <i>.docx</i> , <i>.pdf</i> , and paper copy) in support of the <i>Motion for Provisional Authority</i>

These documents may be accessed through this link:  
<https://drive.google.com/drive/folders/1i13KPe04LHk9mGVIXKPAIBQhZG25aHb6?usp=sharing>

RELIEF

In view of the foregoing, applicant MACTAN ELECTRIC COMPANY INC. (MECO) prays that the Honorable Commission:

- (1) CONFIRM MECO's proposed mechanism for the 3<sup>rd</sup> Regulatory Period of the PBR or the lapsed period consistent with the Revised RWDR;
- (2) CONFIRM MECO's computation of resulting under recovery of Two Hundred Ten Million Eight Hundred Sixty-Seven Thousand Nine Hundred Twenty-Six and 91/100 (PhP210,867,926.91);
- (3) APPROVE MECO's proposed additional rate per customer class under a 5-year period recovery scheme, *viz*:

Customer Class	DSM Rate	Recovery Rate	Final Rate
Schedule 4	1.4408	0.0503	1.4911
Schedule 3	1.1914	0.0375	1.2289
Schedule 2	0.9962	0.0307	1.0269
Schedule 1	0.8855	0.0204	0.9059

- (4) GRANT MECO's MOTION AND ISSUE provisional authority to implement the recovery scheme pending final resolution of the instant application; and
- (5) DECLARE all issues in connection with the lapsed period, resolved and terminated;
- (6) GRANT MECO other equitable relief.

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 platforms for the conduct

thereof, pursuant to Resolution No. 09, Series of 2020<sup>3</sup> and Resolution No. 01, Series of 2021<sup>4</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>16 December 2022</b> <b>(Friday)</b> at nine o'clock in the morning (9:00 A.M.)	<b>Microsoft Teams or Zoom Application</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>20 December 2022</b> <b>(Tuesday)</b> at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and presentation of evidence

Accordingly, MECO is hereby directed to host the virtual hearing at **MECO's Principal Office located at MECO Building, Sangi Road, Pajo, Lapu-Lapu City, Cebu**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, MECO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

**RELATIVE THERETO**, MECO is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last 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 MECO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within MECO's franchise area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;

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<sup>3</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

<sup>4</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 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 hearings; and
- 5) Furnish with copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

**Within five (5) calendar days** prior to the date of the initial virtual hearing, MECO 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 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 affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 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 MECO to inform the consumers within its franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearings 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, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

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

MECO and all interested parties are also required to submit to the Commission 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 initial 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.

MECO 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 MECO 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.



MECO 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.

MECO 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. MECO 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.

MECO 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 mode of service.

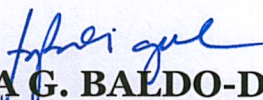
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Finally, MECO, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), with their respective e-mail addresses upon receipt of 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, 14 November 2022.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**FLORESINDA G. BALDO-DIGAL**  
*Oversight Commissioner*  
*for the Legal Service* D

**Copy Furnished:**

1. Mactan Electric Company, Inc. (MECO)  
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5. Senate Committee on Energy  
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6. House Committee on Energy  
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[committee.energy@house.gov.ph](mailto:committee.energy@house.gov.ph)
7. Office of the Governor  
Province of Cebu
8. Office of the LGU Legislative Body  
Province of Cebu
9. Office of the City Mayor  
City of Lapu-Lapu, Cebu
10. Office of the LGU Legislative Body  
City of Lapu-Lapu, Cebu
11. Office of the Municipal Mayor  
Cordova, Cebu
12. Office of the LGU Legislative Body  
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