

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

**IN THE MATTER OF THE  
APPLICATION FOR (1)  
CONFIRMATION OF  
AUTOMATIC COST  
ADJUSTMENT AND TRUE UP  
MECHANISM OF  
OVER/UNDER RECOVERIES  
OF GENERATION RATE,  
TRANSMISSION RATE,  
SYSTEM LOSS RATE,  
LIFELINE SUBSIDY, SENIOR  
CITIZEN DISCOUNT  
SUBSIDY AND LOCAL  
FRANCHISE AND BUSINESS  
TAXES FROM JANUARY 2021  
TO DECEMBER 2023 AND (2)  
APPROVAL OF PROPOSED  
REFUND / RECOVERY  
SCHEME WITH PRAYER FOR  
PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2024-022 CF**

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

X-----X

**Promulgated:**  
December 26, 2024

**ORDER**

On 13 May 2024, Mactan Electric Company, Inc. (MECO) filed an *Application* dated 15 March 2024, for the confirmation of automatic cost adjustment and true-up mechanism of over/under recoveries of generation rate, transmission rate, system loss rate, lifeline subsidy, senior citizen discount subsidy and local franchise and business taxes from January 2021 to December 2023 and approval of proposed refund/recovery scheme with prayer for provisional authority.

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

1. MECO is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at MECO Building, Sangi Road, Lapu-Lapu City, Cebu. It may be served with notices and other processes through the undersigned counsel.
2. MECO has legislative franchise and Certificate of Public Convenience and Necessity as a distribution utility to operate and maintain a distribution system and provide distribution services in the City of Lapu-Lapu and in the Municipality of Cordova.
3. Republic Act No. 9136 or the Electric Power Industry Reform Act (EPIRA) allows distribution utilities to recover their cost to enable them to operate viably and, the Energy Regulatory Commission (*ERC or Commission*) adopted and promulgated rules to establish a procedure for the automatic recovery or refund of pass-through costs, and the confirmation process that would govern the automatic cost adjustment and true-up mechanisms subject to the approval of the Commission;
4. This Application seeks to confirm MECO's calculations of Generation Rate Over/Under Recovery (**GOUR**), Transmission Rate Over/Under Recovery (**TOUR**), System Loss Rate Over/Under Recovery (**SLOUR**), Lifeline Subsidy Over/Under Recovery (**LSOUR**), Senior Citizen Discount Subsidy Over/Under Recovery (**SrDSOUR**), and Local Franchise Tax Over/Under Recovery (**LFTOUR**) and Business Tax Over/Under Recovery (**BTOUR**) from January 2021 to December 2023, pursuant to the following ERC resolutions;
  - a. **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," which provides the formulae for the calculation of over or under recovery on the Generation Rate, Transmission Rate, System Loss Rate, and Lifeline Subsidy Rate;
  - b. **Resolution No. 21, Series of 2010**, entitled, "A Resolution Amending Section 4 of Article 4 and Section 1 of Article 5 of the Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities," which provides the amended formula for the determination of actual system loss;
  - c. **Resolution No. 23, Series of 2010**, 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 & 5 of Republic Act No. 9994," which provides the formulae for the calculation

of the over or under recovery in the implementation of the Senior Citizen Discounts and Subsidy Rates;

**d. Resolution No. 02, Series of 2021**, entitled, “A Resolution on the Recovery of Pass-Through Taxes (Real Property, Local Franchise, and Business Taxes) of the Distribution Utilities,” which provides for a systematic recovery of pass-through taxes; and

**e. Resolution No. 14, Series of 2022**, entitled, “A Resolution Adopting the Revised Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities,” which consolidated, updated, and rationalized the requirements for automatic cost adjustment mechanisms and confirmation process.

5. The calculated over/under recoveries of MECO from January 2021 to December 2023 based on the formulae provided in the said ERC Resolutions are indicated in the table below:

	ALLOWABLE REVENUE / DISCOUNT	ACTUAL REVENUE/ SUBSIDY	DIFF (OVER)/ UNDER
<b>Generation</b>	<b>9,441,628,767.47</b>	<b>9,364,162,882.34</b>	<b>77,465,885.13</b>
2021	2,380,006,872.67	2,343,087,331.62	36,919,541.05
2022	3,445,750,403.55	3,342,143,790.17	103,606,613.38
2023	3,615,871,491.25	3,678,931,760.55	(63,060,269.30)
<b>Transmission</b>	<b>1,121,227,714.65</b>	<b>1,115,513,496.19</b>	<b>5,714,218.46</b>
2021	334,697,199.98	340,980,498.11	(6,283,298.13)
2022	366,719,165.36	368,555,569.19	(1,836,403.83)
2023	419,811,349.31	405,977,428.89	13,833,920.42
<b>System Loss</b>	<b>861,378,111.56</b>	<b>774,261,679.42</b>	<b>87,116,432.14</b>
2021	222,139,909.35	188,909,861.28	33,230,048.07
2022	321,071,929.86	270,571,941.51	50,499,988.35
2023	318,166,272.35	314,779,876.63	3,386,395.72
<b>Lifeline</b>	<b>29,869,564.84</b>	<b>47,634,814.07</b>	<b>(17,765,249.23)</b>
2021	8,486,854.68	13,249,413.06	(4,762,558.38)
2022	12,976,613.93	24,372,542.49	(11,395,928.56)
2023	8,406,096.23	10,012,858.52	(1,606,762.29)
<b>Senior Citizen</b>	<b>69,277.63</b>	<b>0.00</b>	<b>69,277.63</b>
2021	18,978.89	0.00	18,978.89
2022	22,004.83	0.00	22,004.83
2023	28,293.91	0.00	28,293.91
<b>Local Franchise Tax</b>	<b>18,338,784.40</b>	<b>15,097,498.12</b>	<b>3,241,286.28</b>
2021	5,612,979.98	4,706,467.66	906,512.32
Lapu-lapu City	5,355,251.76	4,407,857.51	947,394.25
Mun. of Cordova	257,728.22	298,610.15	(40,881.93)
2022	5,831,721.20	4,753,325.21	1,078,395.99

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Lapu-lapu City	5,525,302.12	4,494,341.00	1,030,961.12
Mun. of Cordova	306,419.08	258,984.21	47,434.87
2023	6,894,083.22	5,637,705.25	1,256,377.97
Lapu-lapu City	6,630,362.56	5,329,037.55	1,301,325.01
Mun. of Cordova	263,720.66	308,667.70	(44,947.04)
<b>Business Tax</b>	<b>1,262,533.86</b>	<b>0.00</b>	<b>1,262,533.86</b>
2021	384,025.70	0.00	384,025.70
Lapu-lapu City	384,025.70	0.00	384,025.70
Mun. of Cordova	0.00	0.00	0.00
2022	409,495.94	0.00	409,495.94
Lapu-lapu City	409,495.94	0.00	409,495.94
Mun. of Cordova	0.00	0.00	0.00
2023	469,012.22	0.00	469,012.22
Lapu-lapu City	469,012.22	0.00	469,012.22
Mun. of Cordova	0.00	0.00	0.00
<b>Total</b>	<b>11,473,774,754.41</b>	<b>11,316,670,370.14</b>	<b>157,104,384.27</b>

**Table 1.0** MECO's Summary of (Over)/Under Recoveries

6. The reasons for (over)/under recovery are as follows:

Component	Variance	O/U	Explanation
<b>Generation</b>	77,465,885.13	Under	<p>Generation under recovery is the result of the following factors:</p> <ul style="list-style-type: none"> <li>•Exclusion of SPC and TPI Costs and billed energy in the monthly implemented rate calculation which is now included in the allowable cost in true-up calculation using NPC rate;</li> <li>•Timing difference between the DU's Power Bills from suppliers and billing to consumers. There is one-month lag in the calculation of the relevant rate for a particular billing period. Most of the time during these years, the implemented rate is lower compared to the rate calculated at the end of the billing period due to increasing generation costs from power suppliers brought by increasing fuel cost; and</li> <li>•Difference between the Preliminary and Final Statements/Bill from IEMOP. Preliminary Statements/Bills were used in the calculation of monthly implemented GR when Final Statements were not yet available. In this True-up, Final Statements were used in the calculation of the allowable cost of its relevant billing period.</li> </ul>
<b>Transmission</b>	5,714,218.46	Under	Under recovery is the result of the one-month lag in the calculation of the relevant rate for a particular billing period.

<b>System Loss</b>	87,116,432.14	Under	Under recovery is the effect of the calculation in the Generation and Transmission Over/Under Recovery. Also, in monthly implemented rate calculation, same KWH was used as denominator in the calculation of the AGR and ATR.
<b>Lifeline Subsidy</b>	(17,765,249.23)	(Over)	Over recovery is the result of difference between the actual discounts given to lifeliners and the actual subsidy collected.
<b>Senior Citizen Discount</b>	69,277.63	Under	Under recovery is due to the unrecovered discounts given to the qualified Senior Citizens.
<b>Local Franchise Tax</b> <i>Lapu-lapu</i> <i>Cordova</i>	3,279,680.38 (38,394.10)	Under (Over)	Under recovery is the result of the timing difference between the cost calculated by each LGU and the billing to consumers.
<b>Business Tax</b> <i>Lapu-lapu</i> <i>Cordova</i>	1,262,533.86 0.00	Under	Under recovery is due to the unrecovered business tax paid to LGU.

**Table 2.0** Reasons for (Over)/Under Recovery

7. Subject to the correctness of the above computation, MECO proposed the following refund/recovery scheme:

Component	(Over)/Under	Rate	Period
<b>GOUR</b>	77,465,885.13	0.0573	36 mos.
<b>TOUR</b>	5,714,218.46		36 mos.
• Schedule 1		2.1722	
• Schedule 2		1.5642	
• Schedule 3		0.0027	
• Schedule 4		0.0026	
<b>SLOUR</b>	87,116,432.14		36 mos.
• Schedule 1		0.05791	
• Schedule 2		0.05076	
• Schedule 3		0.08122	
• Schedule 4		0.04781	
<b>LSOUR</b>	(17,765,249.23)	(0.0284)	12 mos.
<b>SrDSOUR</b>	69,277.63	0.0013	1 mo.
<b>LFTOUR</b>			
Lapu-lapu City	3,279,680.38	0.0022	36 mos.
Mun. of Cordova	(38,394.10)	(0.0124)	1 mo.
<b>BTOUR</b>			
Lapu-lapu City	1,262,533.86	0.0008	36 mos.
Mun. of Cordova	0.00		

**Table 3.0** MECO's Calculation of (Refund)/Recovery Rate

8. MECO further informs the Commission that the recovery for real property taxes is deferred subject to the resolution of the dispute in CTA Case No. AC-258, entitled, "*Mactan Electric Company, Inc. vs. The Municipality of Cordova, the Assessor of Cordova, the Province of Cebu, and the Provincial Treasurer of Cebu,*" pending before the Court of Tax Appeals.

9. Finally, a provisional authority to implement the proposed refund/recovery scheme pending final approval of the Commission will give meaning to the policy of true-up mechanism. It is incumbent upon MECO to refund and to collect the over and under recoveries as valid pass-through cost.
10. In support of this Application and the prayer for provisional authority, MECO submits the **Judicial Affidavit of Engr. Juanito O. Tolentino, Jr.**, the Head of the Utility Economics Department.

**RELIEF**

MECO prays that the Honorable Commission:

- (1) APPROVE this Application and CONFIRM MECO's calculations of (over)/under recoveries; and
- (2) APPROVE MECO's proposed refund/recovery schedule and GRANT provisional authority to implement its proposed refund/recovery scheme pending the evaluation and final resolution of the instant application.

MECO prays for other equitable relief.

Finding the said *Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for hearing for determination of compliance with the jurisdictional requirements, expository presentation, and Pre-trial Conference **on 28 March 2025 (Friday) at two o'clock in the afternoon (02:00 P.M.)** through **MS Teams Application** as the online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>1</sup> and Resolution No. 01, Series of 2021<sup>2</sup> (ERC Revised Rules of Practice and Procedure).

Accordingly, MECO is hereby directed to host the virtual hearing at **MECO's principal office located at MECO Building, Sangi Road, Lapu-Lapu City, Cebu**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, MECO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

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

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

<sup>2</sup> A Resolution Adopting the Revised Rules of Practices and Procedures of the Energy Regulatory Commission.

- 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, at least 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 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 virtual 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, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

**Within five (5) calendar days** before the date of the virtual hearing, MECO must submit to the Commission via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph), and 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 the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of an 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 the 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 body 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 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, 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 Offices of the Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

Applicant MECO and all interested parties are also required to submit via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), and 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, 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.

Applicant 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.

Applicant 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*. Relevant information and pertinent details substantiating the reasons and justifications for the *Application* must be cited in support thereof.

Applicant MECO is hereby directed to file a copy of its Expository Presentation via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), and 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.


Applicant MECO is further directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **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.

Finally, MECO, including its authorized representatives and witnesses, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), 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, 26 December 2024.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**KRISHA MARIE T. BUELA**  
*Director III, Legal Service*

  
LS: CMTc

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**Copy Furnished:**

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4. Commission on Audit (COA)  
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5. Senate Committee on Energy  
GSIS Building, Roxas Boulevard, Pasay City  
Email address: [senateenergycommittee@gmail.com](mailto:senateenergycommittee@gmail.com)
6. House Committee on Energy  
Batasan Hills, Quezon City  
Email address: [committee.energy@house.gov.ph](mailto:committee.energy@house.gov.ph)
7. Regulatory Operations Service (ROS)  
Energy Regulatory Commission  
14<sup>th</sup> Floor, Exquadra Tower, 1 Jade Drive,  
Ortigas Center San Antonio, Pasig City
8. Office of the Governor  
Province of Cebu
9. Office of the Local Government Unit (LGU) Legislative Body  
Province of Cebu
10. Office of the Municipal Mayor  
Lapu-Lapu City, Cebu
11. Office of the Local Government Unit (LGU) Legislative  
Lapu-Lapu City, Cebu
12. Office of the Municipal Mayor  
Municipality of Cordova, Cebu
13. Office of the Local Government Unit (LGU) Legislative  
Municipality of Cordova, Cebu