

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.

Promulgated:
December 26, 2024

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that 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

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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
Generation	9,441,628,767.47	9,364,162,882.34	77,465,885.13
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)
Transmission	1,121,227,714.65	1,115,513,496.19	5,714,218.46
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
System Loss	861,378,111.56	774,261,679.42	87,116,432.14
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
Lifeline	29,869,564.84	47,634,814.07	(17,765,249.23)
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)
Senior Citizen	69,277.63	0.00	69,277.63
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
Local Franchise Tax	18,338,784.40	15,097,498.12	3,241,286.28
2021	5,612,979.98	4,706,467.66	906,512.32

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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
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)
Business Tax	1,262,533.86	0.00	1,262,533.86
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
Total	11,473,774,754.41	11,316,670,370.14	157,104,384.27

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
Generation	77,465,885.13	Under	<p>Generation under recovery is the result of the following factors:</p> <ul style="list-style-type: none"> •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; •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 •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.

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Transmission	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.
System Loss	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.
Lifeline Subsidy	(17,765,249.23)	(Over)	Over recovery is the result of difference between the actual discounts given to lifeliners and the actual subsidy collected.
Senior Citizen Discount	69,277.63	Under	Under recovery is due to the unrecovered discounts given to the qualified Senior Citizens.
Local Franchise Tax <i>Lapu-lapu 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.
Business Tax <i>Lapu-lapu 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
GOUR	77,465,885.13	0.0573	36 mos.
TOUR	5,714,218.46		36 mos.
• Schedule 1		2.1722	
• Schedule 2		1.5642	
• Schedule 3		0.0027	
• Schedule 4		0.0026	
SLOUR	87,116,432.14		36 mos.
• Schedule 1		0.05791	
• Schedule 2		0.05076	
• Schedule 3		0.08122	
• Schedule 4		0.04781	
LSOUR	(17,765,249.23)	(0.0284)	12 mos.
SrDSOUR	69,277.63	0.0013	1 mo.
LFTOUR			
Lapu-lapu City	3,279,680.38	0.0022	36 mos.
Mun. of Cordova	(38,394.10)	(0.0124)	1 mo.
BTOUR			
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.

The Commission hereby sets the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence **on 28 March 2025 (Friday) at two o’clock in the afternoon (02:00 P.M.), via MS Teams Application** as the online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021² (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.

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.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at docket@erc.ph, and 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.

Moreover, any persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at docket@erc.ph, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **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.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through legal.virtualhearings@erc.ph, their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Chairperson and CEO **MONALISA C. DIMALANTA**, and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 26th day of December 2024 in Pasig City.

FOR AND BY AUTHORITY OF
THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service