

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
CONFIRMATION AND
APPROVAL OF
CALCULATIONS OF OVER OR
UNDER RECOVERIES IN THE
IMPLEMENTATION OF
AUTOMATIC COST
ADJUSTMENTS AND TRUE-
UP MECHANISMS FOR THE
PERIOD OF YEARS 2020 TO
2022, PURSUANT TO ERC
RESOLUTION NO. 16, SERIES
OF 2009 AS AMENDED BY
RESOLUTION NO. 21, SERIES
OF 2010, RESOLUTION 23,
SERIES OF 2010, and
RESOLUTION NO. 02, SERIES
OF 2021**

ERC CASE NO. 2023-040 CF

**PENINSULA ELECTRIC
COOPERATIVE, INC.
(PENELCO),**

Applicant.

Promulgated:
October 02, 2023

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 06 July 2023, Peninsula Electric Cooperative, Inc. (PENELCO) filed an *Application* dated 12 May 2023, seeking the Commission's approval of its calculations of over or under recoveries in the implementation of automatic cost adjustments and true-up mechanisms for the period of years 2020 to 2022, pursuant to the Commission's Resolution No. 16, Series of 2009,¹ as amended by

¹ A Resolution Adopting the Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities.

Resolution No. 21, Series of 2010,² Resolution 23, Series of 2010,³ and Resolution No. 02, Series of 2021.⁴

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

THE APPLICANT

1. PENELCO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at the Roman Super Highway, Tuyó, Balanga City, Bataan;
2. It holds an exclusive franchise from the National Electrification Commission to operate an electric light and power distribution service in the city of Balanga and all the municipalities in the province of Bataan, namely: Abucay, Bagac, Dinalupihan, Hermosa, Limay, Mariveles, Morong, Orani, Orion, Pilar and Samal.

LEGAL BASES FOR THE AMENDED APPLICATION

3. ERC Resolution No. 16, Series of 2009 as amended by Resolution No. 21, Series of 2010 establishes the 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 approved by the Honorable Commission, with the objective of ensuring appropriate recovery of the pass through costs in an efficient manner and to put in place a fair and transparent process for the confirmation of the automatic cost adjustments implemented by Distribution Utilities and the true-up of other pass-through charges, involving Generation Rate, Transmission Rate, System Loss Rate and Lifeline Rate Recovery, as the case may be;
4. On the other hand, ERC Resolution 23, Series of 2010 adopts the rules implementing the discounts to qualified senior citizen end-users and subsidy from subsidizing end-users on electricity consumption;
5. Further, ERC Resolution No. 02, Series of 2021, provides for the recovery of all just and reasonable costs pertaining to current taxes (real property, local franchise, and business tax) that are levied by local government units within the

² 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.

³ 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 Section 4 & 5 of Republic Act No. 9994.

⁴ A Resolution on the Recovery of Pass-Through Taxes (Real Property, Local Franchise and Business Tax) of the Distribution Utilities.

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distribution utilities' franchise area, subject to the post-validation and confirmation process mechanism of the Commission. However, for the period covered by the instant application, PENELCO shall not be implementing tax recoveries.

6. Furthermore, the Honorable Commission requires the distribution utilities to file their respective consolidated applications pursuant to the said Resolutions once every three (3) years.
7. Hence, the filing of the instant *amended* application, covering the period of January 2020 to December 2022.

OVER OR UNDER-RECOVERIES OF ALLOWABLE COSTS

8. Applying the formulae provided under Resolution No. 16, Series of 2009 as amended by Resolution No. 21, Series of 2010, and Resolution No. 23, Series of 2010, PENELCO made calculations of the over-recoveries charged or under-recoveries incurred against its customers, in the implementation of certain automatic cost adjustments and true-up mechanisms, covering the period of January 2020 to December 2022;

	Pass Through Cost (Php)	Actual Revenue (PhP)	(Over)/Under Recovery (Php)
Generation Rate (GR)	11,538,928,262.14	11,314,216,864.89	224,711,397.25
Transmission Rate (TR)	1,749,429,912.83	1,774,173,795.15	(24,743,882.32)
System Loss Rate (SLR)	<u>941,806,726.38</u>	1,025,948,109.81	<u>(84,141,383.43)</u>
	Discount (Php)	Subsidy (PhP)	
Lifeline Rate (LR)	79,060,606.98	84,695,750.21	(5,635,143.23)
Senior Citizen Discount	39,050.29	64,324.93	(25,274.64)
Net Results			<u>110,165,713.63</u>

9. The results of the calculations are presented hereunder, as follows:

SUPPORTING DATA AND DOCUMENTS

10. In support of the foregoing calculations, PENELCO is submitting the following data and documents covering the period of January 2020 to December 2022, attached hereto and made integral parts hereof, as follows:

FOLDER NO.	ANNEX MARKINGS	DESCRIPTION OF THE DOCUMENTS
	Annex A	Supplier and Transmission Data Sheet Per Year

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Folder 1	Annex B	Statistical Data Sheet Per Year
	Annex C	<i>Amended</i> URR Addendum/DSL Data
	Annex D	Actual Implemented Rates Sheet Per Year
	Annex E	Lifeline Discount Sheet Per Year
	Annex F	Senior Citizen Discount Sheet Per Year
	Annex G	<i>Amended</i> Summary of Over/Under-Recoveries Computation
	Annex H	<i>Amended</i> Proposed Refund/Collect Scheme
Folder 2	SUPPLIER AND TRANSMISSION DATA	
	Annex I	Power Bills from Suppliers
Folder 3	STATISTICAL DATA	
	Annex J	Summary of Pilferage Cost Recoveries
	Annex K	Report on the Implemented Orders/Decisions
	Annex L	MFSR – Sections B and E
	Annex M	Demand (kW) Sales Summary Report
Folder 4	ACTUAL IMPLEMENTED RATES DATA	
	Annex N	Consumer Bills per Customer Class (Non-Lifeline)
	Annex O	Consumer Bills per Lifeline Bracket (Lifeline)
	Annex P	Senior Citizen Consumer Bills
Folder 5	OTHER DOCUMENTS	
	Annex Q	Submitted Monthly URR per Reso. 17, Series of 2009
	Annex R	Submitted Monthly URR Addendum
	Annex S	Single Line Diagram
	Annex T	Power Supply Contracts with Generation Companies
	Annex U	Computations on how the implemented pass-through taxes were derived

11. Further, in compliance with the pre-filing requirements under the ERC Revised Rules of Practice and Procedure, herein applicant is submitting the following documents to form integral parts hereof, as follows:

ANNEX MARKINGS	DESCRIPTION OF THE DOCUMENTS
Annex V series	Proof of furnishing copies of the <i>Amended</i> Application to the Offices of the Mayor and Sangguniang Panlungsod of Balanga City and Governor and Sangguniang Panlalawigan of Bataan

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Annex W series	Proof of publication of the <u>Amended</u> Application in a newspaper of general within PENELCO's franchise area or where it principally operates.
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12. Considering all foregoing, it is respectfully prayed that PENELCO's calculations of over or under-recoveries in the implementation of subject automatic cost adjustments and true-up mechanisms be confirmed and approved, and the cooperative be allowed to refund the over-recoveries or collect the under-recoveries, as the case may be, to or from its customers.

PRAYER

WHEREFORE, premises considered, applicant Peninsula Electric Cooperative, Inc. (PENELCO) respectfully prays of this Honorable Commission, after due notice and hearing, to confirm and approve its calculations of over or under-recoveries in the implementation of subject automatic cost adjustments and true-up mechanisms covering the period of January 2020 to December 2022 made pursuant to ERC Resolution No. 16, Series of 2009 as amended by Resolution No. 21, Series of 2010, and Resolution No. 23, Series of 2011, and allow the cooperative to refund the over-recoveries or collect the under-recoveries, as the case maybe, to or from its customers, based on the following refund/collect scheme, to wit:

Particulars	(Over)/Under Recovery (PhP)	Proposed Term of Refund/Collect (Months)	Billing Determinant (kWh)	Rate per Month (PhP)
Generation	224,711,397.25	36	1,930,240,432	0.1164
Transmission	(24,743,882.32)	36	1,930,240,432	(0.0128)
System Loss	(84,141,383.43)	36	1,930,240,432	(0.0436)
Lifeline Subsidy/Discount	(5,635,143.23)	36	1,930,240,432	(0.0029)
Senior Citizen Subsidy/Discount	(25,274.64)	1	53,617,790	(0.0005)
TOTAL	<u>110,165,713.63</u>			<u>0.0566</u>

Other reliefs, just and equitable in the premises are likewise prayed for.

On 27 June 2023, the Commission issued an *Order and Notice of Virtual Hearing*, both of even date, setting the case for determination of compliance with the jurisdictional requirements and expository presentation, Pre-Trial Conference and presentation of evidence through virtual hearings on 17 August 2023 and 24 August 2023, respectively.

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However, on 06 July 2023, PENELCO filed a *Motion for Leave to Amend the Application and to Admit the Attached Amended Application* dated 05 July 2023, and *Amended Application* dated 23 June 2023. In the said *Motion for Leave to Amend the Application*, PENELCO alleged that there are errors in the computation of the System Loss Rate (SLR) over or under recovery for the year 2021.

Subsequently, on 10 July 2023, PENELCO filed a *Motion for Cancellation of the Hearings Set on August 17 and 24, 2023*, of even date.

IN VIEW THEREOF, the Commission sets anew the instant *Application* for hearing 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 2020⁵ and ERC Revised Rules of Practice and Procedure:⁶

Date	Platform	Activity
08 November 2023 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
15 November 2023 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and presentation of evidence

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)**

⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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.

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Finally, all interested persons may be allowed to join the scheduled initial 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 Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 2nd day of October 2023 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO


LS: EDR/BJVG/MCCG

