



# LEYECO III

LEYTE III ELECTRIC COOPERATIVE, INC.  
*Lighting Houses, Lighting Homes, Lighting Hopes*

SANGGUNIANG PANLALAWIGAN



Item No.: 28

Date: 16 2024 APR



April 5, 2024

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN**  
Province of Leyte

Office of the Vice Governor

Received

By: REB, PCCA  
Date: 4/8/24  
Time: 2:44 AM

Attention: **HON. VICE GOVERNOR LEONARDO M. JAVIER JR.**  
Presiding Officer

Subject : Leyte III Electric Cooperative, Inc. (LEYECO III) Application for Confirmation and Approval of Over/Under Recoveries for the Period January 2021 to December 2023

Sir:

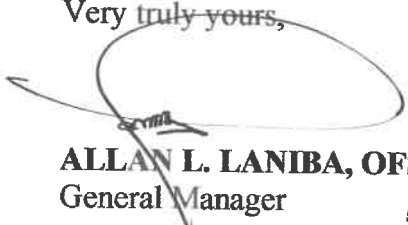
We respectfully give notice that LEYECO III shall be filing with the Energy Regulatory Commission (ERC) the above referenced Application entitled **"IN THE MATTER OF THE APPLICATION FOR OVER OR UNDER RECOVERIES IN THE IMPLEMENTATION OF AUTOMATIC ADJUSTMENT AND TRUE UP MECHANISMS DURING THE PERIOD 2021 – 2023 PURSUANT TO ERC RESOLUTION No. 16, SERIES OF 2009 AS AMENDED BY RESOLUTION Nos. 21, AND 23 SERIES OF 2010 AND ERC RESOLUTION 14, SERIES OF 2022 AND FOR LOCAL TAXES ERC RESOLUTION No. 2 SERIES OF 2021, LEYTE III ELECTRIC COOPERATIVE INC. (LEYECO III), APPLICANT."**

In compliance with the ERC's pre-filing requirements for the application, we are furnishing this Honorable Office copy of said un-docketed Application together with annexes.

Likewise, in further compliance with the pre-filing requirements of the ERC, may we request your good office to issue a **Certification** (Please see attached suggested format) as proof of receipt of the Application and the date thereof.

Thank you very much.

Very truly yours,

  
**ALLAN L. LANIBA, OFS**  
General Manager

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Ortigas Center, Pasig City

**IN THE MATTER OF THE APPLICATION FOR OVER OR UNDER RECOVERIES IN THE IMPLEMENTATION OF AUTOMATIC ADJUSTMENT AND TRUE UP MECHANISMS DURING THE PERIOD 2021 – 2023 PURSUANT TO ERC RESOLUTION No. 16, SERIES OF 2009 AS AMENDED BY RESOLUTION Nos. 21, AND 23 SERIES OF 2010 AND ERC RESOLUTION 14, SERIES OF 2022 AND FOR LOCAL TAXES ERC RESOLUTION No. 2 SERIES OF 2021**

Office of the Vice Governor

Received

By: REBECCA  
Date: 4/8/24  
Time: 2:44 AM

**ERC CASE No.** \_\_\_\_\_

**LEYTE III ELECTRIC COOPERATIVE, INC.  
(LEYECO III),**

**Applicant,**

X-----X

**APPLICATION**

COMES NOW, applicant LEYTE III ELECTRIC COOPERATIVE, INC. (LEYECO III), through the undersigned counsel under authority given by LEYECO III Board of Directors per Resolution No. 2024-02-031, and corresponding Secretary Certificate, copy of which are hereto attached as "**ANNEX A**" and "**ANNEX A-1**", respectively; unto this Honorable Commission, most respectfully files this Application in compliance to ERC Resolution No. 16, Series of 2009 as amended by Resolution No. 21, and 23, Series of 2010 and Resolution No. 14 Series of 2022 and for local taxes ERC Resolution No. 2 Series of 2021.

This application is seeking approval from the Honorable Commission to collect the under-recovery in the items of Generation, Transmission, Senior Citizen, and Franchise Tax; as well as the refund for over-recovery in the item of System Loss and Lifeline Subsidy incurred during LEYECO III's implementation of various automatic cost

adjustment and true up mechanisms covering the period from 2021 to 2023 and in support thereof states as follows:

## **I. THE APPLICANT**

1. The applicant, LEYTE III ELECTRIC COOPERATIVE, INC. is a non-stock, non-profit Electric Cooperative duly organized and existing under and by virtue of the Presidential Decree 269, as amended, with the capacity to sue and be sued, with principal office address at Brgy. San Roque, Tunga, Leyte, Philippines, represented in this instance by its General Manager, ALLAN L. LANIBA, who was authorized to file, execute verification and certification relative to this Application per Board Resolution No. 2024-02-30 "**ANNEX B**" with corresponding Secretary Certificate "**ANNEX B-1**".

2. Herein applicant is the exclusive franchise holder issued by the National Electrification Administration (NEA) to operate electric light and power services to the 9 municipalities of Leyte, namely: Capoocan, Carigara,, Barugo, San Miguel, Tunga, Alangalang, Sta. Fe, Jaro, and Pastrana. A copy of Applicant LEYECO III's Certificate of Franchise is hereto attached as "**ANNEX C**".

## **II. THE ANTECEDENT FACTS**

3. Before this filing, herein Applicant had undergone computation and reportorial submission to the Energy Regulatory Commission on its over or under-recoveries incurred in the implementation of automatic cost adjustments and true-up mechanisms on pass-through costs of LEYECO III following the formulas prescribed under ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21, 23, Series of 2010 and ERC Resolution No. 14 Series of 2022, such as automatic generation rate (GR) and system loss adjustment mechanism; transmission rate (TR) adjustment mechanism; Lifeline rate recovery mechanism; Senior Citizen subsidy recovery mechanism, and Franchise tax recovery mechanism.

4. The applicant had completed the implementation of its approved 2004-2011 Over/Under Recoveries on the March 2020 billing period. However, Applicant LEYECO III is still awaiting the ERC decision on its pending application for Over/Under recoveries 2012-2014 docketed as ERC Case No. 2015-002CF, application for Over/Under recoveries 2015-2017 docketed as ERC Case No. 2018-011CF and application for Over/Under-recoveries 2018-2020 docketed as ERC 2021-005 CF.

### III. LEGAL BASES FOR THE APPLICATION

5. Under Section 43 (t) of the Republic Act No. 9136, the Energy Regulatory Commission (ERC) is mandated to promulgate rules and regulations and perform such other regulatory functions as are appropriate and necessary to ensure the successful restructuring and modernizing of the electric power industry.

6. On July 13, 2009, according to Section 43 (f) and (t) of the Republic Act No. 9136 of the Act, Rule 7 of its Implementing Rules and Regulations (IRR), and Section 10 of the Republic Act No. 7832, the ERC had resolved to approve and adopt the **"Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities"**, by virtue of **ERC Resolution No. 16, Series of 2009**.

7. However, the aforementioned rules promulgated under Resolution no. 16, series of 2009, failed to address the mismatch between meter reading periods at the wholesale and retail levels due to unequal number of billing days, which resulted in the misalignment of kWh sales and purchase power. Recognizing the need to address and resolve the said misalignment of kWh sales and purchase power which causes spikes and dips in the computed monthly system loss and adversely affects the actual system loss of the DUs during certain billing months; The ERC passed **Resolution No. 21, series of 2010**, dated On October 18, 2010, which amended Section 4 of Article 4 and Section 1 of the Article 5 of the "Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities".

8. On the other hand, ERC Resolution No. 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.

9. Moreover, ERC Resolution No. 14 Series of 2022 approved and adopted the "Revised Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities," with its corresponding "Revised Uniform Reportorial Requirement (URR) Spreadsheet Template". Applicable also in this Application is the ERC Resolution No. 02, Series of 2021 which pertains to the Recovery of Pass-Through Taxes (real property, local franchise, and business tax of the distribution utilities).

10. Hence, this Application is pursuant to ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21, and 23, Series of 2010, ERC Resolution No. 14 Series of 2022, and ERC Resolution No. 2 Series of 2021.

**IV. THE RESULTING COMPUTED OVER OR UNDER-RECOVERIES INCURRED IN THE IMPLEMENTATION OF AUTOMATIC ADJUSTMENT AND TRUE-UP MECHANISMS FOR THE PERIOD 2021 TO 2023**

11. In the application of formulas prescribed under ERC Resolution 16, Series of 2009, as amended by ERC Resolution 21, 23, Series of 2010 and ERC Resolution No. 14 Series of 2022. Applicant's pass-through cost vis-a-vis the actual collections resulted in under-recoveries in the items of Generation Rate (GR), Transmission Rate (TR), Senior Citizen Subsidy, and Franchise Tax. On the other hand, over-recovery was incurred in the items of System Loss (SL) and Lifeline Subsidy (LS). The following table reflects the summary of over/under recoveries for the years 2021 to 2023:

Particulars	Allowable Cost	Revenue	(Over)/Under Recovery
	(PhP)	(PhP)	(PhP)
Generation Rate (GR)	1,382,185,991.24	1,377,889,549.96	4,296,441.28
Transmission Rate (TR)	143,367,358.25	141,250,085.23	2,117,273.02
System Loss Rate (SLR)	158,140,846.17	160,334,360.38	(2,193,514.21)
Lifeline Subsidy	6,790,147.67	8,487,831.95	(1,697,684.28)
Senior Citizen Subsidy	95,552.98	90,535.81	5,017.17
Local Franchise Tax	1,845,979.39		1,845,979.39
<b>Net Results</b>			<b>4,373,512.36</b>

Formulas used in computing the above over or under-recoveries, as well as, the reasons for incurring the same are explained below:

**V. REASONS OF OVER/UNDER RECOVERIES**

**A. Generation**

12. LEYECO III incurred an UNDER RECOVERY in the generation due to the following reasons:

**Volatility of Generation Cost billed by Power Suppliers, One Month lag approach in the calculation of generation rate, and actual computation of the Generation rate.**

Power Supply Contracts entered into by LEYECO III contain a variable factor in the calculation of power cost, thus, it is unattainable for us to have a fixed power rate supply contract. Moreover, LEYECO III is a distribution utility that is a direct member of the WESM. Depending on our market exposure, a portion of its generation rate is always subject to the volatility of price in the spot market.

Furthermore, in the calculation of monthly generation cost, the current cost of power billed by our power supplier is to be applied in the next month's billing period so on and so forth. Hence, the generation rate passed on to our consumers on a certain month is always subject to the over/under recovery depending on the monthly price difference of the total power cost billed by our power suppliers.

In 2021, there was a significant under-recovery of Generation cost primarily due to the computation of the Pass on Generation rate per kWh. The kWh used as the denominator in arriving at the generation rate was the kWh per contracted energy, not the BDE, as used in the over/under recovery formula. Hence, the resulting Peso per kWh is lesser than when using the BDE, resulting in a lower actual implemented generation rate passed on.

Given the foregoing explanations, the net impact of the 3 years in our generation cost is **under recovery** in the amount of **Php 4,296,441.28**.

**B. Transmission**

13. LEYECO III incurred an UNDER-RECOVERY of **2,117,273.02** in the transmission due to:

**The One-month lag approach in the calculation of transmission rate.**

For over/under recovery purposes, the transmission rate is simply calculated by dividing the Net Transmission cost by the Total Energy Input regardless of the customer type. The Under-recovery is caused mainly by the variable kWh sales in every month.

**C. System Loss**

14. LEYECO III incurred an OVER-RECOVERY of **(2,193,514.21)** in the System Loss (SL) due to the following reasons:

- (1) LEYECO III incurred over-recovery due to the implementation of a 12-month average system loss percentage (%) using the historical/previous year data against the current kWh sales.
- (2) In the first quarter year 2021, the calculation of the SL rate is still based on the old formula using an 11% cap, while in the following months, the 10.25% cap was used. Later part of 2021 and onwards, the applicant applied the Feeder Loss rate in the calculation of the System Loss rate. The resulting monthly SL rate used in the actual implementation is relatively higher than the average Feeder Loss. Thus, this is the main reason for the over-recovery of our System Loss.

**D. Lifeline Discount and Subsidy**

15. LEYECO III incurred an OVER-RECOVERY **(1,697,684.28)** in the Lifeline Discount and Subsidy due to the following reasons:

- (1) One-month lag approach in the computation of Lifeline Rate.
- (2) Adjustment of kWh Sales due to the varied behavior of monthly kWh consumption of Lifeliners and Non-Lifeliners.
- (3) Error in the input of actual kWh sales of residential lifeliners resulting in high lifeline subsidy charge specifically in the month of September 2022.

**E. Senior Citizen Discount and Subsidy**



16. LEYECO III made an Under-Recovery of **5,017.17** in the senior citizen subsidy due to the one-month lag approach in the computation.

**F. FRANCHISE TAX**

17. LEYECO III paid Franchise tax to the Province of Leyte for the years 2021 to 2023, however, it did not recover any of the presented taxes from its consumers. Hence, a total of **1,845,979.39** is Under recovery for Local franchise tax.

**VI. THE PROPOSED COLLECTION AND REFUND SCHEMES:**

18. The herein Applicant LEYECO III is proposing a staggered collection of the computed under-recoveries on items of Generation, Transmission, and Franchise Tax for a period of 3 years; while the over-recovery for Senior Subsidy will be collected within one (1) month. On the other hand, Applicant LEYECO III is proposing an installment refund for its over-recoveries on System Loss for 3 years, and Lifeline Subsidy for a period of six (6) months. Thus, the computed resulting proposed rates of collection and refund are shown below:

**PROPOSED COLLECTION/REFUND SCHEMES:**

No.	PARTICULAR	(Over)/Under Recovery	Using February 2024 kWh Sales as base month- (Annualized / forecasted)	Proposed No. of Years or Months	Rate Php/kWh Collect (Refund)
1	Generation Cost	4,296,441.28	189,671,063	3 years	0.0227
2	Transmission Cost	2,117,273.02	189,671,063	3 years	0.0112
3	System Loss	(2,193,514.21)	189,671,063	3 years	(0.0116)
4	Lifeline	(1,697,684.28)	5,017,753	6 months	(0.0564)
5	Senior Citizen	5,017.17	5,017,753	1 month	0.0010
6	Franchise Tax	1,845,979.39	189,671,063	3 years	0.0097
<b>TOTAL</b>		<b>4,373,512.36</b>			

**VII. SUPPORTING DATA AND DOCUMENTS**

19. In support of this Application, LEYECO III is respectfully submitting herewith the following data and documents, which are being made integral parts hereof, to wit:



Folder	ANNEX	NATURE OF DOCUMENT
Folder 1	ANNEX D	Fully Accomplished Supplier & Transmission Data Sheet for the Years 2021-2023
	ANNEX D-1	Fully Accomplished Actual Implemented Rates Sheet for the year
	ANNEX D-2	Fully Accomplished Lifeline discount sheet for the year
	ANNEX D-3	Fully Accomplished Senior Citizen Discount Sheet for the year
	ANNEX D-4	Fully Accomplished Additional Statistical Data Sheet for the year
	ANNEX E	Summary of Over / Under Recoveries Computations for 2021-2023 (Per Charge and Yearly Basis)
	ANNEX F	Proposed Recovery/Refund Scheme using the latest kWh Sales
Folder 2	<b>SUPPLIER AND TRANSMISSION DATA</b>	
	ANNEX G	Power Bills from Suppliers (Power Bill, Proof of Payment, Adjusted Bill/Debit or Credit Memo)
Folder 3	<b>STATISTICAL DATA</b>	
	ANNEX H	Manifestation of no Pilferage Cost Recoveries
	ANNEX I	Monthly Financial & Statistical Report (MFSR) Sections A and E
Folder 4	<b>ACTUAL IMPLEMENTED RATES</b>	
	ANNEX J	Consumer Bills for Residential Consumers
	ANNEX K	Consumer Bills for Low Voltage Consumers
	ANNEX L	Consumer Bills per Lifeline Bracket (Lifeline)
	ANNEX M	Senior Citizen Consumer Bills
Folder 5	<b>OTHER DOCUMENTS</b>	
	ANNEX N	Submitted Uniform Reportorial Requirements (URR) for the years 2021 to 2023
	ANNEX O	Submitted Additional Statistical Data
	ANNEX P	Single Line Diagram
	ANNEX Q	Power Supply Contracts with Generation Companies
	ANNEX R	Franchise tax proof of payments and Local Tax Ordinance

20. Further, in support of this Application, the "Judicial Affidavit" of LEYECO III's Finance Services Department Manager, LERMA E. ADVINCULA, CPA is hereto attached and made an integral part of this application and marked as "ANNEX "S".

## VIII. COMPLIANCE WITH PRE-FILING REQUIREMENTS

21. In compliance with the ERC prescribed Pre-filing requirements for O/U applications filing, LEYECO III had provided copies of the Application and its annexes to Sangguniang Bayan of Municipality of Tunga where the principal office is located, proof of which is the duly received Transmittal Letter and Certification hereto attached as "**ANNEX T**" and "**ANNEX U**", respectively. Same copy of Application with annexes was given to Sangguniang Panlalawigan of Province of Leyte, proof of which is hereto attached as "**ANNEX V**" and "**ANNEX W**", respectively.

22. Moreover, applicant LEYECO III had initiated the publication of this Application in a newspaper with general circulation within the franchise area of LEYECO III in Leyte Province, proof of which are hereto attached as "**ANNEX X**" and "**ANNEX Y**".

### **PRAYER**

WHEREFORE, premises considered it is respectfully and humbly prayed of this Honorable Commission that LEYECO III's determination of its over and under-recoveries in the implementation of the automatic cost adjustment and true-up mechanisms be confirmed and approved, and that Applicant be allowed to collect the computed under-recoveries in the items of Generation Rate (GR), Transmission Rate, Senior Citizen Subsidy, and Franchise Tax; likewise be allowed to refund the over-recovery in the item of System Loss Rate and Lifeline Subsidy, under the proposed collection and refund schemes.

Other reliefs, just and equitable under the premises are likewise most respectfully prayed for.

RESPECTFULLY SUBMITTED.

Tacloban City for Pasig City, this 1<sup>st</sup> day of April 2024.

**ATTY. ROGELIO P. GULA**

Legal Counsel of LEYECO III

Email Address: [rhoygula@yahoo.com](mailto:rhoygula@yahoo.com)

Cellphone no.: 09177121967

Office Address: Gula Law & Notarial Office, Door 7, Cabigon Bldg.,  
Del Pilar Street, (across Sacred Heart Church)  
Brgy. 8, 6500 Tacloban City, Leyte

Roll No. 48025; Lifetime IBP No. 07688; PTR No. 8490302 dtd. 1/2/24

MCLE Compliance No. VII-0004938 valid until 4/14/2025

**VERIFICATION and CERTIFICATION OF NON-FORUM SHOPPING**

That I, **ALLAN L. LANIBA**, of legal age, Filipino, and with principal office address at the Main Office of LEYTE III ELECTRIC COOPERATIVE, INC. (LEYECO III), Tunga, Leyte, after being sworn to in accordance with law, hereby depose and say:

1. That I am the General Manager of LEYTE III ELECTRIC COOPERATIVE, INC. (LEYECO III);

2. That I have caused the preparation and filing of the foregoing Application for Over or Under Recoveries in the Implementation of Automatic Adjustment and True-up Mechanisms during the period 2021-2023;

3. That I have read the foregoing **Application** and I attest that all allegations therein are true and correct to the best of my knowledge, information, and belief, and the same is based on authentic records;

4. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

5. The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

6. That I have not commenced any other action or proceeding involving the same issue and nor is any pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency and should I learn thereafter that a similar action or proceeding has been filed or is pending other court or tribunal, I undertake to promptly inform this Honorable Commission within five (5) days therefrom.

**IN WITNESS WHEREOF**, I have hereunto affixed my name and signature this 2nd day of April 2024, Tacloban City, Leyte.



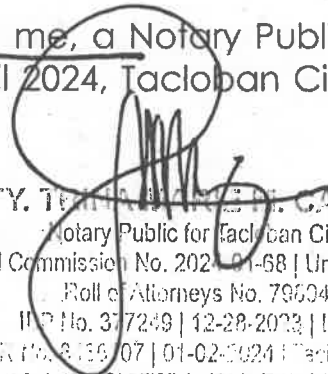
**ALLAN L. LANIBA**

Affiant

Proof of identity: Driver's License  
L06-96-044266

**SUBSCRIBED AND SWORN** to before me, a Notary Public for the Province of Leyte, this 2nd day of April 2024, Tacloban City, Leyte, Philippines.

DOC. NO. 191  
PAGE NO. 40  
BOOK NO. IV  
SERIES OF 2024



**ATTY. TERRENCE D. CANDAZA**  
Notary Public for Tacloban City  
Notarial Commission No. 2021-01-68 | Until 12-31-2025  
Roll of Attorneys No. 79604  
IIC No. 37249 | 12-28-2023 | Leyte  
PTR No. 3136-07 | 01-02-2024 | Tacloban City  
POWER OF ATTORNEY AND NOTARIAL PUBLIC COMMISSION FOR  
L06-96-044266-07-01-02-2024