



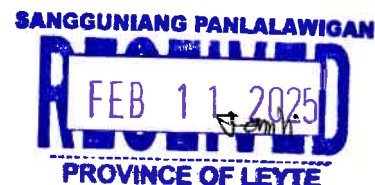
Item No.: 04

Date: 18 2025 FEB

February 07, 2025

SANGGUNIANG PANLALAWIGAN
Palo, Leyte

THRU: HON. LEONARDO M. JAVIER, JR.
Presiding Officer



Re: "IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF OVER/UNDER RECOVERIES BASED ON THE FORMULA FOR VARIOUS AUTOMATIC COST ADJUSTMENT AND TRUE-UP MECHANISMS AND CORRESPONDING PROCESS FOR THE PERIOD 2021 TO 2023" ERC CASE NO. 2024-013 CF

Gentlemen:

In compliance with the Rules of Practice and Procedure of the Energy Regulatory Commission ("ERC") and the Order and Notice of Virtual Hearing of the ERC, we are furnishing this Honorable Office with the said Order and Notice of Virtual Hearing.

In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the Sanggunian bulletin board of this Honorable Office, in compliance with the said Order and the Rules of Practice and Procedure of the ERC.

Consequently, we are also requesting for a Certification of Posting with Dry Seal from this Honorable Office stating that a complete copy of the Order and Notice of Virtual Hearing of the above-captioned case was served to, duly received, and duly posted by this Honorable Office.

Very truly yours,


ENGR. FERNAN PAUL R. TAN
General Manager apd.

[LETTERHEAD OF LGU]

Republic of the Philippines
[Province/City/Municipality]
[Office of the Governor/Mayor or Sangguniang Panlalawigan/Panlungsod/Bayan]

[Date]

CERTIFICATION OF POSTING

To Whom It May Concern:

This is to certify that the Order and Notice of Virtual Hearing, issued by the Energy Regulatory Commission in **ERC CASE NO. 2024-013 CF**, “IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF OVER/UNDER RECOVERIES BASED ON THE FORMULA FOR VARIOUS AUTOMATIC COST ADJUSTMENT AND TRUE-UP MECHANISMS AND CORRESPONDING PROCESS FOR THE PERIOD 2021 TO 2023”, were received by this Office on **[date of receipt]** and duly posted on the **[Provincial/City/Municipal/Sanggunian]** Bulletin Board.

This Certification is issued upon the request of Leyte II Electric Cooperative, Inc., one of the Applicants in the said case.

[NAME]
[Position]

[DRY SEAL]

[If no dry seal, please issue a Certificate of No Dry Seal]

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF OVER/UNDER
RECOVERIES BASED ON THE
FORMULA FOR VARIOUS
AUTOMATIC COST
ADJUSTMENT AND TRUE-UP
MECHANISMS AND
CORRESPONDING PROCESS
FOR THE PERIOD 2021 TO 2023**

ERC CASE NO. 2024-013 CF

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

Applicant.

X-----X

Promulgated:
December 26, 2024

ORDER

On 29 April 2024, Leyte II Electric Cooperative, Inc. (LEYECO II) filed an *Application* dated 20 March 2024, seeking the Commission's approval of its over/under recoveries based in the formula for various automatic cost adjustment and true-up mechanisms and corresponding process for the period 2021 to 2023.

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

THE APPLICANT

1. LEYECO II is a non-stock, non-profit electric cooperative, duly registered, organized and existing under and by virtue of Presidential Decree No. 269, as amended, with principal office address at Barangay 57, Real St., Sagkahan District, Tacloban City, Leyte, Philippines;
2. LEYECO II holds an exclusive franchise, issued by the National Electrification Commission, to operate an electric light and power distribution service in the *City of Tacloban* and in the *Municipalities of Palo and Babatngon*, all in the Province of Leyte.

3. LEYECO II is duly represented in this case by General Manager Engr. Fernan Paul R. Tan per Board Resolution No. 027-02 s.2024, and also represented by legal counsels per Board Resolution No. 028-02 s.2024. Copies of the **Secretary Certificates** are hereto attached as ANNEXES “A” and “B”, respectively, and made as an integral part hereof.

LEGAL BASES OF THE APPLICATION

4. *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. The objective is to ensure 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, Lifeline Rate Recovery, Senior Citizen Subsidy Recovery, as the case may be;
5. Subsequently, the ERC recognized the need to introduce amendments and/or changes in the existing guidelines, thus, *ERC 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”* was issued in order to ensure appropriate recovery of the various pass-through costs in an efficient manner and to establish a fair, timely and transparent process for: (a) calculating the automatic cost adjustments implemented by Distribution Utilities; (b) monitoring the accuracy of these adjustments and ensuring prompt reversal of discrepancies; and (c) confirmation of the automatic cost adjustments implemented by the Distribution Utilities and the true-up of other pass-through charges as approved by the ERC.
 - 6.1. It is also provided that the Distribution Utilities shall file their respective consolidated applications every three (3) years, following the period of filing prescribed in the latest resolution. Hence, the filing of the instant application, covering the period January 2021 to December 2023.
6. *ERC Resolution No. 2, Series of 2021* entitled “*A Resolution on the Recovery of Pass-Through Taxes (Real Property, Local Franchise and Business Tax) of the Distribution Utilities*” establishes procedure for recovery of Real Property, Local Franchise and Business Taxes. The objective is to allow full recovery of all just and reasonable components of the

taxes levied by the Local Government Units (LGUs) against Distribution Utilities to enable the latter to operate viably, to ensure transparency and efficiency in the implementation of the appropriate recovery thereof and to put in place a fair and transparent process for the confirmation of the cost adjustments implemented by the Distribution Utilities and the true-up of the Real Property, Local Franchise and Business Taxes pass-through charges, as the case may be.

7. This instant Application is being filed pursuant to the above Resolutions.

MATERIAL FACTS

8. Applying the formulas provided under aforementioned ERC Resolutions, LEYECO II conducted calculations of the over recoveries charged or under recoveries incurred as against its customers, in the implementation of certain automatic cost adjustments and true-up mechanisms, covering the period January 2021 to December 2023.
9. The calculation conducted resulted to over/under recoveries. Using the Over/Under Model of the Honorable Commission, the results are summarized hereunder, to wit:

PARTICULARS	ALLOWABLE REVENUE	GENERATED REVENUE	(OVER)/UNDER RECOVERY
Generation	5,713,811,773.67	5,698,656,716.16	15,155,057.52
Transmission	651,855,205.33	654,921,272.29	(3,066,066.96)
System Loss	451,421,921.87	473,847,416.74	(22,425,494.87)
Lifeline	90,451,365.24	91,098,862.19	(647,496.95)
Senior Citizen	968,161.53	187,319.22	780,842.32
Local Franchise Tax	4,002,115.47	-	4,002,115.47
Business Tax	4,226,710.28	-	4,226,710.28
Real Property Tax	958,481.52	-	958,481.52
TOTAL (OVER)/UNDER RECOVERIES			(1,015,851.67)

10. One of the causes that contributed to the under recovery in *Generation Rate* in the amount of Php15,155,057.52 is that in the actual billing, Rate Making is being done every first week of the month but WESM Final Billing is received only after the 15th day of the month. With this, LEYECO II initially used the data appearing on the WESM *Preliminary Statement*. Adjustments for the difference is made on the following month. Likewise, WESM Adjustments and Net Settlement Amount of sell back transactions are applied in the following month after receipt of the bills. However, in this instant application, WESM Final Billing is applied on the current month.

Also, the confirmation process of the ERC matches current month power costs with current month revenues. While in the actual implementation it resulted to one (1) month lag in

recognition of power cost for the monthly computation of Generation Rate (GR).

11. In the case of *Transmission Rate*, the factor that caused the over recovery is the one-month lag in the computation of the implemented rate as against the current to current true-up mechanism.
12. In the case of the *System Loss*, the factors that caused the over recovery are as follows: (a) The difference between the *Monthly System Loss Computation* versus the *Annualized System Loss Computation*; (b) The difference between the *Historical Data* used in monthly rate setting versus the *Current Year Data* for Kwh Purchased and Kwh Sales used in confirmation process; (c) The *Site-Specific Loss Adjustment (SSLA)* data; and (d) The impact of one-month lag in the computation of the implemented rate as against the current to current true-up mechanism.
13. In the case of the *Lifeline Rate Subsidy*, the factor that caused the over recovery is the one-month lag in the computation of the implemented rate as against the current to current true-up mechanism.
14. In the case of the *Senior Citizen Subsidy Rate*, the factor that caused the under recovery is that LEYECO II did not impose senior citizen subsidy charges against non-beneficiary consumers due to the minimal amount involved. LEYECO II started to collect senior citizen subsidy charges from non-senior citizen consumers only on on June 2023 rate implementation. Prior this period, it only implemented the senior citizen discount. Another factor is the one-month lag on the computation of actual implemented rate as against the current to current true-up mechanism.
15. The other factors that contributed in the over recoveries is the one-month lag approach in the Current computation of rates (URR Template) – data of previous month is being used; the Over / under recoveries (OU Model) – current data is used in the computation of rates; Increase / decrease of kWh sales of a billing period affects recovery of passthrough cost; Preparation of rates during the first week of the month with a Preliminary Statement from some power suppliers like WESM.
16. On the other hand, *ERC Resolution No. 2, Series of 2021* allowed LEYECO II to recover as pass-through costs the *Real Property, Local Franchise and Business Taxes* levied by the LGUs within its franchise area.
17. However, only real property, franchise and business taxes that are assessed by the LGUs for the year 2021 and thereafter and subsequently paid by LEYECO II shall be allowed to be passed on to consumers. Tax arrearages including interests, penalties and other charges imposed on LEYECO II resulting from

delayed payment of the said taxes, shall not be allowed to be passed on to consumers and shall be borne solely by LEYECO II.

18. Moreover, the real property, local franchise and business taxes paid by the LEYECO II for a particular calendar year may be passed on to consumer only within the year it was paid. Other taxes allowed to be passed on to its consumers but paid beyond the period mentioned in the preceding statement shall be recovered through confirmation mechanisms provided by the rules.
19. Given the foregoing, LEYECO II incorporate in this instant Application seeking authority from the Honorable Commission to authorize LEYECO II to collect/recover the real property taxes, local franchise and business tax it has paid to the LGUs within its franchise area, from its consumers at the rate illustrated in Table 2 in this Application.

SUPPORTING DATA AND DOCUMENTS

20. In support of the instant application, applicant is submitting and adopting the documents and the data contained therein covering the period January 2021 to December 2023, attached hereto, and made as integral parts hereof, to wit:

ANNEX MARKINGS	NATURE OF DOCUMENT
C & Series	Supplier and Transmission Data Sheet
D & Series	Statistical Data Sheet
E & Series	Actual Implemented Rates Sheet
F & Series	Lifeline Discount Sheet
G & Series	Senior Citizen Discount Sheet
H & Series	Additional Statistics Data Sheet
I & Series	Summary of Over/Under Recoveries Computations Proposed Collection Scheme
J & Series	PSALM Power Bills & Proof of Payment
K & Series	Net-Metered Sales
L & Series	IEMOP Power Bill, Payment, Adjustments
M	KSPC Power Bills & Proof of Payment
N & Series	GNPD Power Bills & Proof of Payment
O & Series	GCGI 11MW Power Bills & Proof of Payment
P & Series	GCGI 5MW Power Bills & Proof of Payment
Q	FDCUI Power Bills & Proof of Payment

R & Series	NGCP Power Bills & Proof of Payment
S & Series	Summary of Pilferage Cost Recoveries
T & Series	MFSR B&E
U & Series	Demand kW Sales
V & Series	Summary of kW CP per Customer Class
W & Series	2 Consumer Bills Per Class (Non-Lifeline)
X & Series	Lifeline Summary 1 Lifeline Bill Per kWh Bracket
Y & Series	Senior Citizen Summary 1 Senior Citizen Bill Per kWh
Z & Series	Senior Citizen Institutions Bills
AA & Series	LEYECO II URR_2021 Submitted Monthly URR_2021
BB & Series	LEYECO II URR_2022 Submitted Monthly URR_2022
CC & Series	LEYECO II URR_2023 Submitted Monthly URR_2023
DD & Series	Submitted URR Addendum
EE	Other Technical Data
FF	Single Line Diagram
GG	Power Supply Agreements

21. Additionally, to substantiate the instant application LEYECO II is respectfully submitting herewith the required electronic copies of the Application together with the foregoing data and documents saved in a **USB Drive**.
22. Considering the foregoing, it is respectfully prayed that LEYECO II's calculations of over 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 to its customers and recover the under recoveries within the period prescribed by the rules.

RECOVERY PERIOD AND RATE IMPACT

23. In order to lessen the impact of the rate adjustment, LEYECO II proposes to maximize the allowable period set by the rules, to refund the subject amount based on the *Projected kWh Sales* of **1,028,650,766** for the period 2024 to 2026.
24. The rate impact are computed and shown on the tables below:

Table 1. For Retail Rates (Generation Rate, Transmission Rate, System Loss Rate, Lifeline Rate Recovery, Senior Citizen Subsidy Recovery):

PARTICULARS	ALLOWABLE REVENUE	GENERATED REVENUE	(OVER)/UNDER RECOVERY	RATE IMPACT
Generation	5,713,811,773.67	5,698,656,716.16	15,155,057.52	0.014733
Transmission	651,855,205.33	654,921,272.29	(3,066,066.96)	(0.002981)
System Loss	451,421,921.87	473,847,416.74	(22,425,494.88)	(0.021801)
Lifeline	90,451,365.24	91,098,862.19	(647,496.95)	(0.000629)
Senior Citizen	968,161.53	187,319.22	780,842.32	0.000759
TOTAL (OVER)/UNDER RECOVERIES			(10,203,158.95)	(0.009919)

Table 2. For Taxes (RPT, FT and BT):

	RPT	FT	BT	TOTAL	2024 PROJECTED KWH PER LGU	RATE IMPACT (12 months recovery)
CITY (TACLOBAN)	958,481.52	3,497,376.27	4,226,710.28	8,682,568.07	265,537,406.38	0.002725
PROVINCE (PALO & BABATNGON)	-	504,739.20	-	504,739.20	54,387,179.62	0.000773
TOTAL	958,481.52	4,002,115.47	4,226,710.28	9,187,307.27	319,924,586.00	0.002393

MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY

25. LEYECO II repleads and adopts the foregoing allegations and annexes as part of the instant motion for issuance of provisional authority.

26. *Section 1, Rule 14 of ERC Resolution No. 01, series of 2021* states that:

“Section 1. Provisional Authority or Interim Relief. For applications or petitions covered by Section 1, Rule 6 of the these Rules, the Commission may grant either a provisional authority or an interim relief, upon motion included in the application or petition and indicated in the caption thereof that such relief is requested, or through a separate motion filed by the applicant or petitioner.”

27. *Furthermore, Section 2, Rule 14 of Section 1, Rule 14 of ERC Resolution No. 01, series of 2021* also states that:

“Section 2. Allegations in the Motion and Supporting Documents. The motion must allege such facts and circumstances that would justify the Commission’s exercise of discretion in granting provisional authority or interim relief prior to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegation therein.”

28. The nature of the operation of the cooperative being on cash flow basis, Applicant respectfully submits that the issuance of the provisional authority in favor of the applicant will be for the best interest of the consumers. To compound or suspend the collection of the under recoveries will make it more burdensome to the consumers in the future.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Commission that:

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ORDER/26 DECEMBER 2024
PAGE 8 OF 13

1. The motion for the issuance of Provisional Authority to the applicant be GRANTED.
2. The calculations of over/under recoveries that resulted after the implementation of the subject automatic cost adjustments and true-up mechanisms covering the period January 2021 to December 2023 be CONFIRMED and APPROVED; and
3. LEYECO II be allowed to collect the under recoveries and refund the over recoveries from its customers, under LEYECO II's proposed recovery scheme and summarized as follows, to wit:

Recovery Period	Projected Sales (KWH)		Generation	Transmission	System Loss	Ufeline	Senior Citizen
			PHP/KWH				
	TACLOBAN	PALO/BBT	0.0147	(0.0030)	(0.0218)	(0.0006)	0.0008
2024	265,537,406.38	54,387,179.62	4,713,432.06	(953,589.14)	(6,974,638.43)	(201,380.49)	242,852.74
2025	342,280,021.00		5,042,793.51	(1,020,223.28)	(7,462,006.65)	(215,452.39)	259,822.61
2026	366,446,159.00		5,398,831.95	(1,092,254.53)	(7,988,849.80)	(230,664.07)	278,166.97

Recovery Period	Projected Sales (KWH)		RPT	FT		BT	Total O/U Recovery	Outstanding Balance of O/U
			TACLOBAN	TACLOBAN	PALO/BBT	TACLOBAN		
	TACLOBAN	PALO/BBT	PHP/KWH					
			0.0036	0.0132	0.0093	0.002725		(1,015,851.67)
2024	265,537,406.38	54,387,179.62	958,481.52	3,497,376.27	504,739.20	4,226,710.28	(3,173,323.26)	2,157,471.59
2025	342,280,021.00		-	-	-	-	(3,395,066.21)	5,552,537.80
2026	366,446,159.00		-	-	-	-	(3,634,769.48)	9,187,307.28

4. Other reliefs that are just and equitable under the premises are likewise prayed for.

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 26 March 2025 (Wednesday) at nine o'clock in the morning (09:00 A.M.)**, through **MS Teams Application** as the online platform 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, LEYECO II is hereby directed to host the virtual hearing at **LEYECO II's principal office located at Barangay 57, Real St., Sagkahan District, Tacloban City, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO II 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.

RELATIVE THERETO, LEYECO II is hereby directed to:

- 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; and
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies of the areas affected by the project for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the stakeholders within LEYECO II'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 hearings;
- 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 reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearing, LEYECO II must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through 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 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; and

- 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 LEYECO II to inform the stakeholders within the affected 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, by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, LEYECO II is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Offices of the Governor, Mayor, and Local Legislative Bodies, and to submit proof of posting thereof.

Applicant LEYECO II and all interested parties are also required to submit via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through 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 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 LEYECO II 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 virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of LEYECO II to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing.

Applicant LEYECO II 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.

Further, Applicant LEYECO II is hereby directed to file a copy of its Expository Presentation via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. LEYECO II 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 LEYECO II 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, Applicant LEYECO II, including its authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, their 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:


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

LS: NMCRB 

ERC CASE NO. 2024-013 CF
ORDER/26 DECEMBER 2024
PAGE 13 OF 13

COPY FURNISHED:

1. Leyte II Electric Cooperative, Inc. (LEYECO II)
Applicant
Barangay 57, Real St. Sagkahan District,
Tacloban City, Leyte
2. Atty. Tyron Jan G. Albao
Counsel for Applicant LEYECO II
Unit 2, 2nd Floor, Tacloban Convention Center (Astrodome)
Real St., Tacloban City, 6500
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
4. Commission on Audit (COA)
Don Mariano Marcos Avenue, Diliman, Quezon City
citizensdesk@coa.gov.ph
5. Senate Committee on Energy
Senate of the Philippines
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
6. House of Representatives Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
committee.energy@house.gov.ph
7. Office of the Governor
Province of Leyte
8. Office of the Local Government Unit (LGU) Legislative Body
Province of Leyte
9. Office of the City Mayor
Tacloban City
10. Office of the LGU Legislative body
Tacloban City
11. Office of the Municipal Mayor
Municipality of Palo
12. Office of the LGU Legislative Body
Municipality of Palo
13. Office of the Municipal Mayor
Municipality of Babatngon
14. Office of the LGU Legislative Body
Municipality of Babatngon
15. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive
Ortigas Center, Pasig City
ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
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APPROVAL OF OVER/UNDER
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ERC CASE NO. 2024-013 CF

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

Applicant.

X-----X

Promulgated:

December 26, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 29 April 2024, Leyte II Electric Cooperative, Inc. (LEYECO II) filed an *Application* dated 20 March 2024, seeking the Commission's approval of its over/under recoveries based in the formula for various automatic cost adjustment and true-up mechanisms and corresponding process for the period 2021 to 2023.

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

THE APPLICANT

1. LEYECO II is a non-stock, non-profit electric cooperative, duly registered, organized and existing under and by virtue of Presidential Decree No. 269, as amended, with principal office address at Barangay 57, Real St., Sagkahan District, Tacloban City, Leyte, Philippines;

2. LEYECO II holds an exclusive franchise, issued by the National Electrification Commission, to operate an electric light and power distribution service in the *City of Tacloban* and in the *Municipalities of Palo and Babatngon*, all in the Province of Leyte.
3. LEYECO II is duly represented in this case by General Manager Engr. Fernan Paul R. Tan per Board Resolution No. 027-02 s.2024, and also represented by legal counsels per Board Resolution No. 028-02 s.2024. Copies of the **Secretary Certificates** are hereto attached as **ANNEXES "A"** and **"B"**, respectively, and made as an integral part hereof.

LEGAL BASES OF THE APPLICATION

4. *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. The objective is to ensure 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, Lifeline Rate Recovery, Senior Citizen Subsidy Recovery, as the case may be;
5. Subsequently, the ERC recognized the need to introduce amendments and/or changes in the existing guidelines, thus, *ERC 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*" was issued in order to ensure appropriate recovery of the various pass-through costs in an efficient manner and to establish a fair, timely and transparent process for: (a) calculating the automatic cost adjustments implemented by Distribution Utilities; (b) monitoring the accuracy of these adjustments and ensuring prompt reversal of discrepancies; and (c) confirmation of the automatic cost adjustments implemented by the Distribution Utilities and the true-up of other pass-through charges as approved by the ERC.
 - 6.1. It is also provided that the Distribution Utilities shall file their respective consolidated applications every three (3) years, following the period of filing prescribed in the latest resolution. Hence, the filing of the instant application, covering the period January 2021 to December 2023.

6. *ERC Resolution No. 2, Series of 2021* entitled “A Resolution on the Recovery of Pass-Through Taxes (Real Property, Local Franchise and Business Tax) of the Distribution Utilities” establishes procedure for recovery of Real Property, Local Franchise and Business Taxes. The objective is to allow full recovery of all just and reasonable components of the taxes levied by the Local Government Units (LGUs) against Distribution Utilities to enable the latter to operate viably, to ensure transparency and efficiency in the implementation of the appropriate recovery thereof and to put in place a fair and transparent process for the confirmation of the cost adjustments implemented by the Distribution Utilities and the true-up of the Real Property, Local Franchise and Business Taxes pass-through charges, as the case may be.
7. This instant Application is being filed pursuant to the above Resolutions.

MATERIAL FACTS

8. Applying the formulas provided under aforementioned ERC Resolutions, LEYECO II conducted calculations of the over recoveries charged or under recoveries incurred as against its customers, in the implementation of certain automatic cost adjustments and true-up mechanisms, covering the period January 2021 to December 2023.
9. The calculation conducted resulted to over/under recoveries. Using the Over/Under Model of the Honorable Commission, the results are summarized hereunder, to wit:

PARTICULARS	ALLOWABLE REVENUE	GENERATED REVENUE	(OVER)/UNDER RECOVERY
Generation	5,713,811,773.67	5,698,656,716.16	15,155,057.52
Transmission	651,855,205.33	654,921,272.29	(3,066,066.96)
System Loss	451,421,921.87	473,847,416.74	(22,425,494.87)
Lifeline	90,451,365.24	91,098,862.19	(647,496.95)
Senior Citizen	968,161.53	187,319.22	780,842.32
Local Franchise Tax	4,002,115.47	-	4,002,115.47
Business Tax	4,226,710.28	-	4,226,710.28
Real Property Tax	958,481.52	-	958,481.52
TOTAL (OVER)/UNDER RECOVERIES			(1,015,851.67)

10. One of the causes that contributed to the under recovery in *Generation Rate* in the amount of Php15,155,057.52 is that in the actual billing, Rate Making is being done every first week of the month but WESM Final Billing is received only after the 15th day of the month. With this, LEYECO II initially used the data appearing on the *WESM Preliminary Statement*. Adjustments for the difference is made on the following month. Likewise, WESM Adjustments and Net Settlement Amount of sell back transactions are applied in the following month after receipt of the bills. However, in this instant

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application, WESM Final Billing is applied on the current month.

Also, the confirmation process of the ERC matches current month power costs with current month revenues. While in the actual implementation it resulted to one (1) month lag in recognition of power cost for the monthly computation of Generation Rate (GR).

11. In the case of *Transmission Rate*, the factor that caused the over recovery is the one-month lag in the computation of the implemented rate as against the current to current true-up mechanism.
12. In the case of the *System Loss*, the factors that caused the over recovery are as follows: (a) The difference between the *Monthly System Loss Computation* versus the *Annualized System Loss Computation*; (b) The difference between the *Historical Data* used in monthly rate setting versus the *Current Year Data* for Kwh Purchased and Kwh Sales used in confirmation process; (c) The *Site-Specific Loss Adjustment (SSLA)* data; and (d) The impact of one-month lag in the computation of the implemented rate as against the current to current true-up mechanism.
13. In the case of the *Lifeline Rate Subsidy*, the factor that caused the over recovery is the one-month lag in the computation of the implemented rate as against the current to current true-up mechanism.
14. In the case of the *Senior Citizen Subsidy Rate*, the factor that caused the under recovery is that LEYECO II did not impose senior citizen subsidy charges against non-beneficiary consumers due to the minimal amount involved. LEYECO II started to collect senior citizen subsidy charges from non-senior citizen consumers only on on June 2023 rate implementation. Prior this period, it only implemented the senior citizen discount. Another factor is the one-month lag on the computation of actual implemented rate as against the current to current true-up mechanism.
15. The other factors that contributed in the over recoveries is the one-month lag approach in the Current computation of rates (URR Template) – data of previous month is being used; the Over / under recoveries (OU Model) – current data is used in the computation of rates; Increase / decrease of kWh sales of a billing period affects recovery of passthrough cost; Preparation of rates during the first week of the month with a Preliminary Statement from some power suppliers like WESM.
16. On the other hand, *ERC Resolution No. 2, Series of 2021* allowed LEYECO II to recover as pass-through costs the *Real*

Property, Local Franchise and Business Taxes levied by the LGUs within its franchise area.

17. However, only real property, franchise and business taxes that are assessed by the LGUs for the year 2021 and thereafter and subsequently paid by LEYECO II shall be allowed to be passed on to consumers. Tax arrearages including interests, penalties and other charges imposed on LEYECO II resulting from delayed payment of the said taxes, shall not be allowed to be passed on to consumers and shall be borne solely by LEYECO II.
18. Moreover, the real property, local franchise and business taxes paid by the LEYECO II for a particular calendar year may be passed on to consumer only within the year it was paid. Other taxes allowed to be passed on to its consumers but paid beyond the period mentioned in the preceding statement shall be recovered through confirmation mechanisms provided by the rules.
19. Given the foregoing, LEYECO II incorporate in this instant Application seeking authority from the Honorable Commission to authorize LEYECO II to collect/recover the real property taxes, local franchise and business tax it has paid to the LGUs within its franchise area, from its consumers at the rate illustrated in Table 2 in this Application.

SUPPORTING DATA AND DOCUMENTS

20. In support of the instant application, applicant is submitting and adopting the documents and the data contained therein covering the period January 2021 to December 2023, attached hereto, and made as integral parts hereof, to wit:

ANNEX MARKINGS	NATURE OF DOCUMENT
C & Series	Supplier and Transmission Data Sheet
D & Series	Statistical Data Sheet
E & Series	Actual Implemented Rates Sheet
F & Series	Lifeline Discount Sheet
G & Series	Senior Citizen Discount Sheet
H & Series	Additional Statistics Data Sheet
I & Series	Summary of Over/Under Recoveries Computations Proposed Collection Scheme
J & Series	PSALM Power Bills & Proof of Payment
K & Series	Net-Metered Sales

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L & Series	IEMOP Power Bill, Payment, Adjustments
M	KSPC Power Bills & Proof of Payment
N & Series	GNPD Power Bills & Proof of Payment
O & Series	GCGI 11MW Power Bills & Proof of Payment
P & Series	GCGI 5MW Power Bills & Proof of Payment
Q	FDCUI Power Bills & Proof of Payment
R & Series	NGCP Power Bills & Proof of Payment
S & Series	Summary of Pilferage Cost Recoveries
T & Series	MFSR B&E
U & Series	Demand kW Sales
V & Series	Summary of kW CP per Customer Class
W & Series	2 Consumer Bills Per Class (Non-Lifeline)
X & Series	Lifeline Summary 1 Lifeline Bill Per kWh Bracket
Y & Series	Senior Citizen Summary 1 Senior Citizen Bill Per kWh
Z & Series	Senior Citizen Institutions Bills
AA & Series	LEYECO II URR_2021 Submitted Monthly URR_2021
BB & Series	LEYECO II URR_2022 Submitted Monthly URR_2022
CC & Series	LEYECO II URR_2023 Submitted Monthly URR_2023
DD & Series	Submitted URR Addendum
EE	Other Technical Data
FF	Single Line Diagram
GG	Power Supply Agreements

21. Additionally, to substantiate the instant application LEYECO II is respectfully submitting herewith the required electronic copies of the Application together with the foregoing data and documents saved in a **USB Drive**.

22. Considering the foregoing, it is respectfully prayed that LEYECO II's calculations of over 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 to its customers and recover the under recoveries within the period prescribed by the rules.

RECOVERY PERIOD AND RATE IMPACT

23. In order to lessen the impact of the rate adjustment, LEYECO II proposes to maximize the allowable period set by the rules, to refund the subject amount based on the *Projected kWh Sales* of **1,028,650,766** for the period 2024 to 2026.
24. The rate impact are computed and shown on the tables below:

Table 1. For Retail Rates (Generation Rate, Transmission Rate, System Loss Rate, Lifeline Rate Recovery, Senior Citizen Subsidy Recovery):

PARTICULARS	ALLOWABLE REVENUE	GENERATED REVENUE	(OVER)/UNDER RECOVERY	RATE IMPACT
Generation	5,713,811,773.67	5,698,656,716.16	15,155,057.52	0.014733
Transmission	651,855,205.33	654,921,272.29	(3,066,066.96)	(0.002981)
System Loss	451,421,921.87	473,847,416.74	(22,425,494.88)	(0.021801)
Lifeline	90,451,365.24	91,098,862.19	(647,496.95)	(0.000629)
Senior Citizen	968,161.53	187,319.22	780,842.32	0.000759
TOTAL (OVER)/UNDER RECOVERIES			(10,203,158.95)	(0.009919)

Table 2. For Taxes (RPT, FT and BT):

	RPT	FT	BT	TOTAL	2024 PROJECTED KWH PER LGU	RATE IMPACT (12 months recovery)
CITY (TACLOBAN)	958,481.52	3,497,376.27	4,226,710.28	8,682,568.07	265,537,406.38	0.002725
PROVINCE (PALO & BABATNGON)	-	504,739.20	-	504,739.20	54,387,179.62	0.000773
TOTAL	958,481.52	4,002,115.47	4,226,710.28	9,187,307.27	319,924,586.00	0.002393

MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY

25. LEYECO II repleads and adopts the foregoing allegations and annexes as part of the instant motion for issuance of provisional authority.
26. *Section 1, Rule 14 of ERC Resolution No. 01, series of 2021* states that:

“Section 1. Provisional Authority or Interim Relief. For applications or petitions covered by Section 1, Rule 6 of the these Rules, the Commission may grant either a provisional authority or an interim relief, upon motion included in the application or petition and indicated in the caption thereof that such relief is requested, or through a separate motion filed by the applicant or petitioner.”

27. Furthermore, *Section 2, Rule 14 of Section 1, Rule 14 of ERC Resolution No. 01, series of 2021* also states that:

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“Section 2. Allegations in the Motion and Supporting Documents. The motion must allege such facts and circumstances that would justify the Commission’s exercise of discretion in granting provisional authority or interim relief prior to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegation therein.”

28. The nature of the operation of the cooperative being on cash flow basis, Applicant respectfully submits that the issuance of the provisional authority in favor of the applicant will be for the best interest of the consumers. To compound or suspend the collection of the under recoveries will make it more burdensome to the consumers in the future.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Commission that:

1. The motion for the issuance of Provisional Authority to the applicant be GRANTED.
2. The calculations of over/under recoveries that resulted after the implementation of the subject automatic cost adjustments and true-up mechanisms covering the period January 2021 to December 2023 be CONFIRMED and APPROVED; and
3. LEYECO II be allowed to collect the under recoveries and refund the over recoveries from its customers, under LEYECO II’s proposed recovery scheme and summarized as follows, to wit:

Recovery Period	Projected Sales (KWH)		Generation	Transmission	System Loss	Lifeline	Senior Citizen
	TACLOBAN	PALO/BBT	0.0147	(0.0030)	(0.0218)	(0.0006)	0.0008
2024	265,537,406.38	54,387,179.62	4,713,432.06	(953,589.14)	(6,974,638.43)	(201,380.49)	242,852.74
2025	342,280,021.00		5,042,793.51	(1,020,223.28)	(7,462,006.65)	(215,452.39)	259,822.61
2026	366,446,159.00		5,398,831.95	(1,092,254.53)	(7,988,849.80)	(230,664.07)	278,166.97

Recovery Period	Projected Sales (KWH)		RPT	FT		BT	Total O/U Recovery	Outstanding Balance of O/U
			TACLOBAN	TACLOBAN	PALO/BBT	TACLOBAN		
	TACLOBAN	PALO/BBT	PHP/KWH					
			0.0036	0.0132	0.0093	0.002725		(1,015,851.67)
2024	265,537,406.38	54,387,179.62	958,481.52	3,497,376.27	504,739.20	4,226,710.28	(3,173,323.26)	2,157,471.59
2025	342,280,021.00		-	-	-	-	(3,395,066.21)	5,552,537.80
2026	366,446,159.00		-	-	-	-	(3,634,769.48)	9,187,307.28

4. Other reliefs that are just and equitable under the premises are likewise prayed for.

The Commission hereby sets the instant *Application* for hearing for determination of compliance with the jurisdictional requirements, expository presentation, and Pre-Trial Conference **on 26 March 2025 (Wednesday) at nine o’clock in the morning (09:00 A.M.)**, through **MS Teams Application** as the online platform 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, LEYECO II is hereby directed to host the virtual hearing at **LEYECO II's principal office located at Barangay 57, Real St., Sagkahan District, Tacloban City, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO II shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

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, all 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.

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.

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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.

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WITNESS, the Honorable Chairperson and CEO **MONALISA C. DIMALANTA** and 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:



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