



LEYECO III
 LEYTE III ELECTRIC COOPERATIVE, INC.
 Brgy. San Roque, Tunga, Leyte
 Hotline Nos.: (Globe) 0917-3049794, (Smart) 0998-5487784
 E-mail Address: leyteiii@yahoo.com



February 10, 2025

HON. LEONARDO M. JAVIER JR.
 Vice Governor and Presiding Officer
 Sangguniang Panlalawigan
 Province of Leyte



Subject: Request for a Certificate of Posting of the attached Order and Notice of Virtual Hearing for ERC CASE NO. 2024-021 CF: "IN THE MATTER OF THE APPLICATION FOR OVER OR UNDER RECOVERIES IN THE IMPLEMENTATION OF AUTOMATIC ADJUSTMENTS 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 NO. 14, SERIES OF 2022 AND FOR LOCAL TAXES ERC RESOLUTION NO. 02 SERIES OF 2021"

Dear Vice Gov. Javier,

This refers to the above-entitled *Application* filed by *Leyte III Electric Cooperative, Inc.* before the Energy Regulatory Commission ("ERC") docketed as ERC Case No. 2024-021 CF.

The ERC promulgated an *Order and a Notice of Virtual Hearing* (the "*Notice*"), both dated 26 December 2024, setting the hearing for the *Application* on March 28, 2025 (Friday) at two o'clock in the afternoon (2:00 PM) via MS Teams Application.

In compliance with the Order, we are furnishing the *Sangguniang Panlalawigan* with copies of the Order and Notice of Virtual Hearing for posting on your bulletin board for public information. Accordingly, we respectfully request three (3) original copies of the Certificate of Posting signed by you or your duly designated representative, bearing the dry seal and logo of your office, certifying the receipt, and posting on your bulletin boards of the said ERC Order and Notice. Attached is a blank certification, which your office may opt to use for this purpose.

If you have no dry seal and logo, kindly make a small note on the lower left side of the certification (i.e., not using a dry seal and logo), so that we can manifest the same to the ERC.

As the Certificate of Posting is required to be submitted before the date of the initial hearing as part of the compliance with the jurisdictional requirements of the above-mentioned case, we would highly appreciate receiving the Certificate of Posting on or before 10 March (Monday). This timeframe allows us to consolidate and prepare the jurisdictional requirements for submission to the ERC.

Kindly send an advance electronic copy of the Certificate to leyteiii@yahoo.com and info@ojlawoffices.com.

Thank you very much for your usual cooperation.

Very truly yours,


DR. ALLAN L. TANIBA, OFS.
 General Manager

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR OVER OR
UNDER RECOVERIES IN THE
IMPLEMENTATION OF
AUTOMATIC ADJUSTMENTS
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 NO. 14,
SERIES OF 2022 AND FOR
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RESOLUTION NO. 02 SERIES
OF 2021**



ERC CASE NO. 2024-021 CF

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

Applicant.

X-----X

Promulgated:
December 26, 2024

ORDER

On 10 May 2024, Leyte III Electric Cooperative, Inc. (LEYTECO III) filed an *Application* dated 01 April 2024, for the application for over or under recoveries in the implementation of automatic adjustments and true-up mechanisms during the period 2021 - 2023, pursuant to Commission's Resolution No. 16, Series of 2009, as amended by Resolution Nos. 21 and 23, Series of 2010, and Resolution No. 14, Series of 2022 and for local taxes Commission's Resolution 02, Series of 2021.

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

I. THE APPLICANT

1. The applicant, LEYTE III ELECTRIC COOEPRATIVE, 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. It 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-user 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. 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
Net Results	4,373,512.36		

Formulas used in computing the aboved 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:

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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
TOTAL		4,373,512.36			

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	SUPPLIER AND TRANSMISSION DATA	
	ANNEX G	Power Bills from Suppliers (Power Bill, Proof of Payment, Adjusted Bill/Debit or Credit Memo)
Folder 3	STATISTICAL DATA	
	ANNEX H	Manifestation of no Pilferage Cost Recoveries
	ANNEX I	Monthly Financial & Statistical Report (MFSR) Sections A and E
Folder 4	ACTUAL IMPLEMENTED RATES	
	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	OTHER DOCUMENTS	
	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 in 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 28 March 2025 (Friday) at two o'clock in the afternoon (02:00 P.M.)**, through **MS Teams Application** as the online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021² (ERC Revised Rules of Practice and Procedure).

Accordingly, LEYECO III is hereby directed to host the virtual hearing at **LEYECO III's principal office located at Brgy. San Roque, Tunga, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO III shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, Applicant LEYECO III 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;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Mayors, and the Local Government Unit (LGU) Legislative Bodies within LEYECO III franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within LEYECO III'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;

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 Practices and Procedures of the Energy Regulatory Commission.

- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days before the date of the virtual hearing, LEYECO III 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 an affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issue of the said newspaper;
- 2) The evidence of the actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by LEYECO III to inform the consumers within its franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;

- 5) The evidence of receipt of copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

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

Applicant LEYECO III 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 also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Applicant LEYECO III must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled initial virtual hearing and Pre-trial Conference, pursuant to the preceding paragraph.

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

Applicant LEYECO III must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Application* must be cited in support thereof.

Applicant LEYECO III 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 III 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 III 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.


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Finally, LEYECO III, including its authorized representatives and witnesses, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 26 December 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service

Copy Furnished:

1. Leyte III Electric Cooperative, Inc. (LEYECO III)

Applicant

Brgy. San Roque, Tunga, Leyte

2. Atty. Rogelgio P. Gula
Counsel for LEYECO III
Gula Law & Notarial Office,
Door 7, Cabigon Bldg., Del Pilar Street,
(across Sacred Heart Church)
Brgy. 8, 6500 Tacloban City, Leyte
Email address: nhoygula@yahoo.com
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
Email address: docket@osg.gov.ph
4. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
Email address: citizensdesk@coa.gov.ph
5. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
Email address: senateenergycommittee@gmail.com
6. House Committee on Energy
Batasan Hills, Quezon City
Email address: 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 Municipal Mayor
Alangalang, Leyte
10. Office of the Local Government Unit (LGU) Legislative
Alangalang, Leyte
11. Office of the Municipal Mayor
Barugo, Leyte
12. Office of the Local Government Unit (LGU) Legislative
Barugo, Leyte
13. Office of the Municipal Mayor
Capoocan, Leyte
14. Office of the Local Government Unit (LGU) Legislative
Capoocan, Leyte
15. Office of the Municipal Mayor
Carigara, Leyte
16. Office of the Local Government Unit (LGU) Legislative
Carigara, Leyte
17. Office of the Municipal Mayor
Jaro, Leyte

18. Office of the Local Government Unit (LGU) Legislative
Jaro, Leyte
19. Office of the Municipal Mayor
Pastrana, Leyte
20. Office of the Local Government Unit (LGU) Legislative
Pastrana, Leyte
21. Office of the Municipal Mayor
San Miguel, Leyte
22. Office of the Local Government Unit (LGU) Legislative
San Miguel, Leyte
23. Office of the Municipal Mayor
Sta. Fe, Leyte
24. Office of the Local Government Unit (LGU) Legislative
Sta. Fe, Leyte
25. Office of the Municipal Mayor
Tunga, Leyte
26. Office of the Local Government Unit (LGU) Legislative
Tunga, Leyte
27. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive,
Ortigas Center San Antonio, Pasig City
ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
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ERC CASE NO. 2024-021 CF

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

Applicant.

X-----X

Promulgated:
December 26, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 10 May 2024, Leyte III Electric Cooperative, Inc. (LEYTECO III) filed an *Application* dated 01 April 2024, for the application for over or under recoveries in the implementation of automatic adjustments and true-up mechanisms during the period 2021 - 2023, pursuant to Commission's Resolution No. 16, Series of 2009, as amended by Resolution Nos. 21 and 23, Series of 2010, and Resolution No. 14, Series of 2022 and for local taxes Commission's Resolution 02, Series of 2021.

The pertinent allegations of the *Application* are hereunder quoted 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. It 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

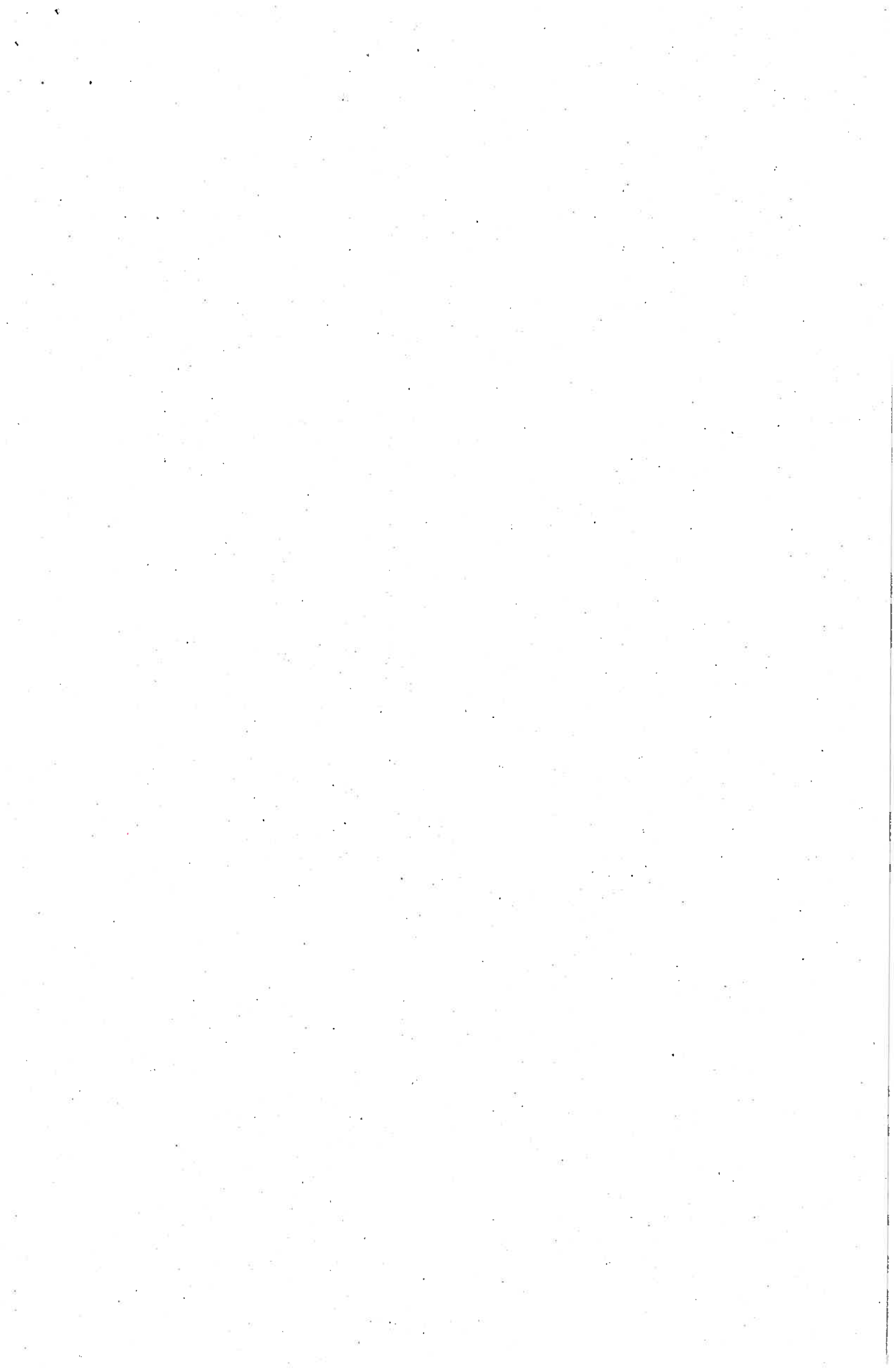
3. Before this filing, herein Applicant had undergone computation and reportorial submission to the Energy Regulatory Commission on its over or under-recoveries incurred in the implementation of automatic cost adjustments and true-up mechanisms on pass-through costs of LEYECO III following the formulas 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-user 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. 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
Net Results	4,373,512.36		

Formulas used in computing the aboved 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:

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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
TOTAL		4,373,512.36			

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	SUPPLIER AND TRANSMISSION DATA	
	ANNEX G	Power Bills from Suppliers (Power Bill, Proof of Payment, Adjusted Bill/Debit or Credit Memo)
Folder 3	STATISTICAL DATA	
	ANNEX H	Manifestation of no Pilferage Cost Recoveries
	ANNEX I	Monthly Financial & Statistical Report (MFSR) Sections A and E
Folder 4	ACTUAL IMPLEMENTED RATES	
	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	OTHER DOCUMENTS	
	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 in the premises are likewise prayed for.

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 (2:00 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, LEYECO III is hereby directed to host the virtual hearing at **LEYECO III's principal office located at Brgy. San Roque, Tunga, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO III 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, 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;

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.

- 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.


KRISHA MARIE T. BUELA
Director III, Legal Service