

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

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

ERC CASE NO. 2023-005 CF

BATANGAS II ELECTRIC
COOPERATIVE, INC.
(BATELEC II),

Applicant.

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Promulgated:
April 18, 2023

ORDER

On 03 April 2023, Batangas II Electric Cooperative, Inc. (BATELEC II) filed an *Application* dated 23 March 2023, seeking the Commission's confirmation and approval of calculations of its over or under recoveries in the implementation of automatic cost adjustments and true-up mechanisms for the period 2020 to 2022, pursuant to the Commission's Resolution No. 16, Series of 2009, as amended by Resolution No. 21, Series of 2010, Resolution No. 23, Series of 2010 and Resolution No. 02, Series of 2021.

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

THE APPLICANT

1. BATELEC II is a non-stock, non-profit electric cooperative, duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Antipolo Del Norte, Lipa City, Batangas;
2. It holds an exclusive franchise issued by the National Electrification Commission to operate an electric light and power distribution service in two (2) cities and fifteen (15) municipalities in the Province of Batangas: Lipa City, Tanauan City, Padre Garcia, Mataas na Kahoy, Balete, Cuenca, Alitagtag, Malvar, Talisay, Laurel, Mabini, Tingloy, Rosario, Taysan, San Juan, Lobo, and San Jose.

LEGAL BASES FOR THE APPLICATION

3. ERC Resolution No. 16, Series of 2009, as amended by Resolution No. 21, Series of 2010, establishes the procedure for the automatic recovery or refund of pass through costs and the confirmation process that would govern the automatic cost adjustment and true-up mechanisms approved by the Honorable Commission, with the objective of ensuring appropriate recovery of the pass through costs in an efficient manner and to put in place a fair and transparent process for the confirmation of the automatic cost adjustments implemented by Distribution Utilities and the true-up of other pass-through charges, involving Generation Rate, Transmission Rate, System Loss Rate and Lifeline Rate Recovery, as the case may be;
4. On the other hand, ERC Resolution 23, Series of 2010, adopts the rules implementing the discounts to qualified senior citizen end-users and subsidy from subsidizing end-users on electricity consumption;
5. Finally, ERC Resolution No. 02, Series of 2021, provides for the recovery of all just and reasonable costs pertaining to current taxes (real property, local franchise, and business tax) that are levied by local government units within the distribution utilities' franchise area, subject to the post-validation and confirmation process mechanism of the Commission.
6. Foregoing resolutions further require the distribution utilities to file their respective consolidated applications once every three (3) years.
7. Hence, the filing of the instant application, covering the period of January 2020 to December 2022.

OVER OR UNDER-RECOVERIES OF ALLOWABLE COSTS

8.

Applying the formulae provided under Resolution 16, Series of 2009 as amended by Resolution 21, Series of 2010, Resolution 23, Series of 2010, and Resolution 02, Series of 2021, BATELEC II made 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 of January 2020 to December 2022;
9.

The results of its calculations are presented hereunder, as follows:

| Mechanism | Recoverable Cost (PhP) | Revenue (PhP) | (Over)/Under Recovery (PhP) |
|-----------------------------------|------------------------|-------------------|-----------------------------|
| Total Generation | 16,658,363,129.03 | 16,341,772,799.01 | 316,590,330.02 |
| Mainland | 16,578,263,567.10 | 16,262,491,591.63 | 315,771,975.47 |
| Tingloy/SPUG | 37,014,947.11 | 36,820,902.96 | 194,044.15 |
| LEZ/Campo Verde | 43,084,614.82 | 42,460,304.42 | 624,310.40 |
| Transmission-Main | 2,701,103,935.62 | 2,935,157,071.21 | (234,053,135.59) |
| Total Systems Loss | 2,338,231,364.21 | 2,308,555,398.22 | 29,675,965.99 |
| Mainland | 2,329,520,878.54 | 2,299,811,641.86 | 29,709,236.68 |
| Tingloy/Spug | 5,217,007.01 | 5,196,510.06 | 20,496.95 |
| LEZ/Campo Verde | 3,493,478.66 | 3,547,246.30 | (53,767.64) |
| Lifeline Subsidy/ Discount | 145,323,454.47 | 140,812,362.41 | 4,511,092.06 |
| Senior Citizen Subsidy/ Discount | 2,750,441.85 | 2,757,073.57 | (6,631.72) |
| Franchise Tax and/or Business Tax | 14,951,591.82 | 1,953,645.77 | 12,997,946.05 |
| Real Property Tax | 5,346,467.30 | 736,840.59 | 4,609,626.71 |
| TOTAL (Php) | 21,866,070,384.30 | 21,731,745,190.78 | 134,325,193.52 |

SUPPORTING DATA AND DOCUMENTS

10.

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

| FOLDER NO. | ANNEX MARKINGS | DESCRIPTION OF DOCUMENTS |
|------------|---|---|
| Folder 1 | Annex A | Supplier and Transmission Data Sheet Per Year |
| | Annex B | Statistical Data Sheet Per Year |
| | Annex C | URR Addendum/DSL Data Sheet Per Year |
| | Annex D | Actual Implemented Rates Sheet Per Year |
| | Annex E | Lifeline Discount Sheet Per Year |
| | Annex F | Senior Citizen Discount Sheet Per Year |
| | Annex G | Summary of Over/Under-Recoveries Computation |
| | Annex H | Proposed Refund/Collect Scheme |
| Folder 2 | SUPPLIER AND TRANSMISSION DATA | |
| | Annex I | Power Bills from Suppliers |
| Folder 3 | STATISTICAL DATA | |
| | Annex J | Summary of Pilferage Cost Recoveries |
| | Annex K | Summary of Implemented Orders/Decisions |
| | Annex L | MFSR – Sections B and E |
| | Annex M | Demand (kW) Sales Summary Report |
| Folder 4 | ACTUAL IMPLEMENTED RATES DATA | |
| | Annex N | Consumer Bills per Customer Class (Non-Lifeline) |
| | Annex O | Consumer Bills per Lifeline Bracket (Lifeline) |
| | Annex P | Senior Citizen Consumer Bills |
| | Annex Q | Statement of Accounts of Consumers Other than Captive |
| | Annex R | Actual Lifeline Discount Report |
| | Annex R-1 | Actual Senior Citizen Discount Report |
| Folder 5 | OTHER DOCUMENTS | |
| | Annex S | Submitted Monthly URR per Reso. 17, Series of 2009 |
| | Annex T | Submitted Monthly URR Addendum |
| | Annex U | Single Line Diagram |
| | Annex V | Power Supply Contracts with Generation Companies |
| | Annex W | Computation on how the pass-through charges were derived |
| Folder 6 | FRANCHISE, BUSINESS AND REAL PROPERTY TAXES | |
| | Annex X Series | a) Franchise Tax Local Tax Ordinance, Tax Receipts for payments made, Actual Distribution Revenues, Breakdown of Gross Sales/Receipts; Appendix B; |

| | | |
|--|----------------|--|
| | | Sample Consumer Bills per LGU |
| | Annex Y Series | b) Business Tax Local Tax Ordinance; Tax Receipts for payments made; Actual Distribution Revenues; Breakdown of Gross Sales/Receipts; Appendix A; Sample Consumer Bills per LGU |
| | Annex Z Series | Real Property Tax a) Local Tax Ordinance; Tax Declarations; Tax Assessments; Statements of Account; Official Receipts; Appendix A; Sample Consumer Bills per LGU |
| | Annex AA | Computations on how the implemented pass-through taxes were derived |

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

| ANNEX MARKINGS | NATURE OF DOCUMENT |
|-----------------|---|
| Annex BB series | Proof of furnishing copies of the Application to the Offices of the Governor and Sangguniang Panlalawigan of Batangas, as well as the Mayor and Sangguniang Panlungsod of Lipa City |
| Annex CC series | Proof of publication of the Application in a newspaper of general circulation within BATELEC II's franchise area or where it principally operates |

12. Considering [the] foregoing, it is respectfully prayed that BATELEC II's calculations of over or under-recoveries in the implementation of subject automatic cost adjustments and true-up mechanisms be confirmed and approved, and the cooperative be allowed to refund the over recoveries or collect the under recoveries, as the case may be, to or from its customers.

PRAYER

WHEREFORE, premises considered, applicant Batangas II Electric Cooperative, Inc. (BATELEC II) respectfully prays of this Honorable Commission, after due notice and hearing, to confirm and approve its calculations of over or under-recoveries in the implementation of subject automatic cost adjustments and true-up mechanisms covering the period of January 2020 to December 2022 made pursuant to ERC Resolution 16, Series of 2009 as amended by Resolution 21, Series of 2010, ERC Resolution 23, Series of 2010, and ERC Resolution 02, Series of 2021, and allow the cooperative to

refund the over recoveries or collect the under recoveries, as the case maybe, to or from its customers, based on the following refund/collect schemer (*sic*), to wit:

| Mechanism | (Over)/Under Recovery (PhP) | Proposed Term of Refund /Collect | Billing Determinant kWh / kW | Rate per Month |
|--|-----------------------------|----------------------------------|------------------------------|--------------------|
| GENERATION: | | | | |
| Generation-Main | 315,771,975.47 | 36 months | 2,596,339,623.28 | 0.1216 |
| Generation - Tingloy | 194,044.15 | 36 months | 6,394,299.00 | 0.0303 |
| Generation –Campo Verde | 624,310.40 | 36 months | 4,576,405.90 | 0.1364 |
| TRANSMISSION: | | | | |
| Residential kWh | (8,930,984.99) | 36 months | 1,494,079,789.070 | (0.0060) |
| Lower Voltage kWh | 4,569,787.77 | 36 months | 588,092,548.400 | 0.0078 |
| Higher Voltage – Php / kW | (229,691,938.37) | 36 months | 97,518 | (65.4272) |
| Systems Loss -Main | 29,709,236.68 | 36 months | 3,169,639,650.56 | 0.0094 |
| Systems Loss - Tingloy | 20,496.95 | 36 months | 6,394,299.00 | 0.0032 |
| Systems Loss – Campo Verde | (53,767.64) | 36 months | 4,576,405.90 | (0.0117) |
| Lifeline Subsidy/ Discount | 4,511,092.06 | 36 months | 3,117,073,500.46 | 0.0014 |
| Senior Citizen Subsidy/ Discount | (6,631.72) | 1 month | 86,436,024.18 | (0.0001) |
| Franchise and/or Business Tax Recovery | 12,997,946.05 | 24 months | 3,359,381,801.98 | Table AD |
| Real Property - Lipa City, Tanauan City and all Municipalities (Provincial Gov't of Batangas) Tax Recovery | 4,609,626.71 | 24 months | 1,168,376,643.24 | Table AD 0.0039 |
| TOTAL | 134,325,193.52 | | | |

Table AD: Over/Under Recovery of the Pass-Through Charges and True-Up Mechanism (2021-2022)

| Coverage Area | Unrecovered Taxes on years 2021-2022 (PhP) | Total kWh Sales | <div>Proposed Rate</div> <div>Recovery Rate per Month (Php/kWh)</div> |
|---|--|-------------------------|---|
| Real Property Tax: All Cities / Municipalities | | | |
| Lipa City, Tanauan City and all Municipalities (Provincial Gov't of Batangas) | 4,609,626.71 | 1,168,376,643.24 | 0.0039 |
| Franchise Tax : | | | |
| Provincial Gov't of Batangas | 3,069,836.57 | 1,168,376,643.24 | 0.0026 |
| Lipa City | 4,770,553.15 | 757,226,928.86 | 0.0063 |
| Tananuan City | 1,239,769.62 | 269,985,622.64 | 0.0046 |
| Total | 9,080,159.34 | 2,195,589,194.74 | |
| Business Tax: 14 Municipalities | | | |
| Alitagtag | 67,817.15 | 26,004,432.69 | 0.0002 |
| Balete | 66,031.43 | 20,868,841.82 | 0.0003 |
| Cuenca | 105,135.10 | 32,886,010.29 | 0.0003 |
| Laurel | 111,085.45 | 41,186,717.38 | 0.0002 |
| Lobo | 79,196.34 | 26,583,972.01 | 0.0002 |
| Mabini | 498,001.05 | 182,994,115.49 | 0.0002 |
| Malvar | 284,048.88 | 169,191,719.33 | 0.0001 |
| Mataas na Kahoy | 233,026.87 | 31,370,150.92 | 0.0006 |
| Padre Garcia | 701,779.35 | 86,392,520.13 | 0.0007 |
| Rosario | 555,042.44 | 169,109,619.85 | 0.0003 |
| San Jose | 512,294.00 | 149,793,150.45 | 0.0003 |
| San Jaun | 309,893.63 | 116,121,743.45 | 0.0002 |
| Talisay | 183,950.27 | 51,137,384.28 | 0.0003 |
| Taysan | 210,484.76 | 60,152,229.15 | 0.0003 |
| Total | 3,917,786.72 | 1,163,792,607.24 | |

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 determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure):²

| Date | Platform | Activity |
|--|--|--|
| 31 May 2023 (Wednesday) at two o'clock in the afternoon (2:00 P.M.) | Microsoft Teams or Zoom Application | Determination of compliance with the jurisdictional requirements and expository presentation |
| 07 June 2023 (Wednesday) at two o'clock in the afternoon (2:00 P.M.) | | Pre-trial Conference and presentation of evidence |

RELATIVE THERETO, BATELEC 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;
- 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 BATELEC II's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within BATELEC 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

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.

(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, BATELEC 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 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 BATELEC II 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, BATELEC II 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 BATELEC 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 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 BATELEC 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 initial virtual hearing and Pre-trial Conference, pursuant to the preceding paragraph.

Failure of BATELEC II to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

Applicant BATELEC 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.

Applicant BATELEC 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. BATELEC 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.

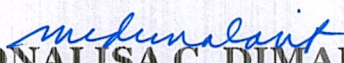

Applicant BATELEC II is further directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **within 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.

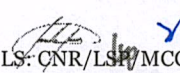
Finally, BATELEC II, including its authorized representatives and witnesses, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform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

SO ORDERED.

Pasig City, 18 April 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO 


LS: CNR/LSM/MCCG



Copy Furnished:

1. Batangas II Electric Cooperative, Inc. (BATELEC II)
Applicant
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2. DECHAVEZ LERIOS-AMBOY AND EVANGELISTA LAW OFFICES
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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. Regulatory Operations Service (ROS)
Energy Regulatory Commission
14th Floor, Exquadra Tower, 1 Jade Drive,
Ortigas Center San Antonio, Pasig City
8. Office of the City Mayor
Lipa City, Batangas
9. Office of the Sangguniang Panlungsod
Lipa City, Batangas
10. Office of the City Mayor
Tanauan City, Batangas
11. Office of the Sangguniang Panlungsod
Tanauan City, Batangas
12. Office of the Municipal Mayor
Padre Garcia, Batangas
13. Office of the Sangguniang Bayan
Padre Garcia, Batangas
14. Office of the Municipal Mayor
Mataas na Kahoy, Batangas
15. Office of the Sangguniang Bayan
Mataas na Kahoy, Batangas

16. Office of the Municipal Mayor
Balete, Batangas
17. Office of the Sangguniang Bayan
Balete, Batangas
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Rosario, Batangas
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34. Office of the Municipal Mayor
Taysan, Batangas
35. Office of the Sangguniang Bayan
Taysan, Batangas

- 36. Office of the Municipal Mayor
San Juan, Batangas
- 37. Office of the Sangguniang Bayan
San Juan, Batangas
- 38. Office of the Municipal Mayor
Lobo, Batangas
- 39. Office of the Sangguniang Bayan
Lobo, Batangas
- 40. Office of the Municipal Mayor
San Jose, Batangas
- 41. Office of the Sangguniang Bayan
San Jose, Batangas
- 42. Office of the Governor
Province of Batangas
- 43. Office of the Sangguniang Panlalawigan
Province of Batangas