

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
PETITION FOR THE
RECOVERY OF CY 2018
REVENUE SHORTFALL
FROM THE UNIVERSAL
CHARGE FOR MISSIONARY
ELECTRIFICATION (UC-ME)
AND THE CORRESPONDING
ADJUSTMENT OF THE UC-
ME WITH PRAYER FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2020-004 RC

**NATIONAL POWER
CORPORATION,
Petitioner.**

Promulgated:

July 10, 2020

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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 23 January 2020, the National Power Corporation (NPC) filed a *Petition* dated 20 January 2020, seeking the Commission's approval of the recovery of its revenue shortfall for Calendar Year (CY) 2018 from the Universal Charge-Missionary Electrification (UC-ME) and the corresponding adjustment of the UC-ME, with prayer for the issuance of provisional authority.

In its *Petition*, NPC alleged the following pertinent provisions:

1. Petitioner NPC is a government owned and controlled corporation created and existing under Republic Act No. 6395 as amended ("NPC Charter"), with principal address at NPC Office Building Complex, corner Quezon Avenue and BIR Road, Diliman, Quezon City where it may be served

summons and other processes of the Honorable Commission.

2. Pursuant to Section 70 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (“EPIRA”), Petitioner NPC shall remain as a National-Government Owned and Controlled Corporation to perform the Missionary Electrification function through its Small Power Utilities Group (hereafter, “NPC-SPUG”) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.
3. Pursuant to Section 4 of Republic Act No. 6395, as amended, and Executive Order No. 86, issued by virtue of the authority granted to the President of the Republic of the Philippines under R. A. 7648, Petitioner NPC is duly authorized to include twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital in the Revenue Requirement.
4. Petitioner NPC is filing this Petition in its capacity as the implementing agency for Missionary Electrification. Said function shall be funded from the revenue from sales in the missionary areas and from the Universal Charge to be collected from all electricity end-users as determined by the Energy Regulatory Commission (ERC).
5. On 22 August 2011, the Honorable Commission approved and issued Resolution No. 21 Series of 2011 entitled “*Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas*” providing for the guidelines for the setting and approval of electricity generation rates and subsidies for Missionary Electrification areas, for the fixing of and availment of subsidies for Missionary Electrification areas and Cash Incentives for the Renewable Energy (“RE”) Developers for Missionary Electrification from the Universal Charge for Missionary Electrification (“UC-ME”).

The said resolution allows for the recovery of the NPC and NPP TCGR as approved by the ERC. In cases where the NPC and the NPP TCGR is higher than the SAGR, then NPC and the NPPs shall be allowed to recover the difference from the Missionary Electrification Subsidy. Further, in the same resolution, it is provided that if after reconciliation of all amounts received against all disbursements made and the result is NPC having surplus funds, as confirmed by this Honorable Commission, the amount corresponding to the surplus shall be deducted from the UCME under the current petition. Otherwise, NPC-SPUG shall be entitled to an increase in the UCME to cover the shortfall which may be brought about by several factors as specified therein (i.e. adjustments due to GRAM and ICERA, adjustment in the NPP TCGR and other analogous cases).

6. On 03 May 2006, the Honorable Commission likewise approved and issued Resolution No. 22 Series of 2006 entitled “*Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy*”. The resolution mandated NPC to file a quarterly application, if necessary with the ERC to recover any shortfall in the Missionary Electrification subsidy brought about by factors such as: collection shortfall, adjustments in the FCRR and other analogous cases. Also, it is provided therein that “NPC-SPUG shall reconcile all amounts received against all disbursement made for the previous year. If the reconciliation results in NPC having surplus funds, the amount of the ME subsidy for the year shall be adjusted accordingly. Conversely, if the reconciliation results in NPC-SPUG experiencing a deficiency, NPC-SPUG shall be entitled to file an application for an increase in the ME Subsidy to cover the shortfall.”
7. NPC is filing this petition pursuant to Rule 20 (A) of the ERC Rules of Practice and Procedure as approved by the Honorable Commission on 22 June 2006 in Resolution No. 38, Series of 2006.

**ABSTRACT OF THE PROPOSED RECOVERY OF THE
SHORTFALL IN THE UC-ME**

8. Reconciliation of Actual UC-ME. The reconciliation covers all amounts received against all disbursement made in CY 2018. NPC utilizes in its calculation the following documents:
 - a. Certified CY 2018 Financial Statements;
 - b. Actual Results of Operation;
 - c. The actual disbursements of UC-ME Subsidy to NPPs and QTPs
9. Total UC-ME Shortfall. Based on the foregoing documents and as a result of the calculations made, the total shortfall that NPC proposes to recover from the UC-ME is equivalent to Five Billion Nine Hundred Eighteen Million Six Hundred Twelve Thousand Three Hundred Ninety-Nine and 05/100 Pesos (Php 5,918,612,399.05) or an equivalent of Po.0591/kWh for twelve (12) months recovery period as summarized in Table 1 below.

Table 1. Summary of Shortfall

PARTICULARS	TOTAL [A+B+C]	NPC [A]	NPP [B]	QTP [C]
REVENUE REQUIREMENT	22,293,178,582.79	8,571,579,890.29	13,484,061,191.78	237,537,500.72
LESS: REVENUE FROM SALES	7,986,555,159.27	2,108,279,378.81	5,777,974,501.88	100,301,278.58
TOTAL REVENUE REQUIREMENT	14,306,623,423.52	6,463,300,511.48	7,706,086,689.90	137,236,222.14
LESS: ACTUAL 2018 UCME REVENUE (BASIC)	8,388,011,024.47	2,626,828,014.41	5,635,141,347.31	126,041,662.75
UCME SHORTFALL , PhP	5,918,612,399.05	3,836,472,497.07	2,070,945,342.59	11,194,559.39
RATE IMPACT, P/kWh	0.0591	0.0383	0.0207	0.0001
<i>Projected Energy Sales, GWH (12 months)</i>	<i>100,101.50</i>			

10. In the reconciliation, the resulting shortfall in the revenue from UC-ME was calculated based on the following formula:

$$\text{UC-ME True-Up Shortfall} = \text{Total UC-ME Subsidy Requirement} - \text{Approved UC-ME}$$

Where: Total UC-ME Subsidy Requirement =
 (NPC Revenue Requirement – Revenue from Sales) +
 Subsidy Payment to NPPs and QTPs

11. The Revenue is inclusive of the revenue from sales and the UC-ME subsidy for CY 2018. Whereas the disbursement includes all expenses related to NPC-SPUG's operation and subsidy fees paid to the New Power Providers (NPPs) and Qualified Third Parties (QTPs).
12. In the calculation of the NPC Revenue Requirement, the following accounts and actual costs were considered:
- Actual Fuel Costs;
 - Other Operating Expenses which includes Personal Services and Maintenance and Other Operating Expenses;
 - Depreciation;
 - Disbursement on FOREX Fluctuation;
 - Rate Base as of December 2018;
 - Revenue from Sales
13. The amount of UC-ME Subsidy for NPPs and QTPs were based on the actual disbursements and payment made consistent with the UC-Settlement Agreement (UCSA) between NPC and respective power providers considering their respective ERC-approved Power Supply Agreement (PSA).
14. Twelve (12) months projected Philippine energy sales forecast in GWh under DOE's Power Development Plan (PDP) was used to determine the proposed UC-ME True-up rate in P/kWh.

15. As can be gleaned from Table 1, the CY 2018 actual revenue received from the UC-ME was not sufficient to cover the total UC-ME requirement for NPC, NPPs and QTPs. As such, Petitioner NPC seeks to recover the deficiency pursuant to the rules and guidelines for the UC-ME.

16. The following documents are submitted in support of the proposed recovery of shortfall in the UC-ME:

Annex "A"	Corporate Secretary's Certificate
Annex "B"	Summary of Shortfall and UC-ME True-up Adjustment Calculation
Annex "C"	CY 2018 Actual Results of Operations
Annex "D"	CY 2018 Certified Income Statement
Annex "D-1"	CY 2018 Certified Balance Sheet
Annex "E"	Discussion on Revenue Requirement and Rate Base Components
Annex "F"	Schedule of CY 2018 Depreciation Expense
Annex "G"	Schedule of CY 2018 Fuel Consumption
Annex "H"	Schedule of CY 2018 Other Operating Expenses
Annex "I"	Schedule of CY 2018 Rate Base
Annex "J"	Schedule of CY 2018 Construction Work in Progress
Annex "K"	Summary of CY 2018 UC-ME paid to NPPs and QTPs
Annex "L"	Projected Philippine Energy Sales
Annex "M"	Proof of Receipt by the Local Government Offices

RATE IMPLICATIONS OF THE PROPOSED RECOVERY OF UCME SHORTFALL

17. Under the foregoing premises, the recovery of Five Billion Nine Hundred Eighteen Million Six Hundred Twelve Thousand Three Hundred Ninety-Nine and 05/100 Pesos (Php5,918,612,399.05) or an equivalent monthly rate impact of P0.0591/kWh is proposed to be collected from the

nationwide electricity end-consumers within a period of twelve (12) months.

18. The proposed recovery of the shortfall for twelve (12) months would be reasonable and timely for NPC to augment its financial requirements and to provide up to date recovery and adjustment of the ensuing years' subsidy requirements.
19. The implementation of the proposed recovery period is presumed to be after the all the pending True-up applications with Provisional Authority has been fully recovered.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY**

20. Petitioner NPC repleads the foregoing allegations and further states:
21. The recovery by NPC of only a portion of its costs of generation through the Subsidized Approved Generation Rate (SAGR), is not reflective of the TCGR or the Revenue Requirement in the island grid. It is only 48% of the total fuel cost for CY 2018. Details of the difference between Petitioner NPC's actual revenue from sales against the actual fuel costs for CY 2018 is shown below in Table 2.

Table 2. Actual Fuel Costs vis-à-vis Revenue from Sales

PARTICULARS	AMOUNT	PERCENTAGE
Actual Fuel Cost	4,388,500,183.47	100%
Average, P/kWh	10.6285	
Actual Revenue From Sales	2,108,279,378.76	48%
Average, P/kWh	5.1060	
Difference	2,280,220,804.71	52%
P/kWh	5.5224	
Actual Energy Sales, kWh	412,900,699.94	

22. The amount proposed for recovery is already an incurred cost of NPC and within the reasonable cost of servicing the consumers in the missionary areas considering the nature of operation and level of demand in the off-grid areas.
23. ERC already approved the UC-ME True-up Petitions for CY 2003 to 2009, CY 2010 and CY 2011 under ERC Case Nos. 2011-074RC, 2012-046RC and 2012-085RC respectively. The shortfall for CY 2012 True-up Petition was recovered under the provisional authority granted by the Commission on ERC Case No. 2014-135RC as well as for CY 2013, CY 2014 and CY 2015 pending ERC resolution/decision of the said case.

24. NPC also filed with the Honorable Commission the excess Basic UC-ME for CY 2016 under ERC Case No. 2019-004 RC amounting to (Php1,483,845,466.76) with an equivalent rate of (Php0.0162/kwh). In the said petition, NPC proposes to offset the excess amount under the existing Provisional Authority either against the unrecovered amount of the CY 2019 Basic UCME Petition or from the CY 2012, 2013, 2014 and 2015 True-up petitions.
25. Likewise, the CY 2017 UC-ME True-up petition was also filed before the Honorable Commission on October 28, 2019 under ERC Case No. 2019-084 RC where NPC proposes the recovery of the shortfall amounting to Php849,455,932.62 or Php0.0381/kwh for three (3) months consistent with the provisionally approved rate under ERC Case No. 2014-135 RC where the CY 2010 True-up recovery of Php0.0381/kwh was extended until revoked or made permanent by the Commission.
26. Petitioner NPC will recover from the UC-ME the amount of Php5,918,612,399.05 once the proposed UC-ME adjustment rate and spreads will be immediately approved provisionally by ERC as filed.
27. An additional funding through the approval of this Petition will ensure an uninterrupted electricity supply as this would fully augment the funding requirements given the increasing demand for energy in line with the government's thrust of economic development in the off-grid areas.
28. The issuance of a provisional authority is authorized under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the Honorable Commission to issue a provisional authority is confirmed by the Supreme Court in the case of Freedom from Debt Coalition, et. al. vs. ERC, et. al.,¹ when it held that "the power to approve provisional rate increases is included among the powers transferred to the ERC by virtue of Section 44 since the grant of that authority is not inconsistent with the EPIRA; rather, it is in full harmony with the thrust of the law which is to strengthen the ERC as the new regulatory body."
29. Petitioner NPC is thus imploring the kind consideration of this Honorable Commission and respectfully prays for the issuance of a provisional authority under the foregoing premises.

COMPLIANCE

30. In support of this petition and in compliance with Rule 6 of the ERC Rules of Practice and Procedures under ERC Resolution No. 38, Series of 2006 as well as Section 4(e)

¹ G.R. No. 161113, 15 June 2004;

Rule 3 of the EPIRA Implementing Rules and Regulations, Petitioner NPC attaches and submits the following:

- a. Proof of service of this Petition to the Legislative Bodies of the Local Government Units where NPC principally operate, attached in the application;
- b. Affidavit of Publication attached in the application.
- c. Proof of Publication of the Petition once in a newspaper of general circulation attached in the application.

PRAYER

WHEREFORE, premises considered, Petitioner National Power Corporation respectfully prays that:

- a. Pending the hearing on the merits, an Order be issued granting PROVISIONAL APPROVAL to the proposed UC-ME True-up for CY 2018 amounting to Five Billion Nine Hundred Eighteen Million Six Hundred Twelve Thousand Three Hundred Ninety-Nine and 05/100 Pesos (PhP5,918,612,399.05) or equivalent rate of PhP0.0591/kWh.
- b. After the hearing on the merits, the instant petition be GRANTED by the Honorable Commission.

Other reliefs, just and equitable, are likewise prayed for.

In the *Order* dated 03 February 2020, the Commission has set the instant *Petition* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates:

Date and Time	Venue	Hearing Coverage
15 April 2020 (Wednesday), at two o'clock in the afternoon (2:00 PM)	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Jurisdictional and Expository Presentation for Luzon Stakeholders
23 April 2020 (Thursday), at nine o'clock in the morning (9:00 AM)	ERC Visayas Area Division (VAOD) St. Mary's Drive Banilad, Cebu City	Expository Presentation for Visayas Stakeholders
30 April 2020 (Thursday),	ERC Mindanao Area Operations	Expository Presentation for

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Date and Time	Venue	Hearing Coverage
at nine o'clock in the morning (9:00 AM)	Division (MAOD) Mintrade Bldg. Monteverde Ave. cor. Sales St. Davao City	Mindanao Stakeholders
06 May 2020 (Wednesday), at ten o'clock in the morning (10:00 AM)	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Pre-trial Conference and Presentation of Evidence

However, due to the extension of the Enhanced Community Quarantine (ECQ) over the entire Luzon², where a strict work from home arrangement is being implemented in the Executive Branch³, all hearings scheduled during the ECQ period have been cancelled.

IN VIEW OF THE FOREGOING, the series of hearings for the instant *Petition* pursuant to the *Order* dated 03 February 2020 were **CANCELLED**.

RELATIVE THERETO, the Commission hereby reset the hearing of the instant *Petition* on the following dates for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence:

Date and Time	Venue	Hearing Coverage
30 September 2020 (Wednesday), at nine o'clock in the morning (9:00 AM)	ERC Hearing Room 15th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Jurisdictional and Expository Presentation for Luzon Stakeholders
08 October 2020 (Thursday), at two o'clock in the afternoon (2:00 PM)	ERC Visayas Area Operations Division (VAOD) St. Mary's Drive Banilad, Cebu City	Expository Presentation for Visayas Stakeholders

² Memorandum from the Executive Secretary dated 07 April 2020 (Extension of the Enhanced Community Quarantine Over the Entire Luzon until 30 April 2020).

³ Memorandum from the Executive Secretary dated 16 March 2020 (Community Quarantine Over the Entire Luzon).

Date and Time	Venue	Hearing Coverage
15 October 2020 (Thursday), at two o'clock in the afternoon (2:00 PM)	ERC Mindanao Area Operations Division (MAOD) Mintrade Bldg. Monteverde Ave. cor. Sales St. Davao City	Expository Presentation for Mindanao Stakeholders
21 October 2020 (Wednesday), at two o'clock in the afternoon (2:00 PM)	ERC Hearing Room 15th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Pre-trial Conference and Presentation of Evidence

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Petitioner rests its case, subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name and address of such person;
- 2) A concise statement of the Opposition or Comment; and

3) The grounds relied upon.

All such persons who wish to have a copy of the *Petition* may request from the Petitioner that they be furnished with the same, prior to the date of the initial hearing. Petitioner is hereby directed to furnish all those making such request with copies of the *Petition* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Petition* and other pertinent records filed with the Commission during the standard office hours.

Finally, to contain the spread and transmission of the coronavirus disease 2019 (COVID-19), NPC is directed to implement the health protocols and community quarantine guidelines required to be observed. Moreover, NPC and all those who have signified their intention to appear as Oppositor or Intervenor, are highly encouraged to send only one (1) authorized representative each.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, and **PAUL CHRISTIAN M. CERVANTES** Energy Regulatory Commission, this 3rd day of July 2020 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO

