

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

IN THE MATTER OF THE
PETITION FOR THE APPROVAL
OF THE RECOVERY FROM THE
UNIVERSAL CHARGE OF THE
SHORTFALL IN THE
MISSIONARY ELECTRIFICATION
SUBSIDY FOR CY 2012 AND
THE CORRESPONDING
ADJUSTMENT OF THE (UCME),
WITH PRAYER FOR A
PROVISIONAL AUTHORITY

ERC CASE NO. 2013-191 RC

NATIONAL POWER
CORPORATION (NPC),

Petitioner.

X-----X

DOCKETED
Date: JAN 14 2014
By: *[Signature]*

ORDER

On September 20, 2013, the National Power Corporation (NPC) filed a petition for the approval of the recovery from the Universal Charge (UC) of the shortfall in the Missionary Electrification Subsidy (ME Subsidy) for Calendar Year (CY) 2012 and the corresponding adjustment of the Universal Charge for Missionary Electrification (UCME), with prayer for the issuance of a provisional authority.

In the said petition, NPC alleged, among others, that:

1. Pursuant to Section 70 of Republic Act No. 9136 (R.A. 9136), otherwise known as the Electric Power Industry Reform Act (EPIRA) of 2001, it shall remain as a National Government owned and controlled corporation to perform the missionary electrification function through its Small Power Utilities Group (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;

2. It filed the instant petition in its capacity as the implementing agency for missionary electrification which function shall be funded from the revenue from sales in missionary areas and from the UC to be collected from all electricity end-users as determined by the Commission and in line with Section 2 (a) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9136 (R.A. 9136);
3. Pursuant to Section 4 of Republic Act No. 6395 (R.A. 6395), as amended, and Executive Order No. 86¹, issued by virtue of the authority granted to the President of the Republic of the Philippines under Republic Act No. 7684 (R.A. 7684)², it is duly authorized to charge twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital;
4. The 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", which provides the guidelines for the setting and approval of electricity generation rates and subsidies for missionary electrification areas and for the fixing of and availment of subsidies for missionary electrification areas as well as the cash incentives for the Renewable Energy (RE) Developers for missionary electrification from the UCME;
5. The said Resolution allows it and the New Power Providers (NPPs) to recover the NPP True Cost of Generation Rate (TCGR) as approved by the Commission. In cases where the NPP TCGR is higher than the Subsidized Approved Generation Rate (SAGR), they shall be allowed to recover the difference between the NPP TCGR and the SAGR from the UCME³. Further, in the same Resolution, it is provided that if the reconciliation results in a deficiency, as confirmed by the Commission, NPC shall be entitled to an increase in the UCME to cover the shortfall caused by several factors as therein specified (*i.e.* adjustments due to Generation Rate Adjustment Mechanism [GRAM] and Incremental Currency Exchange Rate Adjustment [ICERA], adjustments in the NPP TCGR and other analogous cases)⁴;

¹ "Fixing the Rate of Return on Rate Base of the National Power Corporation at twelve percent (12%) of the Rate Base as Defined in Section 4 of Republic Act No. 6395, as Amended"

² "Electric Power Crises Act of 1993"

³ Article II Section 4

⁴ Article V, Section 2 (c)

6. The Commission likewise issued Resolution No. 22, Series of 2006⁵ on May 3, 2006 which mandates NPC to file a quarterly application, if necessary, to recover any shortfall in the UCME caused by factors such as collection shortfall, adjustments in the Full Cost Recovery Rate (FCRR) and other analogous cases⁶. Also, it is provided therein that "if the reconciliation results in the deficiency, it shall be entitled to file an application with the Commission for an increase in the UCME to cover the shortfall⁷;

ABSTRACT OF THE PROPOSED RECOVERY OF THE SHORTFALL IN THE UCME SUBSIDY

7. **Reconciliation of Actual UCME.** Based on CY 2012 test period, it utilized in its calculation the following documents:
- Certified CY 2012 Financial Statements;
 - Actual Results of Operation;
 - The actual disbursements of UCME to NPPs and Qualified Third Party (QTP); and
 - The documents submitted by Oriental Mindoro Electric Cooperative, Inc. (ORMECO) in support of its claim for reimbursement of fuel cost differential.
8. **Total UC-ME Shortfall.** Based on the foregoing documents and as a result of the calculations made, the total shortfall that it proposes to recover from the UCME is equivalent to **PhP5,370,284,135.27**. It has an equivalent proposed monthly rate of **PhP0.0782/kWh** based on the twelve (12) - month recovery period as summarized below:

Particulars	In '000 PhP								
	NPC (a)	%	NPP (b)	%	Total (c=a+b)	%	ORMECO (Fuel) (d)	Total (e=c+d)	%
Revenue Requirement	8,543,497.46	-	-	-	8,543,497.46	-	-	8,543,497.46	-
Revenue from Sales	2,240,445.35	-	-	-	2,240,445.35	-	-	2,240,445.35	-
UCME Requirement	6,303,052.12	100	1,765,926.10	100	8,068,978.22	100	64,322.58	8,133,300.80	100
CY 2012 Actual Revenue from UCME	2,403,699.75	38	359,316.91	20	2,763,016.66	34	-	2,763,016.66	34
Shortfall, in '000 PhP	3,899,352.37	62	1,406,609.19	80	5,305,961.56	66	64,322.58	5,370,284.14	66
Rate Impact	0.0567		0.0205		0.0772		0.0009	0.0782	
Projected Energy Sales, MWh	= 68,715,241.56								

⁵ Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy

⁶ Article IV, Section 3 (b)

⁷ Article IV Section 3 (d)

9. In the reconciliation, the resulting shortfall in the revenue from UCME was calculated based on the following formula:

$$\text{UC-ME True-Up Shortfall/(Surplus)} = \text{Total UC-ME Requirement} - \text{Approved UC-ME}$$

Where:

$$\text{Total UC-ME Requirement} = (\text{NPC Revenue Requirement} - \text{SAGR}) + (\text{NPP Subsidy} + \text{QTP Subsidy})$$

10. The total revenue considered was based on the amount granted and accrued from the UCME as well as from the revenue from sales based on approved SAGR. All the allowable expenses incurred by it as well as total subsidy paid to NPPs and QTP were likewise considered;
11. In the calculation of its 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 Expense
 - Depreciation
 - The foreign exchange fluctuation on debt servicing
 - Rate Base as of December 2012
 - Revenues from SAGR
12. The amount of NPPs and QTP subsidies considered were based on the actual disbursements and payment made consistent with the Subsidy Agreement (SA) between NPC and respective power providers taking into account their respective Commission-approved Power Supply Agreements (PSAs);
13. The Average Energy Sales Forecast under the Department of Energy's (DOE) Power Development Plan (PDP) from September 2013 to August 2014 was utilized to determine the proposed UCME true-up charges in PhP/kWh;
14. As can be gleaned from above table, it is evident that CY 2012 actual revenue received from UCME was not sufficient to cover the total UCME requirements for NPC, NPPs and QTP;

15. The total requirement for NPPs and QTP includes other costs component of subsidy paid for NPPs and QTP from 2008 to 2011 amounting to PhP133,261,156.24, which were not included in the previous true-up petitions;
16. Anent the amount corresponding to that of ORMECO as shown in the table above, the same was based on the September 2012 Memorandum of Agreement (MOA) executed by and between NPC and ORMECO, which was an off-shoot of a prior agreement entered into among DOE, NEA, NPC, ORMECO, the Governor and Congressman of Oriental Mindoro in a meeting held on September 14, 2012. The agreements were essentially formulated to address the power situation in the Province of Mindoro. The pertinent provisions of the agreement include the funding by ORMECO in the meantime to cover the fuel costs required by NPC for the operation of its generation sets in order to deliver the needed additional energy of ORMECO from September 25, 2012 to December 13, 2012, which actually was over and above the parties' contracted level;
17. The said agreement was intended as an interim measure mainly to avert power crisis in the Province of Mindoro. Considering the ORMECO's required additional energy, it would cause a premature depletion of NPC 2012 approved fuel budget if it would have to provide for the fuel and shoulder its corresponding costs. The costs of fuel corresponding to ORMECO's claim for reimbursement from the UCME would have been part of the costs for the account of NPC and supposedly part of the shortfall had it been financially capable of funding the same instead of ORMECO;
18. Given that it has the responsibility for the filing for the recovery from the UCME of the fuel costs incurred by ORMECO under the afore-mentioned agreement (equivalent to the net of effective rate or net of the amount recovered by ORMECO from its customers) the recovery thereof is included in the instant petition;
19. The National Power Board approved the filing of the instant petition as contained in its NP Board Resolution No. 2013-14 dated July 3, 2013;
20. The following documents were submitted in support of the proposed recovery of shortfall in the UCME:

- Annex "B" - Summary of Shortfall and Adjustment Calculation
- Annex "C " - NPC Results of Operations (ROO)
- Annex "D " - NPC Income Statement
- Annex "E " - NPC Balance Sheet
- Annex "F" - Discussion on Revenue Requirement and Rate Base Components
- Annex "G" - Summary of Subsidy for NPPs and QTP
- Annex "H" - Summary of ORMECO's Fuel Costs and list of documents submitted
- Annex "I" - Summary of Actual UC-ME Received from PSALM
- Annex "J" - Projected Philippines Energy Sales

RATE IMPLICATIONS OF THE PROPOSED RECOVERY OF UC-ME SHORTFALL

21. Under the foregoing premises, the recovery of PhP5,370,284,135.27 or an equivalent monthly rate impact of PhP0.0782/kWh is proposed to be collected from the nationwide electricity end-consumers within the period of twelve (12) months and be charged over and above the existing UCME rate;
22. The recovery of shortfall within one (1) year or twelve months would be reasonable and timely in order for it to augment its financial requirements and to provide up to date recovery and adjustment of the ensuing years' subsidy requirements;
23. The costs proposed for recovery are merely reimbursement of actual expenses made for CY 2012 and though recovery scheme is deferred in nature, there are no carrying charges calculated and proposed thereon;

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

24. The recovery of only portion of its costs of generation from the SAGR, which is being charged to its off-grid customers, is not reflective of its revenue requirement. This revenue

from the said sales represents only 43% if compared to actual fuel costs incurred in 2012, to wit:

Particulars	Amount	Percentage
Actual Fuel Costs	5,184,122,768.13	100%
Average, PhP/kWh	11.7008	
Actual Revenue from Sales	2,240,445,345.42	43%
Average PhP/kWh	5.0568	
Difference	2,943,677,422.71	57%
PhP/kWh	6.644	

Actual Energy Sales, kWh *443,058,963.81*

25. The amount proposed for recovery is already an incurred cost of it and within the reasonable cost of servicing the consumers in the missionary areas considering the nature of operation and the level of demand in the off-grid areas;
26. An additional funding through the approval of the instant petition will ensure an uninterrupted electricity supply as this would fully augment its funding requirements, NPPs and QTP. Given the increasing demand for energy and in line with the government thrust of economic development in the off-grid areas, availability of funding thru the UCME especially for fuel requirements will enable it and NPPs/QTP to optimize the use of available plant capacity;
27. Further, based on the projected requirements for CY 2013 and CY 2014, it is expected to incur deficit in its funding source if there will be no additional revenue that can be sourced and recovered from the UCME thru the instant petition and from the pending true-up petitions for CYs 2010 to 2011. The following scenarios are expected to happen affecting its financial and operational capability:
- a. Deficit of PhP5.52 Billion by the end of December 2013;
 - b. The required volume of fuel contracted based on the Certified Budget Inclusion (CBI) issued by it which will not be drawn from supplier due to lack of guaranteed funds and fuel suppliers will likely stop delivery;

- c. Its inability to pay NPPs and QTP up to end of CY 2013 will result to the payment of interest charges considering the delay in the payment of subsidy that will in turn be charged to the UCME;
 - d. Reduction in operating hours of power plants for the remaining months or plant shutdown; and
 - e. NPPs may stop operation due to non-payment of subsidy, which not only pose negative impact specifically to prospective NPP/QTP as well as RE Developers but would also create an impression against NPC in particular and that of the government's thrust of encouraging private sector participation in the off-grid areas in general;
28. It was allowed by the Department of Budget and Management (DBM) to augment only its Corporate Budget if it can source guaranteed funding through the approval of additional rates. The approval therefore of the instant petition will enable it to support and meet its projected budgetary requirements for CY 2013 and CY 2014 especially its funding requirement for fuel and subsidy to NPP/QTP;
29. Considering the fact that the approved UCME True-Up Adjustment under ERC Case No. 2011-074 RC of PhP0.0709/kWh will end by December 2013, it is projected that it will incur bigger cash deficit in 2014 if a replacement source of funds would not be in place by that time. Thus, the immediate approval by the Commission is vital, as this will ensure sustainability of NPC's operation in missionary areas;
30. It already paid more than the allocated amount of PhP359 Million in the approved UCME for CY 2012 to NPPs and QTP and thus, it is just prudent that it be allowed to immediately recover these incurred costs to support its requirements for other missionary areas;
31. To enable it to continue its mandate, operate viably and support its present operations in the off-grid areas, as well to prevent the repeat of shortage of fuel and the consequent reduction of operating hours, there is an urgent need for the issuance of a provisional authority to ensure sufficient funding for its operation and that of NPPs and QTP;

32. The issuance of a provisional authority is allowed under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the 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., G.R. No. 161113 (June 15, 2004), 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."
33. It is thus imploring the kind consideration of the Commission and prays that a provisional authority be granted for the implementation of the proposed UCME adjustment and allows to recover the shortfalls in the UCME pursuant to Resolution No. 21, Series of 2011 and Resolution No. 22, Series of 2006, with the corresponding adjustment in the UC-ME, pending the hearing on the merits;

COMPLIANCE WITH PRE-FILING REQUIREMENTS

34. In compliance with Rule 6 of the Commission Rules of Practice and Procedure, it has furnished the legislative bodies of each of the local government units where it principally operates, a copy of the instant petition including all its annexes and accompanying documents;
35. It caused the publication of the petition in its entirety in the newspaper of general circulation and copies of the newspaper and corresponding affidavit of publication were attached to the instant petition as annexes;

PRAYER

36. It prays that pending the hearing on the merits that an Order be issued: (a) granting provisional authority for the recovery from the UCME of the CY 2012 shortfall in the UCME of PhP5,370,284,135.27 based on the equivalent rate of PhP0.0782/kWh; and (b) thereafter, directing PSALM to remit monthly to NPC the actual UCME collected from all electricity end-consumers; and

37. After hearing on the merits, a Decision be rendered: (a) approving the recovery from the UCME of the CY 2012 shortfall in the UCME of PhP5,370,284,135.27 based on equivalent rate of PhP0.0782/kWh; and (b) directing PSALM to remit monthly to NPC the actual UCME collected from all electricity end-consumers.

Finding the said petition to be sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

Date and Time	Venue	Particulars
Luzon		
February 13, 2014 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
Visayas		
February 19, 2014 (Wednesday) at eight-thirty in the morning (8:30 A.M.)	Holiday Plaza Hotel, F. Ramos Street, Cebu City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
Mindanao		
February 27, 2014 (Thursday) at eight-thirty in the morning (8:30 A.M.)	Energy Regulatory Commission – Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearings

NPC is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing. It is also directed to inform the consumers within the SPUG areas, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order, and the attached Notice of Public Hearing be furnished 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 at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of Quezon City, the Municipalities, Cities and the Provincial Governors where NPC principally operates for the appropriate posting thereof on their respective bulletin boards.

NPC is hereby directed to furnish all those making requests therefor with copies of the petition and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing and pre-trial conference, NPC must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governors and Mayors or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

NPC and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-Trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;

- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-Trial Brief.


Failure of NPC to submit the required Pre-Trial Brief and Judicial Affidavits of its witnesses 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 said date of cancellation.

As part of the pre-trial conference, NPC must also be prepared to make an expository presentation of its petition, 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, what the application is all about and the reasons and justifications being cited in support of the approval prayed for.

SO ORDERED.

Pasig City, January 7, 2014.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson

Copy Furnished:

1. **Atty. Melchor P. Ridulme**
Counsels for Petitioner
National Power Corporation
Quezon Avenue cor. BIR Road
Diliman, Quezon City, Metro Manila
2. **Commission on Audit**
Commonwealth Avenue
Quezon City 1121
3. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City 1307
4. **House Committee on Energy**
Batasan Hills, Quezon City 1126
5. **The City Mayor**
Quezon City
6. **The City Mayor**
Zamboanga City
7. **The City Mayor**
Cebu City
8. **The City Mayor**
Davao City
9. **The Provincial Governor**
Cebu
10. **The Provincial Governor**
Davao
11. **The Office of Solicitor General**
Makati City
12. **Atty. Cecilia R. Layug**
Unit 2904, One San Miguel Building
San Miguel Avenue
Ortigas Center, Pasig City

Republic of the Philippines
ENERGY REGULATORY COMMISSION
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RECEIVED
DATE: JAN 14 2014
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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on September 20, 2013, the National Power Corporation (NPC) filed a petition for the approval of the recovery from the Universal Charge (UC) of the shortfall in the Missionary Electrification Subsidy (ME Subsidy) for Calendar Year (CY) 2012 and the corresponding adjustment of the Universal Charge for Missionary Electrification (UCME), with prayer for the issuance of a provisional authority.

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Where:

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16. Anent the amount corresponding to that of ORMECO as shown in the table above, the same was based on the September 2012 Memorandum of Agreement (MOA) executed by and between NPC and ORMECO, which was an off-shoot of a prior agreement entered into among DOE, NEA, NPC, ORMECO, the Governor and Congressman of Oriental Mindoro in a meeting held on September 14, 2012. The agreements were essentially formulated to address the power situation in the Province of Mindoro. The pertinent provisions of the agreement include the funding by ORMECO in the meantime to cover the fuel costs required by NPC for the operation of its generation sets in order to deliver the needed additional energy of ORMECO from September 25, 2012 to December 13, 2012, which actually was over and above the parties' contracted level;
17. The said agreement was intended as an interim measure mainly to avert power crisis in the Province of Mindoro. Considering the ORMECO's required additional energy, it would cause a premature depletion of NPC 2012 approved fuel budget if it would have to provide for the fuel and shoulder its corresponding costs. The costs of fuel corresponding to ORMECO's claim for reimbursement from the UCME would have been part of the costs for the account of NPC and supposedly part of the shortfall had it been financially capable of funding the same instead of ORMECO;
18. Given that it has the responsibility for the filing for the recovery from the UCME of the fuel costs incurred by ORMECO under the afore-mentioned agreement (equivalent to the net of effective rate or net of the amount recovered by ORMECO from its customers) the recovery thereof is included in the instant petition;
19. The National Power Board approved the filing of the instant petition as contained in its NP Board Resolution No. 2013-14 dated July 3, 2013;
20. The following documents were submitted in support of the proposed recovery of shortfall in the UCME:

- Annex "B" - Summary of Shortfall and Adjustment Calculation
- Annex "C " - NPC Results of Operations (ROO)
- Annex "D " - NPC Income Statement
- Annex "E " - NPC Balance Sheet
- Annex "F" - Discussion on Revenue Requirement and Rate Base Components
- Annex "G" - Summary of Subsidy for NPPs and QTP
- Annex "H" - Summary of ORMECO's Fuel Costs and list of documents submitted
- Annex "I" - Summary of Actual UC-ME Received from PSALM
- Annex "J" - Projected Philippines Energy Sales

RATE IMPLICATIONS OF THE PROPOSED RECOVERY OF UC-ME SHORTFALL

21. Under the foregoing premises, the recovery of PhP5,370,284,135.27 or an equivalent monthly rate impact of PhP0.0782/kWh is proposed to be collected from the nationwide electricity end-consumers within the period of twelve (12) months and be charged over and above the existing UCME rate;
22. The recovery of shortfall within one (1) year or twelve months would be reasonable and timely in order for it to augment its financial requirements and to provide up to date recovery and adjustment of the ensuing years' subsidy requirements;
23. The costs proposed for recovery are merely reimbursement of actual expenses made for CY 2012 and though recovery scheme is deferred in nature, there are no carrying charges calculated and proposed thereon;

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

24. The recovery of only portion of its costs of generation from the SAGR, which is being charged to its off-grid customers, is not reflective of its revenue requirement. This revenue

from the said sales represents only 43% if compared to actual fuel costs incurred in 2012, to wit:

Particulars	Amount	Percentage
Actual Fuel Costs	5,184,122,768.13	100%
Average, PhP/kWh	11.7008	
Actual Revenue from Sales	2,240,445,345.42	43%
Average PhP/kWh	5.0568	
Difference	2,943,677,422.71	57%
PhP/kWh	6.644	

Actual Energy Sales, kWh *443,058,963.81*

25. The amount proposed for recovery is already an incurred cost of it and within the reasonable cost of servicing the consumers in the missionary areas considering the nature of operation and the level of demand in the off-grid areas;
26. An additional funding through the approval of the instant petition will ensure an uninterrupted electricity supply as this would fully augment its funding requirements, NPPs and QTP. Given the increasing demand for energy and in line with the government thrust of economic development in the off-grid areas, availability of funding thru the UCME especially for fuel requirements will enable it and NPPs/QTP to optimize the use of available plant capacity;
27. Further, based on the projected requirements for CY 2013 and CY 2014, it is expected to incur deficit in its funding source if there will be no additional revenue that can be sourced and recovered from the UCME thru the instant petition and from the pending true-up petitions for CYs 2010 to 2011. The following scenarios are expected to happen affecting its financial and operational capability:
 - a. Deficit of PhP5.52 Billion by the end of December 2013;
 - b. The required volume of fuel contracted based on the Certified Budget Inclusion (CBI) issued by it which will not be drawn from supplier due to lack of guaranteed funds and fuel suppliers will likely stop delivery;

- c. Its inability to pay NPPs and QTP up to end of CY 2013 will result to the payment of interest charges considering the delay in the payment of subsidy that will in turn be charged to the UCME;
 - d. Reduction in operating hours of power plants for the remaining months or plant shutdown; and
 - e. NPPs may stop operation due to non-payment of subsidy, which not only pose negative impact specifically to prospective NPP/QTP as well as RE Developers but would also create an impression against NPC in particular and that of the government's thrust of encouraging private sector participation in the off-grid areas in general;
28. It was allowed by the Department of Budget and Management (DBM) to augment only its Corporate Budget if it can source guaranteed funding through the approval of additional rates. The approval therefore of the instant petition will enable it to support and meet its projected budgetary requirements for CY 2013 and CY 2014 especially its funding requirement for fuel and subsidy to NPP/QTP;
29. Considering the fact that the approved UCME True-Up Adjustment under ERC Case No. 2011-074 RC of PhP0.0709/kWh will end by December 2013, it is projected that it will incur bigger cash deficit in 2014 if a replacement source of funds would not be in place by that time. Thus, the immediate approval by the Commission is vital, as this will ensure sustainability of NPC's operation in missionary areas;
30. It already paid more than the allocated amount of PhP359 Million in the approved UCME for CY 2012 to NPPs and QTP and thus, it is just prudent that it be allowed to immediately recover these incurred costs to support its requirements for other missionary areas;
31. To enable it to continue its mandate, operate viably and support its present operations in the off-grid areas, as well to prevent the repeat of shortage of fuel and the consequent reduction of operating hours, there is an urgent need for the issuance of a provisional authority to ensure sufficient funding for its operation and that of NPPs and QTP;

32. The issuance of a provisional authority is allowed under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the 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., G.R. No. 161113 (June 15, 2004), 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."
33. It is thus imploring the kind consideration of the Commission and prays that a provisional authority be granted for the implementation of the proposed UCME adjustment and allows to recover the shortfalls in the UCME pursuant to Resolution No. 21, Series of 2011 and Resolution No. 22, Series of 2006, with the corresponding adjustment in the UC-ME, pending the hearing on the merits;

COMPLIANCE WITH PRE-FILING REQUIREMENTS

34. In compliance with Rule 6 of the Commission Rules of Practice and Procedure, it has furnished the legislative bodies of each of the local government units where it principally operates, a copy of the instant petition including all its annexes and accompanying documents;
35. It caused the publication of the petition in its entirety in the newspaper of general circulation and copies of the newspaper and corresponding affidavit of publication were attached to the instant petition as annexes;

PRAYER

36. It prays that pending the hearing on the merits that an Order be issued: (a) granting provisional authority for the recovery from the UCME of the CY 2012 shortfall in the UCME of PhP5,370,284,135.27 based on the equivalent rate of PhP0.0782/kWh; and (b) thereafter, directing PSALM to remit monthly to NPC the actual UCME collected from all electricity end-consumers; and

37. After hearing on the merits, a Decision be rendered: (a) approving the recovery from the UCME of the CY 2012 shortfall in the UCME of PhP5,370,284,135.27 based on equivalent rate of PhP0.0782/kWh; and (b) directing PSALM to remit monthly to NPC the actual UCME collected from all electricity end-consumers.

The Commission has set the instant petition for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

Date and Time	Venue	Particulars
Luzon		
February 13, 2014 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
Visayas		
February 19, 2014 (Wednesday) at eight-thirty in the morning (8:30 A.M.)	Holiday Plaza Hotel, F. Ramos Street, Cebu City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
Mindanao		
February 27, 2014 (Thursday) at eight-thirty in the morning (8:30 A.M.)	Energy Regulatory Commission – Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City	Expository Presentation, Pre-Trial Conference and Evidentiary Hearings


All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (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 proceeding may file their opposition to the petition or comment thereon at any stage of the proceeding before the petitioner concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the petition may request the petitioner, prior to the date of the initial hearing, that they be furnished with a copy of the petition. The petitioner is hereby directed to furnish all those making such request with copies of the petition and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the petition and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENAIDA G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC** and **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, Energy Regulatory Commission, this 7th day of January, 2014 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III


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