

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE  
PETITION FOR THE  
RECOVERY OF CY 2022  
REVENUE SHORTFALL  
FROM THE UNIVERSAL  
CHARGE FOR MISSIONARY  
ELECTRIFICATION (UCME)  
AND THE CORRESPONDING  
ADJUSTMENT OF THE UCME  
WITH PRAYER FOR THE  
ISSUANCE OF PROVISIONAL  
AUTHORITY OR INTERIM  
RELIEF**

**ERC CASE NO. 2024-055 RC**

**NATIONAL POWER  
CORPORATION,**  
*Petitioner.*  
X-----X

**Promulgated:**  
[April 29, 2024](#)

**NOTICE OF PUBLIC/VIRTUAL HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 15 April 2024, National Power Corporation (NPC) filed a *Petition*, dated 22 February 2024, seeking the Commission's approval of the recovery of Calendar Year (CY) 2022 revenue shortfall from the Universal Charge for Missionary Electrification (UCME) and the corresponding adjustment of the UCME with prayer for the issuance of provisional authority or interim relief.

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

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 Gabriel Y. Itchon Building, Senator Miriam P. Defensor-Santiago Avenue (formerly BIR Road) corner Quezon Avenue and BIR Road, Diliman, Quezon City, where it may be served

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with 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 or (“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<sup>1</sup>, as amended, and Executive Order No. 86<sup>2</sup>, issued by virtue of the authority granted to the President of the Republic of the Philippines under R. A. 7648<sup>3</sup>, 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 (“UCME”).

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

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<sup>1</sup> RA 6395 – An Act Revising the Charter of the National Power Corporation

<sup>2</sup> Executive Order No. 86, s. 1993 – Fixing the rate of return on rate base of the National Power Corporation at Twelve Percent of the Rate Base as Defined in Section 4 of Republic Act No. 6395, as amended.

<sup>3</sup> RA 7648 – Electric Power Crisis Act of 1993

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. Further, Petitioner NPC is filing this petition pursuant to Rule 20 (A) of the ERC Revised Rules of Practice and Procedure as approved by the Honorable Commission on 17 December 2020 in Resolution No. 01, Series of 2021.

**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 2022. NPC utilized in its calculation the following documents:
  - a. Audited CY 2022 Financial Statements<sup>4</sup>;
  - b. Actual Results of Operation for CY 2022<sup>5</sup>; and
  - c. The actual disbursements of UC-ME Subsidy to New Power Providers (“NPPs”) and Qualified Third Parties (“QTPs”)<sup>6</sup>.
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 Fourteen Billion Eight Hundred Twenty-Eight Million Eight Hundred Nine Thousand Seven Hundred Forty-Two and 90/100 (Php14,828,809,742.90) or an equivalent of PhPo.1244/kWh for twelve (12) months recovery period as summarized in Table 1 below.

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<sup>4</sup> Attached as Exhibit “D” to the Judicial Affidavit.

<sup>5</sup> Attached as Exhibit “C” to the Judicial Affidavit.

<sup>6</sup> Attached as Exhibits “O”, “O-1” to “O-28” to the Judicial Affidavit.

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Table 1. Summary of Shortfall

PARTICULARS	TOTAL	NPC	NPP	QTP
REVENUE REQUIREMENT	40,189,872,456.74	14,611,591,031.12	25,279,178,885.86	299,102,539.76
LESS: REVENUE FROM SALES	11,095,530,713.84	2,638,722,191.22	8,358,530,030.22	98,278,492.41
REQUIRED REVENUE FROM UCME	29,094,341,742.90	11,972,868,839.90	16,920,648,855.65	200,824,047.35
UCME IMPACT, P/kWh	0.2441	0.1004	0.1420	0.0017
LESS:				
ACTUAL 2022 UCME REVENUE (BASIC)	14,265,532,000.00	6,076,113,646.32	7,988,594,306.33	200,824,047.35
UCME SHORTFALL, PhP	14,828,809,742.90	5,896,755,193.58	8,932,054,549.32	-
UCME RATE IMPACT, P/kWh	0.1244	0.0495	0.0749	-
Projected Philippine Energy Sales, GWh	119,201.00			

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:

$$\text{Total UC-ME Subsidy Requirement} = (\text{NPC Revenue Requirement} - \text{Revenue from Sales}) + \text{Subsidy Payment to NPPs and QTPs}$$

11. The revenue is inclusive of the revenue from sales and the Basic UC-ME subsidy for CY 2022. Whereas the disbursement includes all allowable expenses related to NPC-SPUG's operation and subsidy fees paid to the NPPs and QTPs inclusive of the applicable NPP/QTP Value Added Tax ("VAT").
12. NPC always endeavors to prioritize subsidy payments to NPPs and QTPs in the actual basic UC-ME subsidy. However, due to the sudden increase of fuel cost in the CY 2022, it cannot be gainsaid that the amount of UC-ME was not sufficient to pay the NPP/QTP subsidy. In fact, only 57.41% of the actual UC-ME subsidy was used as payment for the NPP/QTP subsidy, while the remaining balance was used to support NPC's operating expenses, particularly NPC's fuel cost.
13. It bears stressing that the approved basic UC-ME rate for the test period is based on CY 2015 cost wherein the average fuel rate is Php26.6910/liter. Due to the Russia-Ukraine conflict, it greatly affected the global fuel prices, wherein NPC's CY 2022 fuel cost resulted to an average of Php62.8400/liter. As a result, the difference in the fuel cost between the approved CY 2015 level and the CY 2022 level largely contributed to the shortfall mentioned in this Petition.
14. In the calculation of the NPC Revenue Requirement, the following documents, accounts, and actual costs were prepared and/or considered:

- a. Actual Fuel Costs for CY 2022<sup>7</sup>;

<sup>7</sup> Attached as Exhibit "G" to the Judicial Affidavit.

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- b. Other Operating Expenses which include Personnel Services and Maintenance and Other Operating Expenses for CY 2022<sup>8</sup>;
  - c. Depreciation for CY 2022<sup>9</sup>;
  - d. Disbursement on FOREX Fluctuation (*sic*)<sup>10</sup>
  - e. Return on Rate Base (RORB) (*sic*)<sup>11</sup>
  - f. Revenue from Sales (*sic*)<sup>12</sup>
  - g. Audited Financial Statements for CY 2022<sup>13</sup>;
  - h. Schedule of Rate Base per Region (Electric Plant In Service – EPS) for CY 2022<sup>14</sup>;
  - i. Projected Energy Sales<sup>15</sup>;
  - j. Discussion on Revenue Requirement and Rate Base Components<sup>16</sup>;
  - k. Summary of the Shortfall for CY 2022<sup>17</sup>;
  - l. Schedule of Renewable Energy Cash Incentive disbursed by PSALM (*sic*)<sup>18</sup>
  - m. Actual UCME received from PSALM<sup>19</sup>;
  - n. Monthly GRAM<sup>20</sup> and ICERA<sup>21</sup> Compliances for January to December 2022 and Fuel Oil Consumption and Inventory Report<sup>22</sup> (“FOCIR”).
15. The Monthly GRAM and ICERA Compliances for 2022 are being submitted for additional reference of this Honorable Commission.
16. The Actual Fuel Cost for CY 2022 mentioned herein is the actual cost incurred from January 1 to December 31, 2022, instead of the cost as reflected in the NPC's monthly GRAM Compliances, which differs from the actual cost for CY 2022. This is due to the timing difference, and adjustments made at the end of the accounting cycle which are not reflected in the FOCIR, at the time the GRAM is calculated.

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<sup>8</sup> Attached as Exhibit “K” to the Judicial Affidavit.  
<sup>9</sup> Attached as Exhibit “F” to the Judicial Affidavit.  
<sup>10</sup> Attached as Exhibit “J-1” to the Judicial Affidavit  
<sup>11</sup> Attached as Exhibit “U” to the Judicial Affidavit.  
<sup>12</sup> Attached as Exhibit “S” to the Judicial Affidavit.  
<sup>13</sup> Attached as Exhibit “D” to the Judicial Affidavit.  
<sup>14</sup> Attached as Exhibit “L” to the Judicial Affidavit.  
<sup>15</sup> Attached as Exhibit “P” to the Judicial Affidavit.  
<sup>16</sup> Attached as Exhibit “E” to the Judicial Affidavit.  
<sup>17</sup> Attached as Exhibit “B” to the Judicial Affidavit.  
<sup>18</sup> Attached as Exhibit “Q” to the Judicial Affidavit.  
<sup>19</sup> Attached as Exhibit “R” to the Judicial Affidavit.  
<sup>20</sup> Attached as Exhibit “H” to the Judicial Affidavit.  
<sup>21</sup> Attached as Exhibit “J” to the Judicial Affidavit.  
<sup>22</sup> Attached as Exhibit “I” to the Judicial Affidavit.

17. On the other hand, the computation for the disbursement on FOREX fluctuation was based on the monthly ICERA compliances attached in the instant petition. The calculation is based on the actual disbursement made for the period with carrying charges based on a 91-day T-bill rate plus a 3% allowance as per the ICERA IRR.
18. The amount of UC-ME Subsidy for NPPs and QTPs was based on the actual disbursements and payment made consistent with the UC-Settlement Agreement (“UCSA”) and QTP Service and Subsidy Contract (“QSSC”) between NPC and respective power providers considering their respective ERC-approved Power Supply Agreement (“PSA”) and QSSC.
19. Further, Petitioner NPC recognizes its expenses for the year on an accrual basis, wherein expenses are recorded when incurred rather than when paid.
20. In the Honorable Commission’s Order (*sic*) dated 09 June 2021 (*sic*) for ERC Case No. 2012-046 RC<sup>23</sup>, it was ruled that Depreciation Expense and Capital Recovery allow an entity to recover the cost of investment and other capitalizable items. Thus, Petitioner NPC is entitled to recover the difference of its Depreciation Expense from the approved Capital Recovery as approved by this Honorable Commission. The same holds true for Petitioner NPC’s Other Operating Expenses.
21. The inclusion of Depreciation Expense and Other Operating Expenses in the Revenue Requirement is based on ERC Resolution No. 21, series of 2011 which considered depreciation for purposes of the computation of NPC SPUG TCGR. Article III, Section 1(a) of the said ERC Resolution provides:
  - “Section 1. Setting and Adjustment of NPC SPUG TCGR. In each of the NPC SPUG Areas, NPC SPUG shall be allowed to recover the NPC SPUG TCGR. In cases where the NPC SPUG TCGR is higher than the SAGR, NPC SPUG may recover the difference from the ME subsidy
  - (a) Determination of the NPC SPUG TCGR and its Adjustments. NPC SPUG shall file an application with the ERC for the setting and approval of the NPC SPUG TCGR. The NPC SPUG TCGR shall be used to determine the appropriate level of ME Subsidy to be allowed for NPC SPUG for the applicable period. The filing of the application, shall as far as practicable, coincide with NPC SPUG’s

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<sup>23</sup> ERC Case No. 2012-046 RC entitled “In the matter of the Petition for the Approval of the Recovery from the Universal Charge of the Shortfalls in the Missionary Electrification Subsidy for CY 2010 under the True-up Mechanism pursuant to ERC Resolution No. 11, Series of 2005 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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filing of the UC-ME. In case of failure of NPC SPUG to file its TCGR application, its last approved TCGR shall be the basis of the ERC in resolving its UC-ME application.

The NPC SPUG TCGR will serve as the revenue requirement of NPC SPUG that will be used to determine the National Power Corporation's (NPC) generation charges. In support of the computation of the revenue requirement, NPC SPUG shall submit the following information:

- i. its current operating and maintenance costs, including the details of fuel purchases and deliveries, payroll, power purchase, depreciation and other costs;
- ii. Current value of its assets;
- iii. Its current energy sales; and
- iv. Such other information as the ERC may require.”

Hence, the depreciation expense is part of the NPC revenue requirement (TCGR) that is subject to reconciliation of the Actual UCME received.

22. Petitioner NPC further emphasizes that the items enumerated under Personnel Services (“PS”) and Maintenance and Other Operating Expense (“MOOE”) are all part of the True Cost of Generation Rate (“TCGR”) or Revenue Requirements of the NPC which are essential and directly connected to the missionary electrification operations. Moreover, said items are approved in the 2022 General Appropriations Act (“GAA”)<sup>24</sup>. The Description of Accounts<sup>25</sup> under said PS and MOOE are also attached to further support said expenses to be recovered under this Petition.
23. Also, Petitioner NPC included a 12% RORB<sup>26</sup> in its calculation which is consistent with NPC Charter RA 6395<sup>27</sup> and was further strengthened by said Executive Order No. 86<sup>28</sup>. Such Executive Orders are in effect until they are revoked or repealed by the President of the Philippines. This serves as the basis of NPC to charge its customers a 12% RORB.
24. The EPIRA likewise recognizes the granting of the RORB. Section 43(f) of the said law provides:

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<sup>24</sup> Attached as Exhibit “T” to the Judicial Affidavit.

<sup>25</sup> Item 3 of Exhibit “E” which is attached to the Judicial Affidavit.

<sup>26</sup> Attached as Exhibit “U” to the Judicial Affidavit.

<sup>27</sup> RA 6395 – An Act Revising the Charter of the National Power Corporation

<sup>28</sup> Executive Order No. 86, s. 1993 – Fixing the rate of return on rate base of the National Power Corporation at Twelve Percent of the Rate Base as Defined in Section 4 of Republic Act No. 6395, as amended.

- (f) In the public interest, establish and enforce a methodology for setting transmission and distribution wheeling rates and retail rates for the captive market of a distribution utility, taking into account all relevant considerations, including the efficiency or inefficiency of the regulated entities. **The rates must be such as to allow the recovery of just and reasonable costs and a reasonable return on rate base (RORB) to enable the entity to operate viably.** xxx” (Emphasis supplied)
25. Petitioner NPC’s 12% RORB covers other operating costs not included in the revenue requirements, such as interest expenses, taxes, financing charges. Further, it also covers PS, MOOE, and non-operating expenses of NPC Power Plants operating on standby mode in areas already taken by NPPs and QTPs. Without it, Petitioner NPC cannot continue to function viably. Worthy to emphasize is that a True-up shortfall is used for all related expenses incurred. Hence, the RORB can be used for other expenses not included in the revenue requirement.
26. In fact, this Honorable Commission also acknowledges the importance of the RORB in Petitioner NPC’s operations. In its Decision dated 12 August 2013 for ERC Case No. 2012-085RC<sup>29</sup>, this Honorable Commission approved NPC’s recovery of the RORB as part of its CY 2011 True Up Adjustment. Also, in its Decision dated 30 July 2012 for ERC Case No. 2011-074RC<sup>30</sup>, the Honorable Commission approved NPC’s recovery of the 12% RORB, and stated that:
- “Power rates are set to recover cost of service prudently incurred plus a reasonable rate of return. A regulated utility is allowed a return that will cover its operating costs and provide it an opportunity to earn a reasonable rate of return on the assets utilized in the business. Thus, the Commission finds it reasonable to grant NPC-SPUG a 12% RORB.”
27. The twelve (12) months projected Philippine energy sales forecast in GWh under DOE’s Philippine Energy Plan (“PEP”)

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<sup>29</sup> ERC Case No. 2012-085 RC entitled “In the Matter of the Petition for the Approval of the following pursuant to ERC Resolution No. 21, series of 2011: (A) Availments from the Universal Charge of the Share for Missionary Electrification (UCME) Subsidy for the years 2012 to 2016; and (B) Recovery from the Universal Charge of the Shortfall in the Missionary Electrification Subsidy for CY 2011 and the Corresponding Adjustment of the UCME, with Prayer for a Provisional Authority”.

<sup>30</sup> ERC Case No. 2011-074 RC entitled “In the Matter of the Petition for the Approval of the Recovery from the Universal Charge of the Shortfalls in the Missionary Electrification Subsidy for CY 2003 to CY 2009 under the True-up Mechanism pursuant to ERC Resolution No. 11 series of 2005 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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was used to determine the proposed UC-ME True-up rate in PhP/kWh.

28. As can be gleaned from Table 1, the CY 2022 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.
29. The National Power Board authorized the filing of the instant Petition to recover the shortfall as evidenced by the Corporate Secretary's Certificate NPB-OCS-24-020 dated 31 January 2024<sup>31</sup>.
30. In support of this Petition, the Judicial Affidavit of Ms. Margarita M. Egnisaban, Petitioner NPC's witness, is attached herein as Annex "A". The said witness' testimony shall prove that the computations made and submitted in this Petition are all in accordance with the applicable and existing rules and guidelines. Attached to the Judicial Affidavit, which shall likewise form part of this Petition, are the following documents previously enumerated and/or mentioned by petitioner as basis in the calculations. These documents are identified by the witness in her Judicial Affidavit and pre-marked in accordance with the Judicial Affidavit rule are as follows:

Exhibit "A"	Corporate Secretary's Certificate NPB-OCS-24-020
Exhibit "B"	Summary of Shortfall and UC-ME True-up Adjustment Calculation
Exhibit "C"	Actual Results of Operation – Per Plant for CY 2022
Exhibit "D"	NPC's Audited Financial Statements for CY 2022
Exhibit "E"	Brief Discussion on Revenue Requirements and Rate Base Computation
Exhibit "E-1"	Legal bases of the Personnel Services and Maintenance and Other Operating Expenses
Exhibit "F"	Schedule of CY 2022 Depreciation Expense – EPIS (GL531)
Exhibit "G"	Fuel Consumption per plant for the period ending December 31, 2022
Exhibit "H"	Monthly GRAM Compliances for CY 2022
Exhibit "I"	Fuel Oil Consumption and Inventory Report (FOCIR)
Exhibit "J"	Monthly ICERA Compliances for CY 2022
Exhibit "J-1"	Disbursement on FOREX Fluctuation
Exhibit "K"	Other Operating Expenses per Account for CY 2022
Exhibit "L"	Rate Base per Region (Electric Plant in Service – EPS) for CY 2022
Exhibit "M"	CY 2022 List of Construction Work in Progress (CWIP)

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<sup>31</sup> Attached as Exhibit "A" to the Judicial Affidavit.

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Exhibit "N"	Schedule of CY 2022 Construction Work Completed – Unclassified (CWCU)
Exhibit "O"	Summary of NPP/QTP Subsidy with Monthly Subsidy Payment Report for CY 2022
Exhibit "O-1" to "O-28"	Audited NPP/QTP Disbursement Vouchers for CY 2022
Exhibit "P"	Electricity Sales Forecast, GWh for Luzon, Visayas, and Mindanao Grid from Philippine Energy Plan (2020-2040)
Exhibit "Q"	Updated Report on Renewable Energy Developers Cash Incentive by PSALM
Exhibit "R"	Summary of Actual UCME received from PSALM
Exhibit "S"	CY 2022 Net Utility Revenue per Plant per Account with Actual SAGR Report per Area
Exhibit "T"	FY 2022 General Appropriations Act for NPC
Exhibit "U"	Return on Rate Base (RORB) Calculation

**RATE IMPLICATIONS OF THE PROPOSED RECOVERY OF UCME SHORTFALL**

31. Under the foregoing premises, the recovery of Fourteen Billion Eight Hundred Twenty-Eight Million Eight Hundred Nine Thousand Seven Hundred Forty-Two and 90/100 (Php14,828,809,742.90) or an equivalent monthly rate impact of PhP0.1244/kWh is proposed to be collected from the nationwide electricity end-consumers within a period of twelve (12) months.
32. 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.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR THE ISSUANCE OF A PROVISIONAL AUTHORITY OR INTERIM RELIEF**

Petitioner NPC repleads the foregoing allegations and further states:

33. 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 31% of the total fuel cost for CY 2022. Thus, there is a need to recover immediately the amount prayed for the instant Petition for the continued operations of Petitioner NPC.
34. Further, 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.

35. The provisionally approved UC-ME rate of Php0.1561/kWh for CYs 2015 and 2016 under ERC Case No. 2014-135RC was adopted by the Honorable Commission as the final rate in its Decision dated 15 September 2021. However, the rate granted is not sufficient to cover the expense incurred in CY 2022. Hence, the shortfall in the instant case requires a Provisional Authority to ensure an uninterrupted electricity supply as this would 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.
36. The grant of Provisional Authority or Interim Relief will also help alleviate the financial burdens Petitioner NPC is currently experiencing. Due to the rise of the prices of fuel, Petitioner NPC is now operating on a loss just to sustain and deliver power in the missionary areas and to pay the NPPs and QTPs their UCME subsidies.
37. Petitioner NPC will recover from the UC-ME the amount of Php14,828,809,742.90 once the proposed UC-ME adjustment rate and spreads will be immediately approved provisionally by ERC as filed.
38. The issuance of a provisional authority or an interim relief 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.*,<sup>32</sup> 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."
39. Petitioner NPC is thus imploring the kind consideration of this Honorable Commission and respectfully prays for the issuance of a provisional authority or an interim relief under the foregoing premises.

#### COMPLIANCE

40. 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) 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, hereto attached as Annex "B".
  - b. Affidavit of Publication hereto attached as Annex "C".

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<sup>32</sup> G.R. No. 161113, 15 June 2004.

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- c. Proof of Publication of the Petition once in a newspaper of general circulation hereto attached as Annex “D”.

**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 OR INTERIM RELIEF to the proposed UC-ME True-up for CY 2022 amounting to Fourteen Billion Eight Hundred Twenty-Eight Million Eight Hundred Nine Thousand Seven Hundred Forty-Two and 90/100 (Php14,828,809,742.90) for twelve (12) months recovery period or an equivalent monthly rate of PhPo.1244/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.

The Commission hereby sets the instant *Petition* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and venues, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>33</sup> and Resolution No. 01, Series of 2021<sup>34</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date and Time</b>	<b>Venue/Platform</b>	<b>Activity</b>
<b>25 June 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M)	<b>Energy Regulatory Commission Hearing Room, 11<sup>th</sup> Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City</b>	Determination of compliance with jurisdictional requirements and Expository Presentation for Luzon Stakeholders
<b>02 July 2024</b> (Tuesday) at two o'clock in the	<b>Energy Regulatory Commission, Visayas Area</b>	Expository Presentation for Visayas Stakeholders

<sup>33</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

<sup>34</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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<b>Date and Time</b>	<b>Venue/Platform</b>	<b>Activity</b>
afternoon (2:00 P.M)	<b>Operations Division (VAOD), 7<sup>th</sup> Floor, Kepwealth Building, Samar Loop, Cebu Business Park</b>	
<b>09 July 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M)	<b>Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6<sup>th</sup> Floor, BIZ Bldg., c/o BORMAHECO, Inc., 29 J.P. Laurel Avenue, Bajada, Davao City</b>	Expository Presentation for Mindanao Stakeholders
<b>16 July 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M)	<b>Microsoft Teams Application</b>	Pre-trial Conference and Presentation of Evidence
<b>23 July 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M)		Presentation of Evidence
<b>30 July 2024</b> (Tuesday) at two o'clock in the afternoon (2:00 P.M)		Presentation of Evidence

Petitioner NPC is hereby directed to attend the said hearings at the designated venues.

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Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial hearing, via electronic mail (e-mail) at [doCKET@erc.ph](mailto:doCKET@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto: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 person who has 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](mailto:doCKET@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

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](mailto:doCKET@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial 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.

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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 *Petition* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

Finally, all interested persons may be allowed to join the scheduled initial hearings by providing the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), their respective e-mail addresses and indicating therein the case number of the instant *Petition*. 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 Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 29<sup>th</sup> day of April 2024 in Pasig City.

  
**MONALISA C. DIMALANTA**  
*Chairperson and CEO*

  
LS: AVL/LSP/KTB

**ERC**  
Office of the Chairperson and CEO  
  
MCD2024-016501