

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Exquadra Tower, 1 Jade Drive, Ortigas Center
Brgy. San Antonio, 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 2021 – 2023 PURSUANT TO ERC RESOLUTION No. 16, SERIES OF 2009 AS AMENDED BY RESOLUTION No. 21, AND 23 SERIES OF 2010, AND ERC RESOLUTION No. 14, SERIES OF 2022, AND FOR LOCAL TAXES ERC RESOLUTION No. 02, SERIES OF 2021

ERC CASE No. _____

EASTERN SAMAR ELECTRIC COOPERATIVE, INC. (ESAMELCO), represented by its Gen. Manager, ATTY. JOSE MICHAEL EDWIN S. AMANCIO, CPA

Applicant,

X-----X

APPLICATION

COMES NOW, Applicant EASTERN SAMAR ELECTRIC COOPERATIVE, INC. (ESAMELCO for brevity), represented herein by its General Manager, Atty. Jose Michael Edwin S. Amancio, CPA. and through the undersigned counsel under authority given by ESAMELCO Board of Directors per Resolution No. 38 Series of 2024, hereto attached as “ANNEX A”, and a corresponding Secretary Certificate, copy of which is hereto attached as “ANNEX B”, respectively; unto this Honorable Commission, most respectfully files this Application in compliance to ERC Resolution No. 16, Series of 2009 as amended by Resolution No. 21, and 23, Series of 2010 and Resolution No. 14 Series of 2022, and for local taxes ERC Resolution No. 2 Series of 2021.

This application is seeking approval from the Honorable Commission to refund the over-recoveries in the items of Transmission, System Loss, and Lifeline Subsidy; as well as the collection of under-recovery in the items of Generation, Senior Citizen Subsidy, Real Property Tax, and Local Franchise & Business Tax incurred during ESAMELCO's implemmentation of various automatic cost adjustment and true up mechanisms covering the period from 2021 to 2023 and in support thereof states as follows:

I.THE APPLICANT

1.The applicant, **EASTERN SAMAR ELECTRIC COOPERATIVE, INC.** (ESAMELCO for brevity) is a non-stock, non-profit Electric Cooperative duly organized and existing under and by virtue of the Presidential Decree 269, as amended, with the capacity to sue and be sued, with the principal office address Brgy. Cabong, Borongan City, Eastern Samar, Philippines where it may be served with summons and other legal processes, represented in this instance by its General Manager, ATTY. JOSE MICHAEL EDWIN S. AMANCIO, CPA, who was authorized to file, and excute verification & certification relative to this Application per Resolution No. 38 Series of 2024 (Annex A) with corresponding Secretary Certificate (Annex B).

2.Herein applicant is the exclusive franchise holder issued by the National Electrification Administration (NEA) to operate electric light and power services in the Eastern part of Samar Island covering twenty-two (22) municipalities and one (1) City namely: Lawaan, Balangiga, Giporlos, Quinapondan, Guiuan, Mercedes, Salcedo, MacArthur, Hernani, Llorente, Balangkayan, Maydolond, San Julian, Sulat, Taft, Can-avid, Dolores, Oras, San Policarpio, Arteche, Jipapad, Maslog, and Borongan City. A copy of Applicant ESAMELCO's **Certificate of Franchise** is hereto attached as “ANNEX C”

II.THE ANTECEDENT FACTS

3.Before this filing, herein Applicant had undergone computation and reportorial submission to the Energy Regulatory Commission on its over or under-recoveries incurred in the implementation of automatic cost adjustments and true-up mechanisms on pass-through costs of ESAMELCO following the formulas prescribed under ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21, and 23, Series of 2010 and ERC Resolution No. 14, Series of 2022, such as automatic generation rate (GR) and system loss adjustment mechanism; transmission rate (TR) adjustment mechanism; Lifeline rate recovery mechanism; and senior citizen subsidy recovery mechanism, covering the periods, to wit:

(a) Over/under Recoveries for Years 2012-2014 under ERC Case No. 2019-027 CF;

(b)Over/Under Recoveries for Years 2015-2017 under ERC Case No. 2018-037 CF; and

(c)Over/Under Recoveries for Years 2018-2020 under ERC Case No. 2021-019 CF

4. The aforementioned three (3) pending ERC cases were the subject of the Honorable Commission's Interim Relief Order promulgated on November 16, 2021, in which herein Applicant had a pending Motion for Reconsideration. Nevertheless, without waiting for the decision of the Honorable Commission on its Motion for Reconsideration, applicant ESAMELCO had already implemented the aforementioned Interim Relief Order at a rate based on its request for reconsideration.

III.LEGAL BASES FOR THE APPLICATION

5.Under Section 43 (t) of the Republic Act No. 9136, the Energy Regulatory Commission (ERC) is mandated to promulgate rules and regulations and perform such other regulatory functions as are appropriate and necessary in order to ensure the successful restructuring and modernizing of the electric power industry.

6.On July 13, 2009, pursuant to Section 43 (f) and (t) of the Republic Act No. 9136 or the Act, Rule 7 of its Implementing Rules and Regulations (IRR) and Section 10 of the Republic Act No. 7832, the ERC had resolved to approve and adopt the so-called “**Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities**”, by virtue of ERC Resolution No. 16, Series of 2009.

7.However, the aforementioned rules promulgated under Resolution no. 16, series of 2009, failed to address the mismatch between meter reading periods at the whole-sale and retail levels due to an unequal number of billing days, which resulted in the misalignment of kWh sales and purchase power. Recognizing the need to address and resolve the said misalignment of kWh sales and purchase power which causes spikes and dips in the computed monthly system loss and adversely affects the actual system loss of the DUs during certain billing months; The ERC passed **Resolution No. 21, series of 2010**, dated On October 18, 2010, which amended Section 4 of Article 4 and Section 1 of the Article 5 of the “Rules Governing the Automatic Cost Adjustment and True-up Mechanisms and Corresponding Confirmation Process for Distribution Utilities”.

8.On the other hand, ERC Resolution 23, Series of 2010 adopts the rules implementing the discounts to qualified senior citizen end-users and subsidies from subsidizing end-users on electricity consumption.

9. Moreover, ERC Resolution No. 14 Series of 2022 approved and adopted the “Revised Rules Governing the Automatic Cost Adjustment and True-Up Mechanisms and Corresponding Confirmation Process for Distribution Utilities,” with its corresponding “Revised Uniform Reportorial Requirement (URR) Spreadsheet Template”. Applicable also in this Application is the ERC Resolution No. 02, Series of 2021 which pertains to the Recovery of Pass-Through Taxes (real property, local franchise, and business tax of the distribution utilities.

10. Hence, this Application is pursuant to ERC Resolution No. 16, Series of 2009, as amended by ERC Resolution No. 21, and 23, Series of 2010, ERC Resolution No. 14 Series of 2022, and ERC Resolution No. 2 Series of 2021.

IV.THE RESULTING COMPUTED OVER OR UNDER-RECOVERIES INCURRED IN THE IMPLEMMENTATION OF AUTOMATIC ADJUSTMENT AND TRUE-UP MECHANISMS FOR THE PERIOD 2021 TO 2023

11. In the application of formulas prescribed under ERC Resolution 16, Series of 2009, as amended by ERC Resolution 21, and 23, Series of 2010, and ERC Resolution No.

14 Series of 2022, Applicant’s pass-through cost vis-a-vis the actual collections, resulted in over-recoveries in the items of Transmission Rate (TR), System Loss Rate (SLR), and Lifeline Subsidy. On the other hand, under-recoveries were incurred in the items of Generation Rate (GR), Senior Citizen Subsidy, Real Property Tax, and Franchise & Business Tax. The following table reflects the summary of over/under-recoveries for the years 2021 to 2023:

	Allowable	Revenue	TOTAL
Generation Cost	2,437,236,640.07	2,433,710,899.47	3,525,740.60
Main	2,430,213,409.25	2,427,045,183.33	3,168,225.92
Hilabaan	1,017,110.08	963,683.79	53,426.29
Tikling	193,892.04	185,278.14	8,613.90
Suluan	1,027,982.65	973,179.42	54,803.23
Sta. Monica	690,936.55	653,825.50	37,111.05
Inapulangan	390,782.37	371,296.69	19,485.68
Cagusuan	315,788.32	301,327.51	14,460.81
Casuguran	3,189,583.56	3,029,528.48	160,055.08
Habag	197,155.25	187,596.61	9,558.64
Transmission Cost	227,763,427.02	228,354,493.21	(591,066.19)
System Loss	437,642,212.45	441,803,156.89	(4,160,944.44)
Main	437,354,691.82	441,595,497.15	(4,240,805.33)
Hilabaan	(5,483.49)	7,159.53	(12,643.02)
Tikling	(1,449.90)	575.82	(2,025.72)
Suluan	54,197.62	28,786.21	25,411.41
Sta. Monica	48,180.07	27,743.31	20,436.76
Inapulangan	17,187.58	12,453.68	4,733.90
Cagusuan	13,332.12	10,129.11	3,203.01
Casuguran	161,620.18	115,041.12	46,579.06
Habag	(63.55)	5,770.96	(5,834.51)
Lifeline	24,584,618.68	25,011,807.11	(427,188.43)
Senior Citizen	237,206.79	205,558.17	31,648.62
Real Property Tax	621,170.91	0.00	621,170.91
Franchise Tax	3,075,899.19	0.00	3,075,899.19
(Over)/Under Recovery	3,131,161,175.11	3,129,085,914.85	2,075,260.26

12. Formulas used in computing the above over/under recoveries, as well as, the reasons for incurring the same are explained in the Executive Summary, hereto attached as **Annex “D”**.

V. REASONS OF OVER/UNDER RECOVERIES

13. ESAMELCO is receiving its power supply from Generation companies for its main franchise area, and with eight (8) Small Power Utilities Group (SPUG) areas powered by the National Power Corporation. The incurred under-recovery of **Php3,168,225.92** was due to a 1-month lag in the recovery and computation of generation rate, as well as the staggered pass-on and implementation of discount availed by the cooperative. Moreover, applicant’s SPUG operated areas also incur under-recovery. Please refer to attached Executive Summary (ANNEX D).

14.In addition to generation and supply of energy, ESAMELCO has eight (8) Small Power Utilities Group (SPUG) areas powered by National Power Corporation (NPC), as follows: Casuguran started generating energy in April 2021, while Hilabaan, Tikling, Suluan, Sta. Monica, Inapulangan, Cagusuan and Habag began operation in September 2021. These SPUG areas also incurred under recoveries of **Php53,426.29** for Hilabaan; **Php8,613.90** for Tikling; **Php54,803.23** for Suluan; **Php37,111.05** for Sta. Monica; **Php19,485.68** for Inapulangan; **Php14,460.81** for Cagusuan; **Php160,055.08** for Casuguran; and **Php9,558.64** for Habag (please refer to ANNEX D). The under-recoveries incurred in the SPUG are due to an unchanged or un-updated generation pass-on rate. The pass-on generation rate for years 2022 to 2023 is still the approved rate for SPUG areas 2021.

15.Concerning Transmission cost, the applicant incurred an over-recovery of **Php591,066.19** from 2021 to 2023 as it follows the guidelines in the implementation of Transmission Rate.

16.On System Loss, ESAMELCO incurred over recovery of **Php4,240,805.33** at its main franchise area due to the implementation of average system loss percentage (%) using the historical prior year data as against the current to the current true-up mechanism. Moreover, over/under recoveries were also incurred in SPUG-operated areas due to implementation of average system loss percentage (%) using the historical direct prior year data as against the current to current true up mechanism. Please refer to attached Executive Summary (ANNEX D).

17.In Lifeline subsidy, ESAMELCO incurred an over recovery of **Php427,188.43** due to the one-month lag in the recovery/refund of lifeline discount/subsidy.

18.In the implementation of 5% discount for senior citizen, as to those energy consumption less than 100kWh per month, the applicant incurred an under recovery of **Php31,648.62** due to the one month lag in the recovery of discounts granted to senior citizens.

19.Concerning ESAMELCO’s property taxes and local franchise & business taxes, such have not been passed yet to consumers for years 2021 to 2023, though allowed pursuant to ERC Resolution No. 02, Series of 2021. Thus, ESAMELCO had incurred an under-recovery of **Php621,170.91** for Real Property Tax, and **Php3,075,899.19** for Local Franchise and Business Tax.

VI. THE PROPOSED COLLECTION AND REFUND SCHEMES:

20. The herein Applicant ESAMELCO is proposing a twelve-month (12-month) installment for both refund of computed over-recoveries, and collection computed under-recoveries, incurred in the main franchise area, which for the period 2021 to 2023 the resulting Under-Recovery is Php1,637,884.70 to be collected to consumers at a rate of Php0.02/kWh, to wit:

NO.	MAINLAND	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	3,168,225.92	8,937,930	12	0.03
2	Transmission Cost	(591,066.19)	8,937,930	12	(0.01)
3	System Loss Cost	(4,240,805.33)	8,937,930	12	(0.04)
4	Lifeline	(427,188.43)	8,983,615	12	(0.00)
5	Senior Citizen	31,648.62	8,983,615	12	0.00
6	Real Property Tax	621,170.91	8,937,930	12	0.01
7	Franchise Tax	3,075,899.19	8,937,930	12	0.03
	TOTAL	1,637,884.70			0.02

21. In the areas operated by SPUG, ESAMELCO is proposing refund and collection schemes for its incurred over-recoveries and under-recoveries, respectively, also in instalments for 36 months or three (3) years, to wit:

No	SPUG HILABAAN	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	53,426.29	7,850	36	0.19
2	System Loss	(12,643.02)	7,850	36	(0.04)
	TOTAL	40,783.27			0.14

No	SPUG TIKLING	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	8,613.90	1,406	36	0.17
2	System Loss	(2,025.72)	1,406	36	(0.04)
	TOTAL	6,588.17			0.13

No	SPUG SULUAN	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	54,803.23	6,389	36	0.24
2	System Loss	25,411.41	6,389	36	0.11
	TOTAL	80,214.64			0.35

No	SPUG STA. MONICA	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	37,111.05	6,373	36	0.16
2	System Loss	20,436.76	6,373	36	0.09
	TOTAL	57,547.81			0.25

No	SPUG INAPULANGAN	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	19,485.68	2,265	36	0.24
2	System Loss	4,733.90	2,265	36	0.06
	TOTAL	24,219.58			0.30

No	SPUG CAGUSUAN	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	14,460.81	2,112	36	0.19
2	System Loss	3,203.01	2,112	36	0.04
	TOTAL	17,663.82			0.23

No	SPUG CASUGURAN	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	160,055.08	17,964	36	0.25
2	System Loss	46,579.06	17,964	36	0.07
	TOTAL	206,634.14			0.32

No	SPUG HABAG	(OVER)/ UNDER RECOVERY	Using March 2024 kWh Sales	Proposed no. Of Months	Rate Php/kWh
1	Generation Cost	9,558.64	1,326	36	0.20
2	System Loss	(5,834.51)	1,326	36	(0.12)
	TOTAL	3,724.13			0.08

VII. SUPPORTING DATA AND DOCUMENTS

22.In support to this Application ESAMELCO is respectfully submitting herewith the following data and documents, which are being made integral parts hereof, to wit:

ANNEX	NATURE OF DOCUMENT
E	Summary of Over / Under Recoveries
F	Proposed Recovery/Refund Scheme
G	Fully Accomplished Supplier & Data Sheet for the Years 2021-2023
H	Power Bills from Suppliers
I	Fully Accomplished Statistical Data Sheet for the Year 2021-2023
J	Manifestation of no Pilferage Cost Recoveries
K	Monthly Financial & Statistical Report (MFSR)
L	Fully Accomplished Actual Implemented Rates Sheet
M	Fully Accomplished Lifeline Discount Sheet
N	Fully Accomplished Senior Citizen Discount Sheet
O	Fully Accomplished Additional Statistical Data Sheet
P	Two (2) Consumer Bills per Customer Class (Non-Lifeline)
Q	One (1) Consumer Bill per Lifeline Bracket (Lifeline)
R	One (1) Senior Citizen Consumer Bill
S	Uniform Reportorial Requirements (URR) for the years 2021-2023
T	Computation of Implemented Rates (GR, SLR, TR, LRS, & SCS)
U	Monthly URR Addendum
V	Single Line Diagram
W	Monthly Reports as per ERC Resolution 10, Series of 2018
X	Implemented Order Decision- ERC Case No. 2013-039 CF
Y	Actual Distribution Revenue (LFT)
Z	Breakdown of Gross Sales/Receipts (LFT)
AA	Supporting Documents as per ERC Resolution 02, Series of 2021 (RPF and LFT)
BB	Two (2) Consumer Bills per LGU (RPT)
CC	Two (2) Consumer Bills per LGU (LFT)
DD	Manifestation of Non-recovery of Business Tax

23.Further, in support of this Application, the “Judicial Affidavit” of ESAMELCO’s Corplan Division Chief AYESA GRACE D. ABING, is hereto attached and made integral part of this application and marked as “ANNEX EE”.

VIII. COMPLIANCE WITH PRE-FILING REQUIREMENTS

24.In compliance with the ERC prescribed Pre-filing requirements for O/U applications filing, ESAMELCO had provided copies of the Application and its annexes to Sangguniang Panglungsod of Borongan City, where the principal office of ESAMELCO is located, proof of which is the duly received Transmittal Letter and Certification hereto attached as “ANNEX FF” and “ANNEX GG”, respectively. Same copy of Application with annexes was given to Sangguniang Panlalawigan of Province of Eastern Samar, proof of which are hereto attached as “ANNEX HH” and “ANNEX II”, respectively.

25.Moreover, applicant ESAMELCO had initiated the publication of this Application in a newspaper of general circulation within the franchise area of ESAMELCO in Eastern Samar Province, proof of which are hereto attached as “ANNEX JJ” and “ANNEX KK”.

PRAYER

WHEREFORE, premises considered it is respectfully and humbly prayed of this Honorable Commission that ESAMELCO’s determination of its over and under-recoveries in the implementation of the automatic cost adjustment and true-up mechanisms be confirmed and approved, and that Applicant be allowed to collect the computed under-recovery in the items of Generation, Senior Citizen Subsidy, Real Property Tax, and Local Franchise & Business Tax; likewise be allowed to refund the over-recoveries in the items of Transmission, System Loss and Lifeline Subsidy, under the proposed collection and refund schemes.

Other reliefs, just and equitable under the premises are likewise most respectfully prayed for.

RESPECTFULLY SUBMITTED.

Tacloban City for Pasig City, this 24th day of June 2024.

ATTY. ROSELIO P. GULA
Legal Counsel of ESAMELCO
Email Address: nhoygula@yahoo.com
Cellphone no.: 09177121967
Office Address: Gula Law & Notarial Office, Door 7, Cabigon Bldg., Del Pilar Street, (across Sacred Heart Church)
Brgy. 8, 6500 Tacloban City, Leyte
Roll No. 48025; Lifetime IBP No. 07688; PTR No. 8490302 dtd. 1/2/24
MCLE Compliance No. VII-0004938 valid until 4/14/2025

VERIFICATION and CERTIFICATION OF NON-FORUM SHOPPING

I, ATTY. JOSE MICHAEL EDWIN S. AMANCIO, CPA, of legal age, Filipino, and with principal office address at the Main Office of Eastern Samar Electric Cooperative, Inc. (ESAMELCO), Brgy. Cabong, Borongan City, Eastern Samar, Philippines, after being sworn to in accordance with law, hereby depose and say:

1.That I am the General Manager of Eastern Samar Electric Cooperative, Inc. (ESAMELCO);

2.That I have caused the preparation and filing of the foregoing Application for Over or Under Recoveries in the Implementation of Automatic Adjustment and True-up Mechanisms during the period 2021-2023;

3.That I have read the foregoing **Application** and I attest that all allegations therein are true and correct, based on personal knowledge or authentic documents;

4.The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

5.The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after reasonable opportunity for discovery.

6. That I have not commenced any other action or proceeding involving the same issue nor is any pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency and should I learn thereafter that a similar action or proceeding has been filed or is pending other court or tribunal, I undertake to promptly inform this Honorable Commission within five calendar (5) days therefrom.

IN WITNESS WHEREOF, I have hereunto affixed my name and signature this ____ day of June 2024 in Eastern Samar..

ATTY. JOSE MICHAEL EDWIN S. AMANCIO, CPA MBM
General Manager, ESAMELCO

SUBSCRIBED AND SWORN to before me, a Notary Public for the Province of Leyte, this 24th day of June 2024, Tacloban City, Leyte, Philippines. Affiant Gen. Manager of ESAMELCO has shown his proof of identity:

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ATTY. RHODA MONTES CEBRICUS
Notary Public Until December 31, 2025
Not. Commission No. 12-08-2023-RTC-BR-2
TIN 187-193-178
Roll No. 59979; 3/22/2012
PTR No. 9434277; 01/02/2024; Borongan City
IBP Lifetime Member ID No. 013482; E. Samar Chapter
MCLE Compliance No. VII-0003243 valid until 04/14/2025