

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE
APPLICATION: (A) TO
CONFIRM THE GENERATION
RATE OVER/UNDER
RECOVERY (GOUR);
TRANSMISSION RATE
OVER/UNDER RECOVERY
(TOUR); SYSTEM LOSS RATE
OVER/UNDER RECOVERY
(SLOUR); LIFELINE SUBSIDY
OVER/UNDER RECOVERY
(LSOUR); SENIOR CITIZEN
DISCOUNT AND SUBSIDY
OVER/UNDER RECOVERY
(SRDSOUR) PASS THROUGH
CHARGES FROM JANUARY
2020 TO DECEMBER 2022, AND
PASS-THROUGH TAXES (REAL
PROPERTY AND LOCAL
FRANCHISE) OVER/UNDER
RECOVERY FROM JANUARY
2021 TO DECEMBER 2022; AND
(B) FOR AUTHORITY TO
REFUND/RECOVER
CONFIRMED OVER/UNDER
RECOVERIES, WITH PRAYER
FOR PROVISIONAL
AUTHORITY

ERC CASE NO. 2023-046 CF

MANILA ELECTRIC COMPANY
(MERALCO),

Applicant.

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Promulgated:
June 13, 2023

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 01 June 2023, Manila Electric Company (MERALCO) filed an *Application* dated 26 April 2023,

seeking the Commission's (1) confirmation of the its Generation Rate Over/Under Recovery (GOUR), Transmission Rate Over/Under Recovery (TOUR), System Loss Rate Over/Under Recovery (SLOUR), Lifeline Subsidy Over/Under Recovery (LSOUR), Senior Citizen Discount and Subsidy Over/Under Recovery (SrDSOUR) pass-through charges from January 2020 to December 2022, and pass-through taxes (real property and local franchise over/under recovery from January 2021 to December 2022, and (2) authority to refund/recover confirmed over/under recoveries, with prayer for provisional authority.

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

1. MERALCO is a private corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office located at Lopez Building, Ortigas Avenue, Barangay Ugong, Pasig City. It may be served with notices and other processes of this Honorable Commission through its undersigned counsel at the address indicated herein.
2. MERALCO has a legislative franchise to construct, operate and maintain an electric power distribution system for the conveyance of electric power to the end-users in the cities and municipalities of Metro Manila, Bulacan, Cavite and Rizal, and certain cities/municipalities/barangays in Batangas, Laguna, Quezon and Pampanga, pursuant to Republic Act No. 9209.
3. Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 ("EPIRA"), allows Distribution Utilities (DUs), such as MERALCO, to recover just and reasonable cost to enable them to operate viably.
4. Pursuant to ERC Resolution No. 21, Series of 2010, which amended Article 5, Section 1 of ERC Resolution No. 16, Series of 2009, DUs in Luzon, like MERALCO, must file their respective consolidated applications, every three (3) years following the sequence of period prescribed therein, which in the instant case, cover the over/under recoveries of pass-through charges for the period covering January 2020 to December 2022. Similarly, Article 5, Section 5.1 of ERC Resolution No. 2, Series of 2021, mandates DUs in Luzon, like MERALCO, to file their respective consolidated applications for allowed pass-through taxes on or before 31 March 2023. On 28 March 2023, MERALCO filed a letter requesting for an additional period of thirty (30) days from 31 March 2023, or until 30 April 2023, within which to file this Application. Thus, this Application is timely filed.
5. This Application includes over/under recoveries of the following pass-through costs: (a) Generation Rate Over/Under Recovery (GOUR); (b) Transmission Rate

Over/Under Recovery (TOUR); (c) System Loss Rate Over/Under Recovery (SLOUR); (d) Lifeline Subsidy Over/Under Recovery (LSOUR); (e) Senior Citizen Discount and Subsidy Over/Under Recovery (SrDSOUR), for the period from January 2020 to December 2022; and (f) Local Franchise Tax Over/Under Recovery (LFTOUR) and (g) Real Property Tax Over/Under Recovery (RPTOUR) from January 2021 to December 2022.

Generation Rate Over/Under Recovery (GOUR)

6. Generation Charge over/under recovery occurs due to the lag in the recovery of generation costs from consumers. Basically, the rate used to compute for the generation charge in a current billing month is based on the generation cost incurred during the previous month, which is the supply month. Given the lag in recovery and the monthly change in generation costs, over/under recoveries are expected as the generation cost for the current month is compared with the recoveries of the same month.
7. Using the formula provided in Section 2, Article 4 of ERC Resolution No. 16, Series of 2009, MERALCO determined that its Allowable Generation Cost amounting to Four Hundred Eighty Billion Three Hundred Twenty-Six Million Four Hundred Eighty-Nine Thousand Seven Hundred Two and 72/100 Pesos (PhP480,326,489,702.72) is higher than the Generation Revenues Billed amounting to Four Hundred Seventy-Three Billion Nine Hundred Thirteen Million Three Hundred Thirty-Two Thousand Two Hundred Sixty-Six and 6/100 (PhP473,913,332,266.06) for the period from January 2020 until December 2022. This resulted in net under recoveries in the Generation Charge amounting to Six Billion Four Hundred Thirteen Million One Hundred Fifty-Seven Thousand Four Hundred Thirty-Six and 66/100 (PhP6,413,157,436.66) for the period from January 2020 until December 2022. The computation details of the Generation Rate Over/Under Recovery (GOUR) are shown in ANNEX "B" and made an integral part hereof.

Transmission Rate Over/Under Recovery (TOUR)

8. The over/under recovery in Transmission Charge occurs because of the lag in the pass-on of transmission costs. When the actual transmission cost of the current month is compared with the transmission recoveries of the current month, which rates are computed based on previous month's cost, either an over or under recovery will result.
9. Using the formula provided in Section 3, Article 4 of Resolution No. 16, Series of 2009, MERALCO determined that its Actual Transmission Cost amounting to One Hundred Seven Billion Thirty-Three Million Six Hundred Ninety-Six Thousand Eight Hundred Ninety and 10/100 Pesos (PhP107,033,696,890.10) is higher than its Transmission Cost Recoveries amounting to One Hundred Six Billion Four

Hundred Twenty-Six Million Three Hundred Twenty-One Thousand Six Hundred Seventy-Three and 93/100 (PhP106,426,321,673.93) for the period from January 2020 until December 2022. This results in net under recoveries in the Transmission Charge amounting to Six Hundred Seven Million Three Hundred Seventy-Five Thousand Two Hundred Sixteen and 17/100 Pesos (PhP670,375,216.17) for the period from January 2020 until December 2022. The computation details of the Transmission Over/Under Recovery (TOUR) are shown in ANNEX "C" and made an integral part hereof.

System Loss Rate Over/Under Recovery (SLOUR)

10. System Loss over/under recovery mainly occurs due to the difference between the actual average cost of system loss for a given year and the sum of the actual monthly system loss billings for that same year. As MERALCO's system loss percentage (%) is already below the cap set by this Honorable Commission, the basis of its allowable cost of system loss charge rates were computed using the previous month's average generation and transmission costs, and the latest twelve (12) month moving system loss percentage (%), any difference from the actual annual data will result either in an over or under recovery in system loss.
11. Applying the formula contained in Section 4, Article 4 of Resolution No. 21, Series of 2010, MERALCO determined that its Allowable System Loss Cost amounting to Fifty Billion Eight Hundred Thirty Million Nine Hundred Sixty-Eight Thousand Two Hundred Fifty-Five and 66/100 Pesos (PhP50,830,968,255.66) is higher than its Actual System Loss Revenues amounting to Fifty Billion Sixty-Six Million Seven Hundred Ninety-Nine Thousand Seven Hundred Twenty-Three and 26/100 Pesos (PhP50,066,799,723.26) for the period from January 2020 until December 2022. This results in System Loss net under recoveries amounting to Seven Hundred Sixty-Four Million One Hundred Sixty-Eight Thousand Five Hundred Thirty-Two and 40/100 Pesos (PhP764,168,532.40) covering the period from January 2020 until December 2022. The computation details of the System Loss Over/Under Recovery (SLOUR) are shown in ANNEX "D" and made an integral part hereof.

Lifeline Subsidy Over/Under Recovery (LSOUR)

12. Over/Under recovery in the lifeline Subsidy occurs given the lag in the billing of lifeline rate subsidies to non-lifeline consumers. The lifeline discount of the previous month is used to compute for the lifeline subsidy charge in the current billing month. Consequently, when the actual lifeline discount amount for the current month is compared with the lifeline subsidy amount for the same month, either an over or under recovery will result.
13. Applying the formula specified in Section 5, Article 4 of Resolution 16, Series of 2009, MERALCO determined that its

Lifeline Discount provided amounting to Ten Billion Three Hundred Forty-Five Million One Hundred Twenty-Three Thousand Five Hundred Twenty-Nine and 67/100 Pesos (PhP10,345,123,529.67) is lower than [the] Total Lifeline Subsidy amounting to Ten Billion Three Hundred Forty-Five Million Nine Hundred Thousand One Hundred Fifty-Three and 4/100 Pesos (PhP10,345,900,153.04) for the period from January 2020 until December 2022. This results in Lifeline Subsidy net over recoveries amounting to Seven Hundred Seventy-Six Thousand Six Hundred Twenty-Three and 37/100 Pesos (PhP776,623.37) covering the period January 2020 to December 2022. The computation details of the Lifeline Subsidy Over/Under Recovery (LSOUR) are shown in ANNEX "E" and made an integral part hereof.

Senior Citizen Discounts and Subsidy Over/Under Recovery (SrDSOUR)

14. Relative to the Senior Citizen Subsidy and Discount, over/under recovery occurs due to the lag in the billing of senior citizen subsidy to non-senior citizen consumers. The senior citizen discount for the previous month is used to compute for the senior citizen subsidy charge in the current billing month. Consequently, when the actual senior citizen discount amount of the current month is compared with the senior citizen subsidy amount for the same month, either an over or under recovery will result.
15. Applying the formula provided under Article 7 of Resolution No. 23, Series of 2010, MERALCO determined that its Total Senior Citizen Discount provided amounting to Ten Million Six Hundred Thirty-Four Thousand Six Hundred Thirty and 14/100 Pesos (PhP10,634,630.14) is lower than its Total Senior Citizen Subsidy amounting to Thirteen Million One Hundred Thirty-Nine Thousand Five and 58/100 Pesos (PhP13,139,005.58) for the period from January 2020 until December 2022. This results in Senior Citizen Subsidy net over recoveries amounting to Two Million Five Hundred Four Thousand Three Hundred Seventy-Five and 44/100 Pesos (PhP2,504,375.44) covering the period from January 2020 to December 2022. The computation details of the Senior Citizen Over/Under Recovery (SrDSOUR) are shown in ANNEX "F" and made an integral part hereof.

Real Property Tax Over/Under Recovery (RPTOUR) and Local Franchise Tax Over/Under Recovery (LFTOUR)

16. On 17 December 2020, the Honorable Commission promulgated ERC Resolution No. 02, Series of 2021, entitled: "Rules on the Recovery of Pass Through Taxes (Real Property, Local Franchise, and Business Taxes) of the Distribution Utilities" which allowed the recovery of these pass through taxes paid for by distribution utilities that were levied and assessed within their respective franchise areas, subject to subsequent confirmation by the Honorable Commission.

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17. This Application covers over/under recovery in the Real Property Tax (RPT) on machineries paid for taxable years 2021 and 2022, and RPT for non-machineries paid for July to December 2022. The RPT over/under recovery occurs because of the difference in the paid RPT for the period and the RPT revenues for the same period, which rates are computed using forecasted sales.
18. The over/under recovery in Local Franchise Tax (LFT) occurs because of the difference in the paid LFT for the period, amount of which was determined using the previous year's revenues, and the LFT revenues for the same period, which are based on the billed LFT rate applied to the revenues for the current period.
19. Hence, MERALCO intends to recover the over/under recovery with respect to RPT and LFT that were levied and assessed by Local Government Units (LGUs) and paid for by MERALCO. Applying the formula provided under Article IV of Resolution No. 2, Series of 2021, MERALCO determined that the assessed and paid RPT amounting to Six Hundred Ninety-Nine Million Six Hundred Twenty-Five Thousand Nine Hundred Forty-Three and 62/100 Pesos (PhP699,625,943.62) is higher than its RPT Revenues amounting to Four Hundred Seventy Million Seven Hundred Fifty Thousand Four Hundred Seventy-Six and 1/100 Pesos (PhP470,750,476.01) for the period from January 2021 until December 2022. This results in Real Property Tax net under recoveries of Two Hundred Twenty-Eight Million Eight Hundred Seventy-Five Thousand Four Hundred Sixty-Seven and 60/100 Pesos (PhP228,875,467.60) covering the period from January 2021 to December 2022.
20. MERALCO also determined that its assessed and paid LFT amounting to Two Billion Nine Hundred Sixty Million Eight Hundred Fifty-One Thousand Six Hundred Thirty-Three and 95/100 Pesos (PhP2,960,851,633.95) is lower than its LFT Revenues amounting to Two Billion Nine Hundred Eighty-Eight Million One Hundred Eighty-Eight Thousand Six Hundred Sixty-Six and 65/100 Pesos (PhP2,988,188,666.65) for the period from January 2021 until December 2022. This results in Local Franchise Tax net over recoveries of Twenty-Seven Million Three Hundred Thirty-Seven Thousand Thirty-Two and 70/100 Pesos (PhP27,337,032.70) covering the period from January 2021 to December 2022.
21. The computation details of the Real Property Tax Over/Under Recovery (RPTOUR) and Local Franchise Tax Over/Under Recovery (LFTOUR) are shown in Annex "G" and Annex "H", respectively, and made an integral part hereof.

Consolidated Over/Under Recovery of Pass-Through Charges

22. The refund/collection of the over/under recoveries shall be made to both captive and contestable customers in

accordance with ERC Resolution No. 16, Series of 2012.¹ Insofar as contestable customers are concerned, any generation over/under recoveries for the billing periods when they were still captive customers, will be refunded to and/or collected from them. These over/under recoveries shall be part of the DU's bill, as a separate line item, through the Retail Electricity Suppliers currently serving the contestable customers. Considering that the eligible customers opted for contestability on different dates starting July 2013, such is taken into consideration in the determination of the GOUR to be collected/refunded from these customers.

- 23. Applicant proposes that the abovementioned GOUR, TOUR, SLOUR, SrDSOUR, RPTOUR and LFTOUR be refunded to/collected from the customers for a period of twelve (12) months, while the LSOUR be refunded to the customers within a period of one (1) month.
- 24. The computed amounts of the over/under recoveries and refund/recovery rates per bill component are summarized below:

Bill Component	Amount of (Over)/Under Recovery	Average (Refund)/Recovery Rate (PhP/kWh)	Amortization Period
GOUR	6,413,157,436.66	0.1875	12 months
TOUR	607,375,216.17	0.0120	12 months
SLOUR	764,168,532.40	0.0151	12 months
LSOUR	(776,623.37)	(0.0002)	1 month
SrDSOUR	(2,504,375.44)	(0.0001)	12 months
RPTOUR	228,875,467.60	0.0045	12 months
LFTOUR	(27,337,032.70)	(0.0006)	12 months

- 25. Attached hereto as ANNEX "I" is the computation on how the amounts were translated into rates per kilowatt-hour or per kilowatt per customer class, as applicable, including rates per kilowatt-hour per city/province for LFTOUR.

ALLEGATION IN SUPPORT OF PRAYER FOR PROVISIONAL AUTHORITY

- 26. It is urgent that a provisional authority be immediately issued upon filing and pending hearing of the instant Application. MERALCO stresses that the costs covered by this Application are all pass-through costs. Hence, MERALCO should neither earn any income nor incur any losses from the imposition of the same. Given the foregoing, it is incumbent upon MERALCO to recover/refund whatever amounts it billed for these valid pass-through costs.
- 27. In support of the instant Application and the prayer for provisional authority, attached hereto as ANNEXES "J" and "K", respectively, and made integral parts hereof are the Judicial Affidavits of MS. RODELYN M. SOGUILON, Lead of

¹ Entitled "A Resolution Adopting the Transitory Rules for the Implementation of Open Access and Retail Competitions".

MERALCO’s Purchased Power and Other Pass-through Tariff-Tariff Management, Regulatory Management Office (RMO) and MR. GERARDO E. ESPIRIDION, Head of MERALCO’s Tax Realty & Contract Management.

PRAYER

WHEREFORE, it is respectfully prayed to this Honorable Commission that, the instant Application be APPROVED authorizing MERALCO to refund/recover to/from its customers, as applicable, the following amounts which represent the over/under recoveries for the generation, transmission, system loss, lifeline subsidy, senior citizen discount and subsidy, and the pass-through taxes as pass through charges with the corresponding indicative rate/kWh in the table below and the proposed refund/recovery period.

Bill Component	Amount of (Over)/Under Recovery	Average (Refund)/Recovery Rate (PhP/kWh)	Amortization Period
GOUR	6,413,157,436.66	0.1875	12 months
TOUR	607,375,216.17	0.0120	12 months
SLOUR	764,168,532.40	0.0151	12 months
LSOUR	(776,623.37)	(0.0002)	1 month
SrDSOUR	(2,504,375.44)	(0.0001)	12 months
RPTOUR	228,875,467.60	0.0045	12 months
LFTOUR	(27,337,032.70)	(0.0006)	12 months

Pending hearing, MERALCO prays that a provisional authority be issued authorizing MERALCO to collect/refund the over/under recoveries.

MERALCO prays for such other relief just and equitable under the premises.

The Commission hereby sets the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020² and Resolution No. 01, Series of 2021³ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
24 August 2023 (Thursday) at two o’clock in the afternoon (2:00 P.M.)	MS Teams or Zoom Application	Determination of compliance with the jurisdictional requirements, and Expository Presentation
31 August 2023 (Thursday)		Pre-trial Conference and presentation of evidence

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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Date and Time	Platform	Activity
at two o'clock in the afternoon (2:00 P.M.)		

Any interested stakeholder may submit its comments and/or clarifications at **least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, and copy furnish the Legal Service through 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, all persons who have 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, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene at **least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state 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, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at **least five (5) calendar days** prior to the initial virtual 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.

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 *Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled initial virtual hearings by providing the Commission, through legal.virtualhearings@erc.ph, their respective e-mail addresses and indicating therein the case number of the instant *Application*. 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 13th day of June 2023 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD2023-005008


LS: MVM / LSH / MCCG