

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR:**

**(A) CONFIRMATION OF
TRUE-UP CALCULATIONS OF
THE ACTUAL WEIGHTED
AVERAGE TARIFF VIS-À-VIS
ERC-APPROVED MAXIMUM
AVERAGE RATE FOR THE
LAPSED REGULATORY
YEARS; AND**

**(B) APPROVAL OF THE FINAL
REFUND/COLLECT SCHEME
TO ACCOUNT FOR THE
LAPSED REGULATORY
YEARS**

ERC CASE NO. 2022-057 RC

**DAGUPAN ELECTRIC
CORPORATION,**

Applicant.

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Promulgated:
September 05, 2022

ORDER

On 25 August 2022, Dagupan Electric Corporation filed an *Application* dated 15 July 2022, seeking the Commission's approval of its (1) confirmation of true-up calculations of the Actual Weighted Average Tariff (AWAT) vis-à-vis the Commission's approved maximum average rate for the lapsed regulatory years, and (2) approval of the final refund/collect scheme to account for the lapsed regulatory years.

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

1. Applicant DECORP is a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at AB Fernandez West, Dagupan City where it may be served with summons and other legal processes, represented in this instance by its President, Rene L. Llames, of legal age,

Filipino, and with office address at Veria I Bldg., 62 West Avenue, Quezon City.

2. DECORP is the holder of an exclusive legislative franchise issued by Congress of the Philippines pursuant to Republic Act No. 9969, to operate an electric light and power service in the Cities and Municipalities of Dagupan, Calasiao, San Fabian, Sta. Barbara, San Jacinto, Manaoag, Barangays Cruz and Bolingit of San Carlos City, all in the Province of Pangasinan.
3. DECORP, along with Cagayan Electric Power and Light Company (CEPALCO) and Manila Electric Company (MERALCO) comprise the First Entry Group (otherwise known as "Group A") of Distribution Utilities ("DUs") that entered Performance Based Regulation ("PBR").
4. PBR is the internationally-accepted rate-setting methodology adopted by the Honorable Commission to set the distribution wheeling rates of private DUs.
5. DECORP's Second Regulatory Period under PBR was from July 1, 2007 to June 30, 2011. DECORP's Third Regulatory Period under PBR was from July 1, 2011 to June 30, 2015.
6. Pursuant to the Rules for Setting Distribution Wheeling Rates for Privately Owned Electricity Distribution Utilities Operating under Performance Based Regulation (First Entry Group: Third Regulatory Period) dated 1 December 2009 (3^{RP} RDWR), DECORP completed its Regulatory Reset Process for the Third Regulatory Period (3RP) covering the period from 1 July 2011 to 30 June 2015 upon the issuance of DECORP's Final Determination dated 6 June 2011 in ERC Case No.2010-070RC. The Honorable Commission set out in DECORP's Final Determination its position on the price control arrangements that would apply to DECORP for the 3RP.
7. Last 19 April 2022, DECORP received a letter from the Honorable Commission dated 16 March 2022 regarding the treatment of the Lapsed Period for Private Distribution Utilities under PBR. In the RDWR (First Entry Group: Fifth Regulatory Period) dated December 2021, The Lapsed Period for the First Entry Group (Group A) covers the period from 01 July 2015 to 30 June 2022, which is considered the Fourth Regulatory Period (4th RP) for Group A.
8. In the 16 March 2022 letter, the Honorable Commission adopted a confirmation and true-up process in determining the rates of Group A to address the years during the Lapsed Period. In the said process, the Honorable Commission will undertake to confirm the last approved rate of DECORP during the previous regulatory reset which will be utilized during the Lapsed Period. The confirmed rates will be subjected to a true-up mechanism as against DECORP's Actual Weighted Average Tariff (AWAT) in order to determine any resulting over or under recovery of the rates charged during the Lapsed Period.

The Honorable Commission directed DECORP to file its AWAT Application within sixty (60) days from receipt of the 16 March 2022 letter.

9. Guided by the Over/Under Recovery Formula provided under Section 4.3.1 of Article IV of the Revised Rules for Setting Distribution Wheeling Rates (RDWR) as amended by ERC Resolution No. 10, Series of 2021, DECORP has prepared this instant Application.
10. As approved by the Commission in its Decision dated 9 February 2015 in ERC Case No. 2014-027 RC, the MAP of DECORP for the Fourth Regulatory Year of its Third Regulatory Period is PhP 2.4472. Excluding the allowed incentive factor of PhP 0.0066/kWh and a correction factor of PhP -0.5237/kWh, DECORP used a MAP of PhP 1.9169 in computing its AWAT vis-à-vis its last approved MAP for the period 1 July 2015 to 30 June 2022. DECORP’s true-up calculations are as follows:

Period	kWh	Approved MAP	AWAT	Under (Over) Recovery	
				PhP/ kwh	Amount
Jul 2015 to Jun 2016	320,580,534	1.9169	1.8582	0.0587	18,819,893.80
Jul 2016 to Jun 2017	338,426,141	1.9169	1.8681	0.0489	16,543,759.40
Jul 2017 to Jun 2018	366,131,492	1.9169	1.8783	0.0386	14,147,466.58
Jul 2018 to Jun 2019	372,808,412	1.9169	1.8883	0.0286	10,671,779.03
Jul 2019 to Jun 2020	381,264,274	1.9169	1.9454	(0.0285)	(10,859,049.34)
Jul 2020 to Jun 2021	394,995,686	1.9169	1.9620	(0.0451)	(17,813,074.77)
Jul 2021 to June 2022	407,119,034	1.9169	1.9389	(0.0220)	(8,953,739.71)
Total Under (Over)					22,557,034.99

11. Based on the foregoing, DECORP proposes to collect from its customers the amount recovered in deficit of the last approved MAP in the total net amount of Twenty-Two Million Five Hundred Fifty-Seven Thousand Thirty-Four Pesos & 99/100 (PhP 22,557,034.99) under the following proposed collection/refund program:

Proposed Collection (Refund) in Seven (7) Years			
	Energy Forecast	Collect	Collect Rate (PhP/kWh)
Residential (R)	1,677,870,653.04	13,569,949.46	0.0081
Street Lighting (S)	31,907,938.14	495,015.61	0.0155
General Retail (X)	676,868,210.75	3,784,699.34	0.0056
General Power (Y)	500,711,860.96	2,939,760.69	0.0059
Bulk Power (Z)	533,120,428.70	1,767,609.89	0.0033
Total	3,420,479,092	22,557,034.99	0.0066

The refund or collection rate will be reflected as a separate line item in the bills of the customers during the refund or collection period.

12. In support of this Application, DECORP has attached the following supporting documents:

SCHEDULE	INFORMATION PROVIDED
A	Model containing the derivation of the Refund Rates
B	Breakdown of the Distribution, Supply and Metering Revenues and Actual Energy Sales (kWh)
C	Breakdown of the Net Income from Related Business for the covered period per calendar year
D	Bill Duplicates per customer class or segment
E	Rate Impact Simulation on the Overall Rates of DECORP once the rate and payment scheme are approved including an explanation on assumptions and input parameters used in the derivation thereof
F	Breakdown of Refund/Repayment rate per Customer Class or Segment

PRAYER

WHEREFORE, premises considered, DECORP respectfully prays that after due notice and hearing, the Honorable Commission render its Decision as follows:

1. Confirming DECORP’s true-up calculations of its AWAT vis-à-vis its last approved MAP, more particularly described as follows:

Period	kWh	Approved MAP	AWAT	Under (Over) Recovery	
				PhP/ kwh	Amount
Jul 2015 to Jun 2016	320,580,534	1.9169	1.8582	0.0587	18,819,893.80
Jul 2016 to Jun 2017	338,426,141	1.9169	1.8681	0.0489	16,543,759.40
Jul 2017 to Jun 2018	366,131,492	1.9169	1.8783	0.0386	14,147,466.58
Jul 2018 to Jun 2019	372,808,412	1.9169	1.8883	0.0286	10,671,779.03
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Jul 2020 to Jun 2021	394,995,686	1.9169	1.9620	(0.0451)	(17,813,074.77)
Jul 2021 to June 2022	407,119,034	1.9169	1.9389	(0.0220)	(8,953,739.71)
Total Under (Over)					22,557,034.99

2. Direct DECORP to refund the amount recovered in excess and collect the amount under recovered of its last approved MAP for Regulatory Years (RY) 2016, 2017, 2018, 2019, 2020, and 2022 under the following scheme:

Proposed Collection (Refund) in Seven (7) Years

	Energy Forecast	Collect	Collect Rate (PhP/kWh)
Residential (R)	1,677,870,653.04	13,569,949.46	0.0081
Street Lighting (S)	31,907,938.14	495,015.61	0.0155
General Retail (X)	676,868,210.75	3,784,699.34	0.0056
General Power (Y)	500,711,860.96	2,939,760.69	0.0059
Bulk Power (Z)	533,120,428.70	1,767,609.89	0.0033
Total	3,420,479,092	22,557,034.99	0.0066

3. Upon confirmation of DECORP’s true-up calculations of its AWAT vis-à-vis its last approved MAP, and the approval of its refund/collect scheme, declare with finality that all issues relating to DECORP’s *lapsed Regulatory Years* of 2016, 2017,

2018, 2019, 2020, and 2022 as resolved, closed, and terminated.

Finally, DECORP also prays for such other relief or remedy as may be just and equitable under the circumstances.

Finding the said *Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ dated 24 September 2020 and Resolution No. 01, Series of 2021 dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):²

Date	Platform	Activity
21 October 2022 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
28 October 2022 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams or Zoom Application	Pre-trial Conference and presentation of evidence

Accordingly, DECORP is hereby directed to host the virtual hearing at **DECORP's Principal Office located at AB Fernandez West, Dagupan City**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, DECORP shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, DECORP is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

publication to be made not later than ten (10) days before the date of the scheduled initial hearing;

- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Mayors, and the Local Government Unit (LGU) Legislative Bodies within DECORP's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within DECORP's franchise area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* 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 and attend the scheduled hearings; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to the resolution of the prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.³

Within five (5) calendar days prior to the date of the initial virtual hearing, DECORP must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of

³ For the e-mail address of the applicant, please see page 10.

certifications issued to that effect, signed by the aforementioned Governor, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by DECORP to inform the consumers within its franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, DECORP is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Governor, Mayors and Local Legislative Bodies, and to submit proof of its posting thereof.

DECORP and all interested parties are also required to submit to the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled initial virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

DECORP must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of DECORP to comply with the above requirements 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 the said date of cancellation.

DECORP must also be prepared to make an expository presentation of the instant *Application*, 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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

DECORP is hereby directed to file a copy of its Expository Presentation via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. DECORP shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled virtual hearing, via e-mail at docket@erc.ph, 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.

DECORP is hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, **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. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available mode of service.

Finally, DECORP, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform **within five (5) working days** prior to the scheduled hearing.

SO ORDERED.

Pasig City, 05 September 2022.

FOR AND BY AUTHORITY
OF THE COMMISSION:


FLORESINDA G. BALDO-DIGAL
Oversight Commissioner
For the Legal Service 

 
LS: VMA/LSP/MCCG

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