

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



**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
EMERGENCY CAPITAL  
EXPENDITURE PROJECT  
FOR THE REHABILITATION  
OF THE DAMAGED POWER  
TRANSFORMER IN THE  
MABINAY SUBSTATION,**

**ERC CASE NO. 2016-194 RC**

**NEGROS ORIENTAL I  
ELECTRIC COOPERATIVE,  
INC. (NORECO I),**

**Applicant.**

X -----X

**D O C K E T E D**  
Date: DEC 13 2017  
By: 12

**DECISION**

Before this Commission for resolution is the Application filed by Negros Oriental I Electric Cooperative, Inc. (NORECO I) on 08 December 2016, seeking the Commission's approval of its emergency Capital Expenditure (CAPEX) Project for the rehabilitation of the damaged power transformer in its Mabinay Substation.

In its Application, NORECO I alleged the following:

1. NORECO I is an electric cooperative duly organized and existing under the laws of the Republic of the Philippines with office address at Tinaogan, Bindoy, Negros Oriental. NORECO I was granted a franchise to operate an electric light and power distribution service in the municipalities of Mabinay, Manjuyod, Bindoy, Ayungon, Tayasan, Jimalalud, La Libertad, and Vallehermoso, and the cities of Guihulngan, Bais, and Canlaon, all in the province of Negros Oriental.
2. The instant Application is filed pursuant to Section 43(f) of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001", ERC Resolution No. 26, Series of 2009, ERC Rules of Practice and Procedure, and other relevant laws and rules, for the Honorable Commission's grant of approval, confirmation and authority for NORECO I's Emergency Capital Expenditure (CAPEX) for the rehabilitation of the damaged power transformer in its Mabinay Substation.

3. NORECO I furnished the legislative bodies of the local government units where it principally operates with copies of the Application with all its annexes and accompanying documents. Copies of the proofs of service to the Sangguniang Panlalawigan of Negros Oriental and the Sangguniang Bayan of Bindoy, Negros Oriental are attached as **Annexes "A" and "B"**, respectively.
4. NORECO I also published the Application *sans* annexes in its entirety in a newspaper of general circulation within its franchise area. Copies of the Affidavit of Publication and the Newspaper where the Application was published are attached as **Annexes "C" and "D"**, respectively.

**EMERGENCY CAPITAL EXPENDITURE PLAN  
 AND OTHER RELATED FACTS**

5. In the morning of 18 June 2016, abnormalities were detected in the functioning of NORECO I's Mabinay Substation. The assigned staff detected that oil had been spilled from the transformer, and immediately isolated the substation by opening the air break switch to relieve the impact.
6. This fortuitous event necessitated the immediate implement of a capital expenditure project in order to rehabilitate the damaged power transformer in the Mabinay Substation. NORECO's Emergency Capital Expenditure Plan ("Emergency CAPEX Plan") is attached as **Annex "E"** hereof.
7. Two alternatives were considered: the repair of the damaged transformer vis-à-vis the replacement and uprating thereof. Both alternatives are technically viable considering that, based on the forecasted demand, the substation will not be overloaded even at the current capacity.
8. The first alternative, repair, was selected as the more economically viable and the least cost project. It has an estimated project cost of P1,174,700.00.
9. No rate impact is expected from the instant CAPEX project considering that, even with the cost of the repair, the current Reinvestment Fund for Sustainable Capital Expenditures (RFSC) of NORECO I will remain sufficient to fund the project.

Indicative Rate Impact of the Project			
	2016	2017	TOTAL
Forecasted energy sales, kWh	56,069,343	59,567,259	115,636,602
Cash balance beginning, PhP, excess/(shortfall)	1,916,441	1,083,139	1,916,441
<b>CASH INFLOWS</b>			
current year collection			

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@PhPo.3439/kWh	19,282,247	20,485,180	39,767,427
loan proceeds from financial institutions, PhP	-	-	-
government subsidy (if any), PhP	-	-	-
50% of income on leased properties	-	-	-
Total Cash Inflows, PhP	19,282,247	20,485,180	39,767,427
Available cash for disbursement	21,198,689	21,568,319	41,683,869
<b>CASH OUTFLOWS</b>			
CAPEX requirement	17,208,993	15,475,402	32,684,396
Emergency CAPEX requirement	1,166,200	-	1,166,200
old debt (old amortization)	1,443,544	1,443,544	2,887,088
new amortization (new CAPEX), PhP	-	3,794,385	3,794,385
ERC Permit Fee, PhP (regular capex)	288,312	297,327	585,639
ERC Permit Fee, PhP (emergency capex)	8,500	-	8,500
Total Cash Outflows, PhP	20,115,549	21,010,658	41,126,208
<b>Cash balance ending, PhP, excess/(shortfall)</b>	<b>1,083,139</b>	<b>557,661</b>	<b>557,661</b>
<b>Excess/(shortfall) on RFSC, PhP/kWh</b>	<b>0.019</b>	<b>0.009</b>	<b>0.005</b>

**PRAYER**

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission that, after hearing thereon on the merits, a **DECISION** be rendered **APPROVING** the instant Application.

Other just and equitable reliefs are likewise prayed for.

Finding the said Application sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated 14 March 2017, were issued by the Commission setting the Application for determination of compliance with jurisdictional requirements, expository presentation, Pre-trial Conference, and evidentiary hearing on 09 May 2017.

On 04 May 2017, Applicant filed its Pre-trial Brief.

During the 09 May 2017 initial hearing, only Applicant appeared. No intervenor or oppositor appeared nor was there any intervention or opposition registered.

At the said hearing, Applicant presented proofs of its compliance with the Commission's jurisdictional requirements marked as Exhibits "H" to "L", as indicated in the Commission's Order dated 14 March 2017.

Thereafter, NORECO I conducted an expository presentation of its Application delivered under oath by Mr. Nick Sherwin Llena (Mr. Llena), NORECO I's Regulatory Compliance Officer (RCO). The Commission asked clarificatory questions and the same were answered by the said presenter and was assisted under oath by Engr. Elvin Denoyo, Applicant's Technical Services Manager.

At the termination of the expository presentation, Applicant presented Mr. Llena as witness who testified in support of the Application. In the course of his direct examination, additional documents were identified and were duly marked as exhibits. Thereafter, the Commission propounded clarificatory questions on said witness and directed the submission of various documents.

On 09 June 2017, Applicant submitted its Compliance to the Commission's directives given during the 09 May 2017 hearing. Likewise, on even date, it submitted its *Formal Offer* of exhibits marked as Exhibits "A" to "P". On 14 August 2017, the Commission issued an Order admitting the exhibits contained in its *Formal Offer*.

### **ISSUE**

The issue to be resolved is whether or not the instant Application should be approved by the Commission.

### **COMMISSION'S RULING**

The Commission approves the emergency capital expenditure project applied for.

**DISCUSSION**

As a background leading to the filing of this Application, Applicant alleged that in the morning of 18 June 2016, abnormalities were detected in NORECO I's Mabinay Substation. It was found that oil has spilled out from the power transformer, thus, NORECO I immediately isolated the substation by opening the air break switch to relieve the impact. This incident necessitated the immediate rehabilitation of the damaged power transformer.

**Project Justification**

To reiterate, the said abnormality on the power transformer triggered Applicant to isolate the whole substation from the system. In order to address the identified problem, NORECO I formulated project alternatives as shown hereunder. The alternatives were then carefully scrutinized to determine which of the projects is more economically viable, to wit:

<b>Formulated Project Alternatives</b>	
<b>Alternatives</b>	<b>Description</b>
<b>1</b>	Repair only
<b>2</b>	Replacement and uprating of Mabinay Substation to a new 5 MVA capacity power transformer

<b>Technical Evaluation of Formulated Alternatives</b>			
<b>Year</b>	Projected Demand (MVA)	Alternative 1	Alternative 2
		3.75 MVA % Loading	5 MVA % Loading
<b>2016</b>	1.66	44.26	33.2
<b>2017</b>	1.75	46.54	34.91
<b>2018</b>	1.84	48.94	36.7
<b>2019</b>	1.93	51.45	38.59

Two (2) alternatives were considered by NORECO I, *first*, to repair the damaged transformer and *second*, to replace and uprate the capacity of the said transformer. Applicant assessed that both alternatives are technically feasible as the capacity of both transformers is ideal for the Mabinay substation even for years. It is worthy to note, however, that repairing the damaged transformer

may not prolong the restoration of the said facility to normal operation.

As to the economic viability, shown hereunder is the comparative economic analysis between the two alternatives:

<b>Alternative</b>	<b>Description</b>	<b>Present Worth (Php)</b>	<b>Remarks</b>
1	Repair only	12,574,467.48	Least cost
2	Replacement and uprating of Mabinay Substation to a new 5 MVA capacity power transformer	14,304,373.25	

Based therefrom, Alternative 1 is the more economically viable solution given its present worth.

The repair of NORECO I's damaged power transformer at Mabinay Substation was implemented in order to restore power and maintain safe, reliable, secure, and efficient operation of the power system.

### **Project Schedule**

Repair works and other relevant procedures were undertaken after the oil leak was seen on 18 June 2016, to wit:

<b>Activity</b>	<b>Implementation</b>
Testing	13 July 2016
Untanking	14 July 2016 to 25 July 2016
Actual Repair	26 July 2016 to 28 October 2016
Testing and Commissioning	29 October to 12 November 2016

### **Project Cost**

Based on the *Emergency Capital Expenditure* submitted by the Applicant and marked as Exhibit "E", it tabulated the Repair Cost amounting to One Million One Hundred Sixty Six Thousand Two Hundred Pesos (**PhP 1,166,200.00**), as shown in the table below:

<b>Activity</b>	<b>Cost (Php)</b>
Testing	81,200.00
Untanking	242,793.60

Actual Repair	513,206.40
Testing and Commissioning	250,000.00
Mineral Oil	24,000.00
Crane Rental	55,000.00
<b>Total</b>	<b>1,166,200.00</b>

### **Financing Plan**

NORECO I funded the cost of restoration or repair of the power transformer amounting to Php 1,166,200.00 from its Reinvestment Fund for Sustainable Capex (RFSC) without incurring any loan.

### **Indicative Rate Impact of the Emergency CAPEX**

<b>Indicative Rate Impact of the Project</b>			
	<b>2016</b>	<b>2017</b>	<b>2-year impact</b>
Forecasted energy sales, kWh	56,069,343	59,567,259	115,636,602
Cash balance beginning, PhP, excess/(shortfall)	1,916,441.00	1,082,892.56	1,916,441.00
<b>CASH INFLOWS</b>			
current year collection @PhP0.3439/kWh	19,282,247.06	20,485,180.37	39,767,427.43
loan proceeds from financial institutions, PhP	-	-	-
government subsidy (if any), PhP	-	-	-
50% of income on leased properties	-	-	-
<b>Total Cash Inflows, PhP</b>	<b>19,282,247.06</b>	<b>20,485,180.37</b>	<b>39,767,427.43</b>
Available cash for disbursement	21,198,688.06	21,568,072.93	41,683,868.43
<b>CASH OUTFLOWS</b>			
CAPEX requirement	17,208,993.00	15,475,402.00	32,684,395.00
Emergency CAPEX requirement	1,166,200.00	-	1,166,200.00
old debt (old amortization)	1,443,544.00	1,443,544.00	2,887,088.00
new amortization (new CAPEX), PhP	-	3,794,385.00	3,794,385.00
ERC Permit Fee, PhP (regular capex)	288,312.00	297,327.00	585,639.00
ERC Permit Fee, PhP (emergency capex)	8746.50	-	8746.50

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Total Cash Outflows, PhP	20,115,795.50	21,010,658.00	41,126,453.50
<b>Cash balance ending, PhP, excess/(shortfall)</b>	<b>1,082,892.56</b>	<b>557,414.93</b>	<b>557,414.93</b>

The simulation above indicates that the revenue derived from NORECO I's existing RFSC was sufficient to finance the expenses in the repair of the subject power transformer.

**Classification of Project**

Section 3.4 of Resolution No. 26, Series of 2009 or the CAPEX Guidelines states that:

*Emergency Capital Expenditure:*

*These are capital expenditure projects that require immediate implementation during an event other than those enumerated and covered in the definition of a force majeure, or fortuitous event in order to maintain safe, reliable, secure and efficient operation of the power system. These projects shall be filed with ERC for approval within sixty (60) days after the start of construction xxx xxx.*

NORECO I had a pre-filing conference with the technical staff of the Commission's Standard Compliance and Monitoring Division Regulatory Operations Service (SCMD, ROS) as early as 07 July 2016. However, the Application was only docketed on 08 December 2016 or more than the 60-day period required under the Guidelines due to the pre-filing review of its completeness of requirements.

NORECO I implemented the Emergency CAPEX project to comply with its obligation to restore service within the shortest time possible as provided for in Section 1.2.1 of ERC Resolution No. 12, Series of 2006 or the Guidelines for Monitoring of Reliability Standards for Distribution Utilities, viz:

*Each Distribution Utility shall make reasonable efforts to avoid and prevent Interruptions of service. However, when Interruptions occur, service shall be reestablished within the shortest time practicable.*

**Permit Fee**

Section 40 of Commonwealth Act No. 146 provided as follows:



*The Commission is authorized and ordered to charge and collect from any public service or applicant, as the case may be, the following fees as reimbursement of its expenses in the authorization, supervision and/or regulation of the public services:*

xxx

*For each permit authorizing the increase of equipment, the installation of new units or authorizing the increase of capacity, or the extension of means or general extensions in the services, xxx for each one hundred pesos or fraction of the additional capital necessary to carry out the permit.*

As such, NORECO I has to pay to the Commission a permit fee for the authorization and approval of its capital expenditure projects. Further, the permit fee amounting to Eight Thousand Seven Hundred Forty Six Pesos and Fifty Centavos (**Php8,746.50**) shall be paid in accordance with Section 4.2 of the CAPEX Guidelines which provides that:

*4.2 Payment of Fees*

xxx

*Payment of permit fee shall be on an annual basis. The amount of permit fee to be paid shall correspond to the estimated cash flow per year of the project. The first of the series of payments shall be made fifteen (15) days from receipt of the Decision approving the application. The succeeding annual payments shall be paid every 15<sup>th</sup> day of January of the pertinent year.*

The aforesaid amount was computed based on the Seventy Five Centavos (PhP.75) for every One Hundred Pesos (PhP100.00) of the approved total project cost in accordance with the ERC Schedule of Fees and Charges.

<b>Approved Project Cost (Php)</b>	<b>Permit Fee (Php)</b>	<b>Due Date</b>
1,166,200.00	8,746.50	Within fifteen (15) days upon receipt of Decision

A perusal of the evidence presented herein showed that the approval of NORECO I's emergency capital expenditure project for the rehabilitation of the damaged power transformer in the Mabinay Substation is in accordance with the provisions of Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 (EPIRA) and the *Resolution Amending the Rules for Approval of Regulated Entities' Capital Expenditure Projects*. Likewise, the approval of the subject project will redound to the benefit of its consumers in terms

of continuous, reliable, and efficient power supply as mandated by the EPIRA.

**WHEREFORE**, the foregoing premises considered, the Application filed by Negros Oriental I Electric Cooperative, Inc. (NORECO I) for the approval of its Emergency Capital Expenditure Project for the rehabilitation of the damaged power transformer in the Mabinay Substation amounting to One Million One Hundred Sixty Six Thousand Two Hundred Pesos (PhP1,166,200.00) is hereby **APPROVED**.

NORECO I is hereby directed remit to the Commission, within fifteen (15) days from receipt of the Decision, the amount of Eight Thousand Seven Hundred Forty Six Pesos and Fifty Centavos **PhP8,746.50** as payment of permit fee for the approval and confirmation of the subject Emergency CAPEX project, in accordance with Section 40 of Commonwealth Act No. 146 and the ERC Schedule of Fees and Charges.

**SO ORDERED.**


Pasig City, 31 August 2017.

**JOSE VICENTE B. SALAZAR\***  
*Chairman and CEO*

  
**ALFREDO J. NON**  
*Commissioner*

  
**GLORIA VICTORIA C. YAP-TARUC**  
*Commissioner*

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Commissioner*

  
**GERONIMO D. STA. ANA**  
*Commissioner*

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ROS: nidw/jras/lfg/fbl

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\* The Chairman was suspended as per Decision of the Office of the President (OP-DC Case No. 17-D- 094) dated 02 August 2017.

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6. The House Committee on Energy  
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7. Office of the Municipal Mayor  
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8. Office of the LGU Legislative Body  
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9. Office of the Municipal Mayor  
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10. Office of the LGU Legislative Body  
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11. Office of the Municipal Mayor  
Bindoy, Negros Oriental
12. Office of the LGU Legislative Body  
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13. Office of the Municipal Mayor  
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15. Office of the Municipal Mayor  
Tayasan, Negros Oriental
16. Office of the LGU Legislative Body  
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17. Office of the Municipal Mayor  
Jimalalud, Negros Oriental
18. Office of the LGU Legislative Body  
Jimalalud, Negros Oriental
19. Office of the Municipal Mayor  
La Libertad, Negros Oriental

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20. Office of the LGU Legislative Body  
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21. Office of the Municipal Mayor  
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22. Office of the LGU Legislative Body  
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23. Office of the City Mayor  
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