

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



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO IMPLEMENT
THE PROPOSED CAPITAL
EXPENDITURE PROGRAM
FOR REGULATORY YEAR
(RY) 2016, WITH PRAYER
FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2016-014 RC

**CLARK ELECTRIC
DISTRIBUTION
CORPORATION (CEDC)**
Applicant.

X-----X

D O C K E T E D
Date: OCT 26 2018
By: [Signature]

ORDER

On 18 February 2016, Applicant Clark Electric Distribution Corporation (CEDC) filed an *Application* dated 16 February 2016, for authority to implement its proposed Capital Expenditure Program for Regulatory Year (RY) 2016, with prayer for provisional authority.

In the said *Application*, CEDC alleged, among others, the following:

1. It is a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Bldg. N2830, Bayanihan Street, Clark Freeport Zone, Pampanga, Philippines, where it may be served with summons and other legal processes.
2. It is the exclusive franchise holder issued by the Clark Development Corporation (CDC), by virtue of Executive Order No. 80, to operate and maintain the power distribution system within the Clark Special Economic Zone and to distribute power exclusively therein.

3. It is part of the Fourth Entry Group (otherwise known as Group D) that entered into the performance-based regulation (PBR) rate setting methodology on October 1, 2011.
4. The Commission approved CEDC's Capital Expenditure Program (CAPEX) for the entire Second Regulatory Period – October 1, 2011 to September 30, 2015 in CEDC's Final Determination dated July 6, 2011 (ERC Case No. 2010-131RC).
5. The Third Regulatory Period (3RP) for the Fourth Entry Group commenced on 1 October 2015 and shall end on 30 September 2019. However, CEDC is still awaiting the release by the Commission of the final rules to govern the filing of its 3rd RP reset application. In the meantime, CEDC needs to implement certain major and residual CAPEX projects in Regulatory Year (RY) 2016 in order to operate and maintain its distribution network to be able to continue to meet the electricity needs of its current and future customers.
6. CEDC is filing this application in accordance with Commonwealth Act No. 146, as amended, also known as the Public Service Act, which requires any public service to seek the prior approval of the Commission before it can establish, construct, maintain, and operate new facilities or make any extension of its existing facilities.
7. The need to implement the proposed CAPEX projects is crucial considering the customers CEDC serves. CEDC's RY 2016 CAPEX Program is geared towards ensuring the safety, reliability, and efficiency of its distribution system while providing for the forecasted growth of electricity demand within its franchise area.
 - a. The investors/locators in the Clark Freeport Zone (CFZ) are mainly multi-national companies with the following breakdown in energy sales: 62% from the industrial sector, 37% from the commercial sector, 0.8% are in the residential sector and 0.2% is street lights accounts. Some of the more notable locators of the CFZ are foreign semiconductor manufacturing companies like Phoenix Semiconductor Philippines Corporation (PSPC), Nanox Philippines, Amertron Incorporated and SMK Electronics; Taiyo Nippon Sanso Clark Incorporated (TNSCI-INGASCO), Yokohama Tires Philippines, Clark International Airport Corporation, Philippine Air Force and SM City Clark. The locators of CFZ are major contributors to the economic growth of the country and source of employment for thousands of Filipinos, particularly in the

Central Luzon area. The operations and processes of these locators are highly dependent on stable, reliable and quality power.

- b. The distribution infrastructure must be sufficient to serve CEDC's current customers while provisioning to meet future needs. CEDC's peak demand in the 3RP is forecasted to grow at about 34.93% over the first regulatory year (known as RY 2016) of the Third Regulatory Period. This is mainly driven by a robust growth in the industrial and commercial sector. This increase in peak demand and the additional customer connections will require CEDC to increase the capacity of the electric distribution system in order to accommodate customer connections while improving the reliability and power quality of its distribution system.
8. There is also therefore a need to construct the necessary infrastructure to provide N-1 contingency so that the distribution system can withstand any single line outages without loss of load to customers. A more detailed description of the background behind CEDC's CAPEX program is attached and is made integral part of this Application.

LIST OF CAPEX PROJECTS

9. CEDC hereby proposes the following Major Projects¹ for RY 2016:

List of RY 2016 Major CAPEX Projects

Project Name	Project Cost (PhP)	Annex
Development of Mabalacat 69 kV – 13.8 kV Substation	220,094,350	B-1
Construction of CDC – Mabalacat 69 kV Line	90,699,900	B-2
Construction of Roxas – IE-5 69 kV Line	129,857,380	B-3
Acquisition of CDC-owned 2-100 MVA 230 kV – 69 kV Power Transformers (T3 & T4), 69 kV PSPC Ring Bus and Double Circuit 69 kV Lines serving PSPC	188,783,379	B-4

¹ Major Projects are defined as projects for which the capital expenditure forecasted in a Regulatory Year for the project is greater than PhP30 million or 20% of the total capital expenditure forecasted for a Regulatory Year, whichever is lower.

Reconfiguration of PSPC 69 kV Ring Bus to Four Bay Breaker-and-a-half Configuration	78,194,560	B-5
Proposed Spare 50 MVA Power Transformer	50,000,000	B-6
TOTAL	757,629,569	

10. CEDC's proposed Residual Projects, broken down by asset categories, are as follows:

Project Name	Project Cost (PhP)	Annex
Poles, Towers, and Fixtures – Distribution [Growth]	5,495,299	C-1
Overhead Conductors and Devices – Distribution [Growth]	15,739,380	C-2
Underground Conductors and Devices – Distribution [Growth]	7,124,732	C-3
Distribution Transformers [Growth]	22,547,523	C-4
Meters, Instruments & Metering Transformers – Consumer Consumption Metering [Growth]	7,628,782	C-5
Information Technology Equipment – Distribution [Growth]	4,916,988	C-6
Overhead Conductors and Devices – Customer [Growth]	2,470,554	C-7
Power Conditioning Equipment [Renewal]	85,800	C-8
Underground Conductors and Devices – Distribution [Renewal]	14,285,983	C-9
Distribution Transformers [Renewal]	2,254,026	C-10
Poles, Towers, and Fixtures – Distribution [Renewal]	4,690,000	C-11
Information Technology Equipment – Distribution [Renewal]	409,200	C-12
Meters, Instruments & Metering Transformers – Consumer Consumption Metering [Renewal]	5,759,377	C-13

Transportation Equipment – Non-network [Growth]	12,727,000	C-14
Tools, Shop, and Garage Equipment – Non-network [Growth]	6,825,995	C-15
Information Systems Equipment – Non-network [Growth]	2,089,066	C-16
Office Furniture and Equipment – Non-network [Renewal]	16,044,875	C-17
Transportation Equipment – Non-network [Renewal]	23,760,000	C-18
TOTAL	154,854,580	

11. Pending the reset process, and since CEDC's RY 2016 CAPEX Program will improve the overall service it provides to the electricity consumers, CEDC respectfully submits that the building block components, particularly the return of capital and return on capital associated therewith, from the time it is put in service and considered used and useful, should be recognized as a deferred amount to be included in CEDC's 3RP reset calculations as shall be subsequently filed in accordance with any regulations that the Commission shall issue.

**PRAYER FOR ISSUANCE OF A PROVISIONAL
AUTHORITY**

12. It is imperative for CEDC to undertake expansion and rehabilitation of its network facilities through acquisition of new assets in order to ensure continuous compliance with safety, performance and other statutory/regulatory requirements, and to address both the rapid load growth and stringent power quality requirements of its customers.
13. Thus, pending final approval, there is an urgent need for a provisional authority for CEDC to immediately implement its proposed RY 2016 CAPEX program. In support of the prayer for the grant of a provisional authority, the Judicial Affidavit of Mr. Milo R. Pantig, SAVP and Head of CEDC's Distribution Services is attached and made integral part of the application.
14. CEDC prays of this Commission that, after due notice and hearing, the above-captioned Application for authority to implement CEDC's proposed Capital Expenditure (CAPEX) Program for Regulatory Year (RY) 2016 be approved and that the building block components associated with the CAPEX

Program from the time it is put in service and considered used and useful, be recognized as a deferred amount to be included in CEDC's subsequent Third Regulatory Period reset calculations.

On 19 April 2018, CEDC filed a *Motion for Leave to Amend Application and to Admit Attached Amended Application* (Motion for Leave) dated 12 April 2018, praying for the Commission to allow CEDC to amend its Application, likewise admit the attached amended application.

In the said Motion for Leave, CEDC alleged, among others, the following:

1. Since the filing of its formal offer of evidence, there were supervening events that occurred that necessitated CEDC to amend two (2) of its proposed capital expenditure projects, namely:
 - a. **Development of Mabalacat 50 MVA, 69 kV-13.8kV Gas Insulated Switchgear (GIS) Substation.** Instead of proposing to construct a conventional substation, CEDC is proposing to construct a Gas-Insulated Switchgear (GIS) Substation;
 - b. Applicant CEDC originally envisioned to lease from the Clark Development Corporation (CDC) a 4,000 square meter lot within the Clark Freeport Economic Zone to locate its proposed conventional substation. However, CDC allocated only a lot containing an area of 1,578 square meters. With this limited area allocated, CEDC is constrained to amend its proposed conventional substation into a GIS substation so that its proposed 50 MVA Mabalacat Substation can fit into a smaller lot; and
 - c. **Construction of Six (6) - Breaker Ring Bus.** The proposed acquisition of the CDC-owned PSPC 69 kV Ring Bus proved to be challenging as CDC was not prepared to sell the asset unless it bids out the same to comply with the stringent requirements of the Commission on Audit (COA) on any asset disposal. CEDC is therefore abandoning the planned acquisition, and is instead proposing to construct a Six (6)-Breaker Ring Bus.

The Six (6)-Breaker Ring Bus is in preparation for the upcoming 300 MVA T6 power transformer of the National Grid Corporation of the Philippines (NGCP) already approved by the Commission. Once the proposed Six (6)-Breaker Ring Bus is installed, this will enable CEDC's 100 MVA T5 power transformer to operate in tandem with NGCP's T6 power transformer, which can then provide additional capacity to serve the power requirements of all locators within the Clark Freeport Zone. From the proposed Six (6)-Breaker Ring Bus, there will be four (4) outgoing 69 kV feeder lines going to the CDC-Kalaw line, CDC-TNSCI line, CDC-Mabalacat line; and one going to the PSCPC ring bus.

Likewise, in its *Amended Application*, CEDC alleged, among others, the following:

1. The Commission approved CEDC's Capital Expenditure Program (CAPEX) for the entire Second Regulatory Period – October 1, 2011 to September 30, 2015 in CEDC's Final Determination dated July 6, 2011 (ERC Case No. 2010-131RC).
2. The last year of CEDC's Second Regulatory Period is set to expire on 30 September 2015. The Third Regulatory Period (3RP) for the Fourth Entry Group shall commence on 1 October 2015 and end on 30 September 2019. However, CEDC is still to undergo the reset process and is awaiting the release by this Commission of the final rules to govern the filing of its 3RP reset application. Hence, CEDC anticipates that it may not be able to file its 3RP reset application and secure approval of its forecast CAPEX before the end of 2RP.
3. This amended Application was filed pursuant to Section 20(b) of Commonwealth Act No. 146, as amended, otherwise known as the Public Service Act, which requires any public service to seek the prior approval of this Commission before it can establish, construct, maintain, and operate new facilities or make any extension of its existing facilities. Given that it has no authority to undertake and implement CAPEX projects after 30 September 2015, CEDC is constrained to seek the Commission's approval for its CAPEX Program for Regulatory Year (RY) 2016 (1 October 2015 to 30 September 2016) in order to ensure the continued reliable operation of its distribution network and ensure continuous distribution service and connection to meet the growing and future needs of its more than 1,800 industrial, commercial and residential customers inside the Clark Freeport Zone.

A. BACKGROUND OF CEDC'S RY 2016 CAPEX PROGRAM

4. CEDC's 2016 CAPEX Program is geared towards ensuring the safety, reliability, efficiency and performance of the distribution system while providing for the forecasted growth of future electricity demand within its franchise area. CEDC's robust RY 2016 CAPEX Program is mainly driven by the following factors:

4.1. *Adequate Infrastructure to Meet Growth in Peak Demand and Customer Connections*

The distribution infrastructure must be sufficient to serve CEDC's current customers while provisioning to meet future needs. CEDC's peak demand in the 3RP is forecasted to grow at about 22.28% over the first regulatory year (known as RY 2016) of the Third Regulatory Period. This is mainly driven by a robust growth in the industrial and commercial sector. This increase in peak demand and the additional customer connections will require CEDC to increase the capacity of the electric distribution system in order to accommodate customer connections while maintaining the reliability and power quality of its distribution system.

4.2. *Renewal/Refurbishment Projects to Ensure Sustained Network, Reliability and Power Quality*

Capital expenditure is required to maintain existing assets, improve network performance and enhance customer service performance in the 3RP. Major renewal and refurbishment projects are lined-up in RY 2016 to ensure that the distribution system will continue to provide secure, reliable and efficient electric service to our industrial and commercial customers amidst climate and calamity risks. This will include electric capital projects that are intended to harden and strengthen the network for resiliency to storm and other calamities.

4.3. *Automation/Innovation/Technology*

With the advent of technological advancements, CEDC seeks to integrate innovative services and solutions into the distribution system to improve network performance and customer service and to enhance service quality through customer empowerment.

CEDC likewise seeks to address the new market of energy consumers that are better connected and more demanding of real-time information through projects that seek to offer solutions to customers upon their demand.

Automation/technology projects will further allow CEDC to optimize its distribution network, allowing it to respond more effectively to line and network outages which will reduce service interruptions of customers.

4.4. *Compliance to statutory and regulatory requirements*

7.4.1 *Retail Competition and Open Access (RCOA)*. According to Section 5 of the Rules for Contestability, “end-users in the contestable market shall have installed time-of-use (TOU) metering facilities capable of measuring energy use and demand in a fashion consistent with WSM energy settlement intervals, and distribution and transmission demand change intervals.” CEDC, being the default metering service provider for the contestable market, needs to replace existing meters with TOU-capable meters.

B. LIST OF CAPEX PROJECTS

5. Taking into consideration the factors above, CEDC hereby proposes the following Major Projects² for RY 2016:

List of RY 2016 Major CAPEX Projects

Project Name	Project Cost (PhP)	Annex
Development of Mabalacat 50 MVA, 69 kV – 13.8 kV Gas Insulated Switchgear (GIS) Substation	330,221,982	B-1
Construction of CDC – Mabalacat 69 kV Line	90,699,900	B-2
Construction of Roxas – IE-5 69 kV Line	129,857,380	B-3
Construction of Six (6)-Breaker Ring Bus	78,194,560	B-5
Proposed Spare 50 MVA Power Transformer	50,000,000	B-6
TOTAL	678,973,822	

² Major Projects are defined as projects for which the capital expenditure forecasted in a Regulatory Year for the project is greater than Php 30 million or 20% of the total capital expenditure forecasted for a Regulatory Year, whichever is lower.

6. On the other hand, CEDC's Residual Projects, broken down by asset categories, are as follows:

Project Name	Project Cost (PhP)	Annex
Poles, Towers, and Fixtures – Distribution [Growth]	5,495,299	C-1
Overhead Conductors and Devices – Distribution [Growth]	15,739,380	C-2
Underground Conductors and Devices – Distribution [Growth]	7,124,732	C-3
Distribution Transformers [Growth]	22,547,523	C-4
Meters, Instruments & Metering Transformers – Consumer Consumption Metering [Growth]	7,628,782	C-5
Information Technology Equipment – Distribution [Growth]	4,916,988	C-6
Overhead Conductors and Devices – Customer [Growth]	2,470,554	C-7
Power Conditioning Equipment [Renewal]	85,800	C-8
Underground Conductors and Devices – Distribution [Renewal]	14,285,983	C-9
Distribution Transformers [Renewal]	2,254,026	C-10
Poles, Towers, and Fixtures – Distribution [Renewal]	4,690,000	C-11
Information Technology Equipment – Distribution [Renewal]	409,200	C-12
Meters, Instruments & Metering Transformers – Consumer Consumption Metering [Renewal]	5,759,377	C-13
Transportation Equipment – Non-network [Growth]	12,727,000	C-14
Tools, Shop, and Garage Equipment – Non-network [Growth]	6,825,995	C-15
Information Systems Equipment – Non-network [Growth]	2,089,066	C-16
Office Furniture and Equipment –	16,044,875	C-17

Non-network [Renewal]		
Transportation Equipment – Non-network [Renewal]	23,760,000	C-18
TOTAL	154,854,580	

7. In light of the resulting benefits of CEDC's RY 2016 CAPEX Program in the overall service to the electricity consumers, CEDC respectfully submits that the building block components, particularly the return of capital and return on capital associated therewith, from the time it is put in service and considered used and useful, should be considered as a deferred amount to be included in CEDC's 3RP reset calculations.

C. URGENT NEED TO ISSUE PROVISIONAL AUTHORITY

8. Section 23 of the EPIRA provides that distribution utilities have an obligation to provide services and connections to its customers consistent with the distribution code.³ It is emphasized that CEDC will have no approved CAPEX projects by the start of the 3RP on 1 October 2015 and this will severely hamper its operations and affect its ability to deliver electricity service to its customers. It is imperative for CEDC to undertake expansion and rehabilitation of its network facilities through acquisition of new assets in order to ensure continuous compliance with safety, performance and other statutory/regulatory requirements, and to address the growing needs of its 1,872 customers.⁴
9. Thus, pending final approval, there is an urgent need for a provisional authority for CEDC to immediately implement its proposed RY 2016 CAPEX program. In support of the prayer for the grant of a provisional authority, the Judicial Affidavit of Mr. Quiruben M. Mera, AVP and Head of CEDC's Networks is attached hereto and is made integral part of the Amended Application.
10. CEDC prays of this Commission that, after due notice and hearing, the amended application for authority to implement CEDC's proposed Capital Expenditure (CAPEX) Program for Regulatory Year (RY) 2016 be approved and that the building block components associated with CAPEX Program from the time it is put in service and considered used and useful be considered as a deferred amount to be

³ Republic Act No. 9136, Section 23; EPIRA Implementing Rules and Regulations, Rule 7, Section 5

⁴ As of September 2015

included in CEDC's subsequent Third Regulated Period reset calculation.

Finding the said *Motion for Leave* meritorious, the same is hereby GRANTED. The Commission hereby admits the *Amended Application* filed by the Applicant on 19 April 2018.

Likewise, the instant *Amended Application* is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **23 November 2018 (Friday) at ten o'clock in the morning (10:00 A.M.) at CEDC's Principal Office at Bldg. N2830, Bayanihan Street, Clark Freeport Zone, Pampanga.**

Accordingly, CEDC is hereby directed to:

- 1) Cause the publication of the attached Notice of Public 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 publication to be made not later than ten (10) days before the date of the scheduled hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Office of the Provincial Governor of Pampanga, Office of the Administrator of Clark Freeport Zone, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative body within CEDC's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within CEDC's franchise area of the filing of the *Amended Application*, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public 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 at the scheduled hearing; and

- 5) Furnish with copies of the *Amended Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the hearing, CEDC must submit to the Commission 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 Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing, consisting of certifications issued to that effect, signed by the Provincial Governor, Administrator of Clark Freeport Zone, City and Municipal Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by CEDC to inform the consumers within the affected areas of the filing of the *Amended Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public 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 *Amended Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

CEDC and all interested parties are also required to submit, at least five (5) days before the date of the 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 therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of CEDC 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.

CEDC must also be prepared to make an expository presentation of the instant *Amended 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, what the *Amended Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 23 October 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA MAGPALE- ASIRIT
Oversight Commissioner for Legal

ERC CASE NO. 2016-014 RC
ORDER/25 OCTOBER 2018
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COPY FURNISHED:

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2. Clark Electric Distribution Corporation (CEDC)
Attention: Mr. Ricardo V. Buencamino
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Pampanga
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
4. Commission on Audit (COA)
Commonwealth Avenue, Quezon City 1121
5. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City 1307
6. House Committee on Energy
Batasan Hills, Quezon City 1126
7. Office of the Administrator/Responsible Officer
Clark Freeport Zone, Province of Pampanga
8. Regulatory Operations Service
17th Flr, Energy Regulatory Commission,
Pacific Center Bldg., San Miguel Ave.,
Ortigas Center, Pasig City
9. The Governor
Province of Pampanga