

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



IN THE MATTER OF THE  
APPLICATION FOR APPROVAL OF  
FORCE MAJEURE PROJECT DUE TO  
TYPHOON JUAN

ERC CASE NO. 2011-011 RC

CAGAYAN I ELECTRIC  
COOPERATIVE, INC. (CAGELCO I),  
Applicant.

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DOCKETED  
Date: OCT 07 2011  
By: \_\_\_\_\_

**DECISION**

Before the Commission for resolution is the application filed on February 7, 2011 by Cagayan I Electric Cooperative, Inc. (CAGELCO I) for approval of its force majeure project due to Typhoon Juan.

Having found 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 February 24, 2011, were issued setting the case for initial hearing on April 13, 2011 at CAGELCO I's Main Office.

In the same Order, CAGELCO I was directed to cause the publication of the Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. It was also directed to inform the consumers within its

franchise area, by any other means available and appropriate, of the filing of the instant application, its reasons therefor and of the scheduled hearing thereon.

The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and the Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the initial hearing.

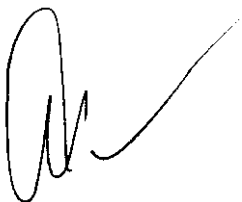
Likewise, the Offices of the Mayors of the Municipalities within CAGELCO I's franchise area were furnished with copies of the Order and Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

On April 12, 2011, the Commission conducted an ocular inspection and found out that CAGELCO I has already implemented the project.

During the April 13, 2011 initial hearing, only CAGELCO I appeared. No intervenor/oppositor appeared neither was there any intervention/opposition registered.

At the said hearing, CAGELCO I presented proofs of its compliance with the Commission's publication and posting of notice requirements which were duly marked as exhibits. Thereafter, it conducted an expository presentation of its application.

At the termination of the expository presentation, CAGELCO I presented Engr. Gregorio P. Mappatao, Jr., its Technical Services Department Manager, who testified in support of the application, particularly on the technical aspect thereof with



emphasis on the importance of the project to the operation and maintenance of CAGELCO I's distribution system.

In the course of his direct examination, additional documents were presented and duly marked as exhibits. Thereafter, the Commission propounded clarificatory questions on the said witness.

On May 5, 2011, CAGELCO I submitted its "*Formal Offer of Evidence*" which is hereby admitted for being relevant and material in the final resolution of this case.

## DISCUSSION

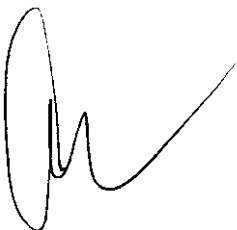
CAGELCO I's force majeure project pertains to the immediate repair of its electrical distribution facilities which were devastated by Typhoon Juan last October 18, 2010. The restoration/rehabilitation works were necessary to prevent further outages in its franchise area and reduce the duration of power interruptions and spare its member-consumers from the inconvenience of further prolonged brownouts. The project cost is PhP5,833,090.46.

Under Article III, 3.3 of the Rules for the Approval of Regulated Entities' Capital Expenditure Projects pertaining to *Force Majeure (FM)* it is provided, that:

**"3.3 Force Majeure or Fortuitous Event Capital Expenditure**

If a Force Majeure or Fortuitous event, as the case may be, occurs, the affected Regulated Entity shall seek the ERC's confirmation of the implementation of capital expenditure projects arising from such event.

To seek the ERC's confirmation, the affected Regulated Entity must give the ERC a Force Majeure or Fortuitous Event Notice within three (3) months from the occurrence of the Force Majeure or Fortuitous Event and must specify the following:



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- (a) details of the Force Majeure or Fortuitous Event concerned:
- (b) the details of capital expenditures that the affected Regulated Entity has actually incurred as the of the date of Force Majeure or Fortuitous Event:
  - (i) the distribution of electricity to Connection Points in respect of the relevant Regulated System; and
  - (ii) in connection with the provisions of any legislation, or of rules, regulations or guidelines made under the EPIRA, including the IRR, the Grid Code and the Distribution Code, which must be complied with in relation to the distribution of such electricity.

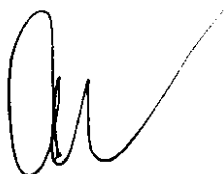
The Force Majeure or Fortuitous Event Notice must be accompanied by evidence of the increase in cost referred to in paragraph (b) and justification that such costs are reasonable and occur as a sole consequence of the FM or FE.

The affected Regulated Entity shall file a formal application within thirty (30) days from the submission of the Force Majeure or Fortuitous Event Notice and shall be decided by the ERC within sixty (60) days from the time the applicant formally offers its evidence. The formal application shall be supported by documents indicating the following:

- a) Project Description;
- b) Justifications or Benefits to be delivered;
- c) Estimated Project Costs;
- d) Project Financing Plan; and
- e) Project Schedule.”

Records reveal that CAGELCO I notified the Commission of its FM Event on December 15, 2010 as a result of the emergency expenditure. The instant application was subsequently filed on February 7, 2011, or fifty four (54) days from said notice.


The funds used to finance said force majeure restoration project was sourced from the Members' Contribution for Capital Expenditures (MCC) which, as of December 31, 2010, amounted to PhP15.4 Million.



The damaged distribution facilities were mostly wood and steel poles, conductors, line hardware and pole-mounted distribution transformers of various kVA ratings which were toppled by strong winds and heavy rains brought by the typhoon. Repair and restoration of the said facilities were completed on November 3, 2010. Hereunder is the summary of the bill of materials:

<b>Item</b>	<b>Project Items</b>	<b>Cost (PhP)</b>
1	Poles	3,240,366.64
2	Transformers, pole mounted	1,161,840.00
3	Conductors	122,611.60
4	Line hardware and accessories	1,308,271.76
<b>Total</b>		<b>5,833,090.00</b>

Procurement of materials for the project underwent a competitive selection or bidding process. CAGELCO I canvassed and invited at least three (3) suppliers in the purchase of the necessary materials for the project. The costs of line hardwares and other materials utilized in the project were reflective of the market prices. The labor component for the restoration project was itself undertaken by CAGELCO I. For the expeditious restoration of power in its typhoon-affected coverage areas, CAGELCO I was able to secure assistance from the electric distribution cooperatives under the *Task Force Kapatid Program* of the National Electrification Administration (NEA).



## **COST ANALYSIS**

The cost estimates for the electric capital force majeure project were pegged at PhP5,833,090.46. The project was financed through the Members' Contribution for Capital Expenditures (MCC).

A perusal of the evidence presented herein showed that the approval of CAGELCO I's force majeure capital expenditure project in accordance with the provisions of Republic Act No. 9136 and the "*Guidelines to Govern the Submission, Evaluation, and Approval of Electric Capital Projects*" will redound to the benefit of its consumers in terms of continuous, reliable and efficient power supply as mandated by Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 (Section 2. Declaration of Policy – (b) "*to ensure the quality, reliability, security and affordability of the supply of electric power*").

**WHEREFORE**, the foregoing premises considered, the application filed by Cagayan I Electric Cooperative, Inc. (CAGELCO I) for approval of its force majeure project due to typhoon Juan, is hereby **APPROVED**.

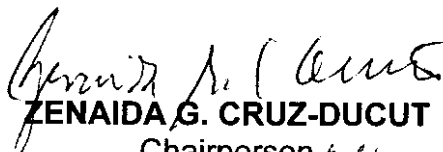
Relative thereto, CAGELCO I is hereby directed to pay a total permit fee in the amount of **Forty-Three Thousand Seven Hundred Forty-Eight Pesos and Seventeen Centavos (PhP43,748.17)**, computed as follows:



PhP5,833,090.00  
----- X PhP0.75 = PhP43,748.17  
PhP100.00

**SO ORDERED.**

Pasig City, June 13, 2011.

  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson

  
**MARIA TERESA A. R. CASTAÑEDA**  
Commissioner

(On Official Travel)  
**JOSE C. REYES**  
Commissioner

(On Official Travel)  
**RAUF A. TAN**  
Commissioner

  
**ALEJANDRO Z. BARIN**  
Commissioner

*Copy Furnished:*

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Ortigas Center, Pasig City
2. **MR. TITO R. LINGAN**  
General Manager  
Cagayan I Electric Cooperative, Inc. (CAGELCO I)  
Maddarlug, Solana, Cagayan
3. **Office of the Solicitor General (OSG)**  
134 Amorsolo Street, Legaspi Village  
City of Makati 1229
4. **Commission on Audit (COA)**  
Commonwealth Avenue, Quezon City 1121
5. **Senate Committee on Energy**  
GSIS Building, Roxas Boulevard  
Pasay City 1300
6. **House of Representatives Committee on Energy**  
Batasan Hills, Quezon City 1126
7. **The Office of the Governor**  
Province of Cagayan
8. **Office of the Mayor**  
Tuguegarao City, Cagayan
9. **Office of the Mayor**  
Rizal, Cagayan
10. **Office of the Mayor**  
Tuao, Cagayan
11. **Office of the Mayor**  
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15. **Office of the Mayor**  
Peñablanca, Cagayan



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- 18. Office of the Mayor**  
Alcala, Cagayan
- 19. Office of the Mayor**  
Baggao, Cagayan