

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



IN THE MATTER OF THE
APPLICATION FOR
CONFIRMATION AND
APPROVAL OF FORCE
MAJEURE EVENT CAPITAL
EXPENDITURE PROJECT, RE:
REPAIR, RESTORATION,
REPLACEMENT AND/OR
REHABILITATION OF
DISTRIBUTION SYSTEM,
FACILITIES AND
ACCESSORIES, AND
BUILDING STRUCTURES
DAMAGED BY TYPHOON
GLENDA AND AUTHORITY TO
SECURE LOAN FROM THE
NATIONAL ELECTRIFICATION
ADMINISTRATION (NEA)

ERC CASE NO. 2014-168 RC

BATANGAS I ELECTRIC
COOPERATIVE, INC.
(BATELEC I),

Applicant.

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RECORDED

Date: FEB. 16, 2015

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ORDER

On November 12, 2014, the Batangas I Electric Cooperative, Inc. (BATELEC I) filed an application for confirmation and approval of Force Majeure Event Capital Expenditure Project, re: repair, restoration, replacement and/or rehabilitation of distribution system, facilities and accessories, and building structures damaged by Typhoon Glenda and authority to secure loan from the National Electrification Administration (NEA).

In the said application, BATELEC I alleged, among others, that:

1. It is a non-stock, non-profit electric cooperative (EC), duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Kilometer 116 National Highway, Calaca, Batangas;
2. It holds an exclusive franchise from the National Electrification Commission to operate an electric light and power distribution service in twelve (12) Municipalities, namely: Agoncillo, Balayan, Calaca, Calatagan, Lemery, Lian, Nasugbu, San Luis, San Nicolas, Sta. Teresita, Taal and Tuy, all in the Province of Batangas;
3. On July 16, 2014, Typhoon Glenda, hit the province of Batangas and other parts of Luzon. The typhoon was said to have set the province under signal number three (3). The storm has force winds of 101 to 185 kph and 100 mm rain. These resulted to destruction of properties including its buildings, offices, distribution lines, poles, distribution transformers, hardware, protection equipment and accessories;
4. As provided under Section 3.3 of the Commission's Resolution No. 26 Series of 2009, if a Force Majeure or Fortuitous Event, as the case may be, occurs, the regulated entity shall seek the Commission's confirmation of the implementation of capital expenditure projects arising from such event. Likewise, Section 3.2.1.15 of the said Resolution allows the filing of the approval of the authority to secure loan sourced from NEA together with the CAPEX Application;
5. Pursuant to the abovementioned resolution, it filed before the Commission a Notice of Force Majeure Event (Typhoon Glenda) on October 13, 2014, or within three (3) months from the occurrence of the typhoon. Pursuant further to said resolution, it is filing the application within thirty (30) days or until November 12, 2014 from submission of the Force Majeure Event Notice;

6. The force majeure event capital expenditure project consists of the repair, restoration, replacement and/or rehabilitation of its buildings, offices, distribution lines, poles, distribution transformers, hardware, protection equipment and accessories damaged by Typhoon Glenda;
7. The estimated total costs of repair, restoration, replacement and/or rehabilitation of the damaged properties is Nine Million Six Hundred Eighty-Three Thousand Seven Hundred Seven Pesos and Thirty Three Centavos (PhP9,683,707.33);
8. Repair and restoration works were immediately undertaken after the typhoon left the country and still on-going up to this time;
9. The project will ensure the power restoration of its entire coverage area and in turn, more reliable and efficient power supply to satisfy the necessities of its member consumers. The repair of the damaged offices and buildings will be beneficial and convenient for the day-to-day transactions and dealings with its consumers including the security and safety of its equipment;
10. The total estimated project cost of Nine Million Six Hundred Eighty-Three Thousand Seven Hundred Seven Pesos and Thirty Three Centavos (PhP9,683,707.33) will be sourced through a calamity loan from the NEA, to be converted into a subsidy in the event the National Government grants it subsidy after it was ravaged by Typhoon Glenda;
11. In the event that the funding for the restoration and rehabilitation of the damaged properties, which is presently being sourced through a calamity loan from NEA is not converted into a subsidy from the national government, the loan shall have a rate impact to BATELEC l's consumers, which is derived from the total project cost against the forecasted kWh sales for five (5) years of implementation, as follows:

	2015 (PhP)	2016 (PhP)	2017 (PhP)	2018 (PhP)	2019 (PhP)
Principal	1,719,911	1,776,494	1,834,936	1,895,303	2,457,054
Interest	293,901	237,318	178,876	118,509	60,215
Total Amortization	2,013,812	2,013,812	2,013,812	2,013,812	2,517,269
Forecasted Sales (kWh)	278,345,000	288,472,000	298,399,000	308,105,000	317,571,000
Indicative Rate Impact (PhP/kWh)	0.0072	0.0070	0.0067	0.0065	0.0079

12. In the event that the funding being sourced from NEA is finally treated as a calamity loan, it will file an application with the Commission for authority to secure said loan and to recover the cost thereof from its consumers;
13. Finally, in support of the application, it submits the following documents which are being made integral parts of the application, as follows:

Annex	Nature of Document
A	BATELEC I's Board Resolution authorizing the filing of the instant application
B	Notice of Force Majeure Event
C	Executive Summary of the Project
C-1	Amended Executive Summary of the Project
D	Supporting documents for the application for authority to secure loan from NEA
E to E-1	Proof of furnishing copies of the Application to the Sangguniang Bayan of Calaca and the Sangguniang Panlalawigan of Batangas
F to F-2	Publication of the Application in a newspaper of general circulation within BATELEC I's franchise area or where it principally operates, with Affidavit of Publication.

14. It prays that after due notice and hearing, the repair, restoration, replacement and/or rehabilitation works undertaken on its distribution lines, facilities and accessories, equipment, and buildings damaged by Typhoon Glenda, as well as the corresponding application for authority to secure loans from the NEA to finance its force majeure event capital expenditures projects be confirmed and approved.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **March 13, 2015 (Friday) at ten o'clock in the morning (10:00 A.M.), at the BATELEC I's Principal Office, Kilometer 116 National Highway, Calaca, Batangas.**

BATELEC I is hereby directed to cause the publication of the attached 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 is 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 hearings thereon.

Let copies of the application, this Order, and the attached Notice of Public Hearing be furnished 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 hearings.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor of Batangas and the Mayors of the Municipalities within the franchise area of BATELEC I for the appropriate posting thereof on their respective bulletin boards.

BATELEC I is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, BATELEC I must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governor and Mayors or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where said Notice of Public Hearing were published together with the

complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

BATELEC I and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-Trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-Trial Brief.

Failure of BATELEC I to submit the required Pre-Trial Brief and Judicial Affidavits of its witnesses 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 said date of cancellation.

As part of the pre-trial conference, BATELEC I must also be prepared to make an expository presentation of its 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 application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, February 9, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson

Copy Furnished:

1. **LERIOS-AMBOY PINGOL AND GONZALES LAW OFFICES**
Counsel for Applicant BATELEC I
Units 1609-1610, Tycoon Centre
Pearl Drive, Ortigas Center, Pasig City
Metro Manila
2. **BATANGAS I ELECTRIC COOPERATIVE, INC. (BATELEC I)**
Kilometer 116 National Highway, Calaca, Batangas
3. **The Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
4. **The Commission on Audit**
Commonwealth Avenue
Quezon City, Metro Manila
5. **The Senate Committee on Energy**
GSIS Bldg., Roxas Blvd., Pasay City
Metro Manila
6. **The House Committee on Energy**
Batasan Hills, Quezon City, Metro Manila
7. **Office of the President of PCCI**
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
8. **Office of the Provincial Governor**
Province of Batangas
9. **Office of the Municipal Mayor**
Agoncillo, Batangas
10. **Office of the Municipal Mayor**
Balayan, Batangas
11. **Office of the Municipal Mayor**
Calaca, Batangas
12. **Office of the Municipal Mayor**
Calatagan, Batangas
13. **Office of the Municipal Mayor**
Lemery, Batangas
14. **Office of the Municipal Mayor**
Lian, Batangas

15. **Office of the Municipal Mayor**
Nasugbu, Batangas
16. **Office of the Municipal Mayor**
San Luis, Batangas
17. **Office of the Municipal Mayor**
San Nicolas, Batangas
18. **Office of the Municipal Mayor**
Sta. Teresita, Batangas
19. **Office of the Municipal Mayor**
Taal, Batangas
20. **Office of the Municipal Mayor**
Tuy, Batangas
21. **THE NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP)**
NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City