

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



**IN THE MATTER OF THE
APPLICATION FOR APPROVAL
OF EASTERN SAMAR ELECTRIC
COOPERATIVE, INC.'s CAPITAL
EXPENDITURE PROJECTS DUE
TO FORCE MAJEURE (TYPHOON
RUBY)**

ERC CASE NO. 2015-102 RC

**EASTERN SAMAR ELECTRIC
COOPERATIVE, INC.
(ESAMELCO),**

Applicant.

X-----X

DOCKED
Date: AUG 25 2015

ORDER

On May 22, 2015, the Eastern Samar Electric Cooperative, Inc. (ESAMELCO) filed an application for approval of its capital expenditure projects due to force majeure event (Typhoon Ruby).

In the said application, ESAMELCO alleged, among others, the following:

1. It is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay Cabong, Borongan City, Province of Eastern Samar;
2. It holds an exclusive franchise issued by the National Electrification Commission (NEC) to operate an electric light and power distribution service in Borongan City and certain municipalities in the Province of Eastern Samar, namely: Guiuan, Mercedes, Salcedo, Lawa-an, Balangiga, Giporlos, Quinapondan, Mac Arthur, Hernani, Llorente, Balangakayan;

Maydolong, San Julian, Sulat, Taft, Can-avid, Dolores, Oras, San Policarpio, Arteche, Maslog and Jipapad;

3. On December 6, 2014, Typhoon Ruby with international name Typhoon Hagupit, made a landfall in the Province of Eastern Samar with maximum sustained winds of more than 185 km/hour near the center with gustiness of 220 km/hour. Due to its severe damaged, the entire Province of Eastern Samar was declared in a state of calamity per Office of the Sangguniang Panlalawigan's Resolution No. 77, Series of 2014 "Declaring the Entire Province of Eastern Samar in a State of Calamity due to the severe effects caused by Typhoon Ruby", attached to the application as Annex "A";
4. Due to its strong winds, heavy rains and its unusually slow tracking heavily devastated more than half of its electric distribution network and facilities. As a consequence, it sustained long outages by more than sixty thousand (60,000) member-consumers which require immediate repair and restoration;
5. After the storm, with the assistance of the Region 8 Electric Cooperatives (EC) under the National Electrification Administration's (NEA) Task Force Kapatid, it immediately commenced repair and restoration of the damaged distribution lines and facilities. Its restoration activities are still ongoing in view of the extent of the damage on seven municipalities and one city directly hit by the storm. The Department of Energy (DOE) and NEA supervised the fast tracking of the restoration of the damaged distribution network to meet the deadline of energizing the town centers in the province and the barangays;
6. The estimated total cost of the project is One Hundred Seventy Four Million Five Hundred Forty-Four Thousand Six Hundred Forty-Seven and 32/100 Pesos (PhP174,544,647.32). Attached to the application is the Executive Summary on Force Majeure Capex (Typhoon Ruby/Hagupit) and Summary of Final Damage Report and Cost Restoration/Repair of Distribution Line Damaged by Typhoon Ruby as Annexes "B to B-11" and "C to C-3", respectively. It also indicated the following relevant data, to wit:

- a. Project Description;
 - b. Justification or Benefits to be delivered;
 - c. Estimated Project Cost; and
 - d. Project Schedule/Timetable.
7. As the immediate restoration and repair of the damaged distribution system would require substantial funding and resources, it was constrained to seek financial assistance from NEA least member-consumers would be greatly inconvenienced and governmental functions and economic activities will suffer slowdown with prolonged outages. Other Region 8 ECs also provided materials, hardware and manpower to be replaced later on. It was granted by NEA a calamity loan of PhP50,000,000.00 approved in the later part of December 2014. As of January 31, 2015, the cost of restoration and repair amounted to PhP63,239,454.00 plus those still be incurred to complete the restoration. The Summary of the Disbursement and Unpaid Accounts incurred for Typhoon Ruby Line Restoration is attached to the application as Annex "D to D-12";
8. The restoration activities are being done consistent with Section 1.2.1 of the Guidelines for the Monitoring of Reliability Standards for Distribution Utilities promulgated under the Commission's Resolution No. 12, Series of 2006. The force majeure CAPEX Project comply with Section 23 and 43(b) of the EPIRA, Section 4(d) of the EPIRA IRR and Section 3.3 of the Philippine Distribution Code on Reliability Standards for Distributors;
9. The funding for the restoration and rehabilitation works which is presently being sourced through a calamity loan from NEA. Since it has not received any subsidy from the government, it intends to recover the cost of the repair and restoration from its member-consumers utilizing the present RFSC rate of PhP0.4004/kWhour. The present RFSC rate will have a minimal rate impact and will be sufficient to cover the cost the restoration and the repayment of the amortizations on the principal and interest on NEA calamity loan or from other creditors.

10. In support of the application, it submitted the following documents:

Annex	Nature of Document
E & F	Notification on Force Majeure Event dated December 29, 2014 and received by the Commission on January 7, 2015 and letter request for extension dated February 3, 2015;
G to G-23	Proof of furnishing copies of the Application to the Sangguniang Panlalawigan of the Province of Eastern Samar, Sangguniang Panlungsod of Borongan City, and Sangguniang Bayan of all municipalities of the Province of Eastern Samar; and
H	Publication of the Application in a newspaper of general circulation within ESAMELCO's franchise area or where it principally operates, with Affidavit of Publication;

16. It prays that after due notice and hearing, the application of its capital expenditure projects due to force majeure (Typhoon Ruby) 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 initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **October 28, 2015 (Wednesday) at ten o'clock in the morning (10:00 A.M.) at the ESAMELCO Main Office, Barangay Cabong, Borongan City, Province of Eastern Samar.**

ESAMELCO 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 hearing 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 hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor of Eastern Samar and the Mayors of the City/Municipalities within ESAMELCO's franchise area for the appropriate posting thereof on their respective bulletin boards.

ESAMELCO 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, ESAMELCO must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on 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 Municipal 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 the 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.

ESAMELCO 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 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 ESAMELCO 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, ESAMELCO 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, August 17, 2015.

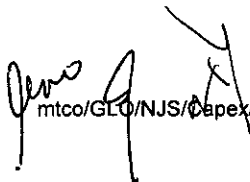
FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman

ERC
Office of the Chairman



H-2015-024-00038


mtco/GLO/NJS/Cape/2015-102 RC ESAMELCO/initial order.doc

Copy Furnished:

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2. **Eastern Samar Electric Coop., Inc. (ESAMELCO)**
Brgy. Cabong, Borongan City
Province of Eastern Samar
3. **Office of the Solicitor General**
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Makati City, Metro Manila
4. **Commission on Audit**
Commonwealth Avenue
Quezon City, Metro Manila
5. **Senate Committee on Energy**
GSIS Bldg., Roxas Blvd., Pasay City
Metro Manila
6. **House Committee on Energy**
Batasan Hills, Quezon City, Metro Manila
7. **Office of the Governor**
Province of Eastern Samar
8. **Office of the City Mayor**
Borongan City
Province of Eastern Samar
10. **Office of the Municipal Mayor**
Municipality of Taft
Province of Eastern Samar

- 11. Office of the Municipal Mayor**
Municipality of Maslog
Province of Eastern Samar
- 12. Office of the Municipal Mayor**
Municipality of Guiuan
Province of Eastern Samar
- 13. Office of the Municipal Mayor**
Municipality of San Policarpio
Province of Eastern Samar
- 14. Office of the Municipal Mayor**
Municipality of Lawa-an
Province of Eastern Samar
- 15. Office of the Municipal Mayor**
Municipality of Balangiga
Province of Eastern Samar
- 16. Office of the Municipal Mayor**
Municipality of Mercedes
Province of Eastern Samar
- 17. Office of the Municipal Mayor**
Municipality of Giporlos
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- 18. Office of the Municipal Mayor**
Municipality of Oras
Province of Eastern Samar
- 19. Office of the Municipal Mayor**
Municipality of Salcedo
Province of Eastern Samar
- 20. Office of the Municipal Mayor**
Municipality of Quinapondan
Province of Eastern Samar
- 21. Office of the Municipal Mayor**
Municipality of Mac Arthur
Province of Eastern Samar

- 22. Office of the Municipal Mayor**
Municipality of Hernani
Province of Eastern Samar
- 23. Office of the Municipal Mayor**
Municipality of Llorente
Province of Eastern Samar
- 24. Office of the Municipal Mayor**
Municipality of Balangkayan
Province of Eastern Samar
- 25. Office of the Municipal Mayor**
Municipality of Maydolong
Province of Eastern Samar
- 26. Office of the Municipal Mayor**
Municipality of San Julian
Province of Eastern Samar
- 27. Office of the Municipal Mayor**
Municipality of Sulat
Province of Eastern Samar
- 28. Office of the Municipal Mayor**
Municipality of Can-avid
Province of Eastern Samar
- 29. Office of the Municipal Mayor**
Municipality of Dolores
Province of Eastern Samar
- 30. Office of the Municipal Mayor**
Municipality of Arteche
Province of Eastern Samar
- 31. Office of the Municipal Mayor**
Municipality of Jipapad
Province of Eastern Samar