

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



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO SECURE
LONG TERM LOANS WITH
ANY BANKING/FINANCIAL
INSTITUTIONS AND
MORTGAGE ITS PROPERTIES**

ERC CASE NO. 2016-019 MC

**CAGAYAN ELECTRIC POWER
AND LIGHT COMPANY, INC.
(CEPALCO),**

Applicant.

X-----X

DOCUMENTED
Date: **NOV 28 2016**
By: _____

ORDER

On 24 June 2016, Cagayan Electric Power and Light Company, Inc. (CEPALCO) filed an Application dated 10 June 2016 (Application) for authority to secure long term loans with any banking/financial institutions and mortgage its properties.

In the said Application, CEPALCO alleged, the following:

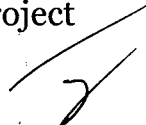
1. CEPALCO is a corporation duly organized and existing under Philippine law, with principal office address at CEPALCO Administration Building, Fr. Masterson Avenue, Upper Balulang, Cagayan de Oro City, and is franchised to construct, own, operate and maintain an electric distribution system in the City of Cagayan de Oro, and in the Municipalities of Tagoloan, Villanueva, and Jasaan, all in the Province of Misamis Oriental;
2. Section 20 of Commonwealth Act No. 146 or otherwise known as the Public Service Act, states that:

“Section 20. *Acts requiring the approval of the Commission.* - Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had –

(e) Hereafter to issue .. xxx .. **issue any bonds or other evidence of indebtedness payable in more than one year from the issuance thereof .. xxx;**

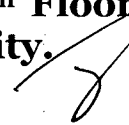
(g) **To sell, alienate, mortgage, encumber or lease its property, franchises, certificates, privileges,** or rights or any part thereof; or merge or consolidate its property, franchises privileges or rights, or any part thereof, with those of any other public service.”
(Emphasis supplied)

3. Over the next ten years, CEPALCO expects the total peak demand in its franchise area to double, in the low-growth scenario, or to more than triple, in the high-growth scenario – from the present peak demand of close to 170 MW;
4. To serve this expected load growth, CEPALCO embarks a 10-year capital expenditures plan which include among others, the upgrading or development of additional substations, switchyards, sub-transmission and distribution lines, network automation and supporting ICT projects. This long-term capex plan is aimed to improve system capacity, reliability, efficiency, and comply with safety requirements to meet the fast-growing demand of electricity end-users;
5. To finance the 10-year capex plan, CEPALCO has negotiated for a long-term loan from banks in the aggregate amount of PhP9 Billion mainly because its internally generated funds is insufficient. These loans shall be drawn in tranches to match the just-in-time financing need for capital project implementation;



6. While the proceeds of these long-term loans shall be drawn in tranche over the loan availment period, the creditor banks require security to cover the amount already drawn. For the security, CEPALCO entered into a Mortgage Trust Indenture, wherein a trustee bank acts as intermediary between borrower and the creditors in the administration of the properties offered by borrower as security;
7. CEPALCO is mindful that the encumbrances should not adversely affect or be detrimental to the provision of electric service to the customers of CEPALCO. Furthermore, these long-term loans will not affect the rates imposed by CEPALCO to its customers;
8. To support this Application, CEPALCO attached the following:
 - a. Audited Financial Statement for 2015 - as Annex "A";
 - b. List of Projects for 2015-2016 – as Annex "B";
 - c. 2017-2025 Capex Projects Summary – Annex "C"; and
 - d. Utilization of Depreciation Fund Schedule – Annex "D";
9. The approval of this Application will enable CEPALCO to finance the 10-year capex plan that will ultimately promote public interest and convenience because it will enable CEPALCO to provide adequate and reliable electric service to support the fast growing socio-economic development of its franchise area; and
10. CEPALCO prays that the Commission grant it the authority to incur the loans and enter into the loan agreement and mortgage its properties to the creditors as security for said loans.

Finding the Application to be sufficient in form and substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference and evidentiary hearing on **19 January 2017 (Thursday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**



CEPALCO is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, with the date of the publication to be made not later than ten (10) days before the scheduled date of 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.

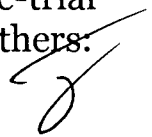
Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Provincial Governor of the Province of Misamis Oriental and its Local Government Unit (LGU) Legislative Body, the City and Municipal Mayors, and the LGU Legislative Bodies within CEPALCO's franchise area for the appropriate posting thereof on their respective bulletin boards.

CEPALCO is 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 and pre-trial conference, CEPALCO must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and Local Government Legislative Bodies, or their duly authorized representatives, bearing the seals of their offices, and the affidavit of the Editor or Business Manager of the newspaper where said Notice of Public Hearing was published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

CEPALCO 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 thereof; 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.

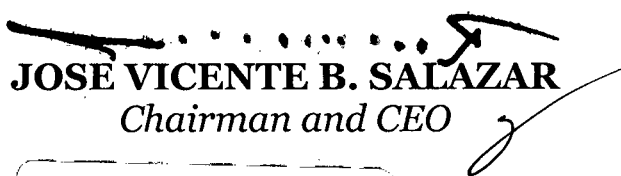
Failure of CEPALCO to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, CEPALCO 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, 21 November 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO



Copy Furnished:

1. **ATTY. ISIDRO O. BACULIO, JR.**
ATTY. ROEL O. COMORRO
ATTY. MAYNARD EUGENIO C. YLAGAN
Counsels for Applicant CEPALCO
Administration Building, Fr. Masterson Avenue, Upper Balulang,
Cagayan de Oro City
2. **Ms. Consuelo G. Tion**
Chief Operating Officer
Cagayan Electric Light & Power Co. Inc., (CEPALCO)
Administration Building, Fr. Masterson Avenue, Upper Balulang,
Cagayan de Oro City
3. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
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. **President**
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 Governor**
Province of Misamis Oriental
9. **Office of the Local Government Legislative Body**
Province of Misamis Oriental
10. **The City Mayor**
Cagayan de Oro City, Misamis Oriental
11. **Office of the Local Government Legislative Body**
Cagayan de Oro City, Misamis Oriental
12. **The Municipal Mayor**
Tagoloan, Misamis Oriental
13. **Office of the Local Government Legislative Body**
Tagoloan, Misamis Oriental



14. **The Municipal Mayor**
Villanueva, Misamis Oriental
 15. **Office of the Local Government Legislative Body**
Villanueva, Misamis Oriental
 16. **The Municipal Mayor**
Jasaan, Misamis Oriental
 17. **Office of the Local Government Legislative Body**
Jasaan, Misamis Oriental
 18. **Regulatory Operations Service (ROS)**
Energy Regulatory Commission
17th Floor, Pacific Center, San Miguel Avenue, Pasig City
- 