

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



**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF FORCE  
MAJEURE CAPEX  
PROJECT:  
(REHABILITATION OF  
DISTRIBUTION LINES DUE  
TO DAMAGE CAUSED BY  
NATURAL CALAMITY-  
TYPHOONS KAREN AND  
LAWIN), WITH AUTHORITY  
TO SECURE LOANS FROM  
NEA AND PRAYER FOR  
PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2017-010 RC**

**AURORA ELECTRIC  
COOPERATIVE, INC.  
(AURELCO),  
Applicant.  
X-----X**

**D O C K E T E D**  
Date: MAY 17 2017  
By: [Signature]

**ORDER**

On 17 February 2017, Aurora Electric Cooperative, Inc. (AURELCO) filed an *Application* seeking the Commission's approval of its force majeure capital expenditure project for the rehabilitation of distribution lines due to damage caused by natural calamity (Typhoons Karen and Lawin), with authority to secure loans from the National Electrification Administration (NEA) and prayer for the issuance of provisional authority.

AURELCO alleged the following in its Application:

1. AURORA ELECTRIC COOPERATIVE, INC. (AURELCO), is a non-stock non-profit electric cooperative organized and existing under and by virtue of the provisions of P. D. 269 as amended by P.D. 1645, with principal office address located at Brgy. Reserva, Baler, Aurora, represented herein by its General Manager, ENGR. NOEL DV. VEDAD;
2. AURELCO, being an Electric Cooperative, has been granted by the National Electrification Administration (NEA) a 50-year

franchise to distribute electric service to its member-consumers in the Municipalities of Baler, Casiguran, Dinalungan, Dipaculao, Maria Aurora, San Luis, Dilasag, Dingalan all in the province of Aurora, Dinapigue in the province of Isabela, Brgy. Umiray, General Nakar, Quezon province and Castañeda in the province of Nueva Vizcaya;

3. That in accordance with its mandate to render reliable, adequate and efficient electric service to all its member-consumers on an area coverage basis, herein applicant seeks the authority from this Hon. Commission for the approval of the Emergency Force Majeure Network Assets Capital Project: Rehabilitation of its distribution lines located at the Municipalities of Baler, San Luis, Maria Aurora, Dipaculao, Dingalan, Dinalungan, Casiguran, Dilasag in the province of Aurora and the municipality of Dinapigue in the province of Isabela and Castañeda, province of Nueva Vizcaya, Umiray province of Quezon which were severely damaged by natural calamity (Typhoons Karen and Lawin sometime in October 17- 18, 2016);
4. That likewise, pursuant to ERC Resolution No. 26 Series of 2009 and in accordance with Section 3.3 Article III of the Amended Rules for the Approval of Regulated Entities Capital Expenditures Projects; and in accordance with its mandate to render reliable, adequate and efficient electric service to all its consumer-members on an area coverage basis, herein applicant seeks the authority from this Hon. Commission for the approval of this Emergency Force Majeure Capital Project for the repairs and rehabilitation of the damages on this distribution system of AURELCO caused by Typhoons Karen and Lawin:
5. That the Aurora Province was hit by Typhoons Karen and Lawin which caused severe damaged to the household, infrastructure, livelihood and the distribution lines of AURELCO;
6. That due to the massive rehabilitation and the distance of the affected area coverages from the main office, coupled with the urgent call of the residents and the local governments of the affected municipalities, herein applicant was constrained to immediately rehabilitate the almost completely damaged distribution lines and sub-offices located in the affected municipalities which actually took several months;
7. That in view of this force majeure the management of the cooperative and with the approval of the Board of Directors have decided to file this emergency CAPEX due to force majeure (Typhoons Karen and Lawin) only after several months from the completion of the rehabilitation of all the affected distribution system in the affected franchise areas of the cooperative;
8. That likewise due to lack of funds, herein applicant was constrained to secure an emergency loan from the National Electrification Administration (NEA) in the amount of EIGHT MILLION NINE HUNDRED SEVENTY NINE THOUSAND ONE HUNDRED SEVENTY ONE PESOS & 32/100 (PhP

8,979,171.32) to be able to make emergency purchases of materials for the said rehabilitation projects of its damaged distribution lines in the affected areas;

9. That in compliance with the guidelines and documentary requirements of this Hon. Commission, applicant herein hereby submit the following document, as follows:

**REHABILITATION OF DISTRIBUTION LINES DAMAGED BY  
TYHPOONS KAREN AND LAWIN**

I- Background

II- The proposed project

1. Title of the Project
2. Type of the Project
3. Category of the Project
4. Description of the Project
5. Project Justification
6. Actual Cost of Project
7. Economic Analysis
8. Annexes
9. Project Financing Plan
10. Board Resolution
11. Sworn Statements
12. Proof of Posting
13. Approval to secure loan from NEA
14. Verification/Certification

10. That the rehab of lines due to Force Majeure (Typhoons Karen and Lawin) has cost herein applicant the amount of PhP9,185,025.81;

A) REHABILITATION OF DISTRIBUTION LINES DUE TO DAMAGE CAUSED BY NATURAL CALAMITY - in the total amount of PhP 9,185,025.81

a.) Emergency loan from NEA	P 8,979,171.32
b.) Replenishment from RFSC	<u>205,854.51</u>
TOTAL	<u>P 9,185,025.81</u>

11. That as a result of the said project, the cooperative has calculated the indicative rate impact as follows:

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PARTICULARS	Approved Capex	2016	2017	2018	2019	Total
NEA LOANS - OLD	73,521,249.00	73,521,249.00	73,521,249.00	73,521,249.00	73,521,249.00	73,521,249.00
NEA LOANS-Force Majeure(Typhoon Lando)		24,500,000.00	24,500,000.00	24,500,000.00	24,500,000.00	24,500,000.00
NEA LOANS - UNPLANNED CAPEX		6,327,082.86	6,327,082.86	6,327,082.86	6,327,082.86	6,327,082.86
Replenishment from General Fund(Typhoon Labuyo)		2,768,409.00	2,768,409.00	2,768,409.00	2,768,409.00	2,768,409.00
NEA LOANS-Force Majeure(Typhoon Karen & Lawin)		8,979,171.32	8,979,171.32	8,979,171.32	8,979,171.32	8,979,171.32
<b>TOTAL</b>	<b>73,521,249.00</b>	<b>116,095,912.18</b>	<b>116,095,912.18</b>	<b>116,095,912.18</b>	<b>116,095,912.18</b>	<b>116,095,912.18</b>
a) Amortization for 15 years @ 9% int. rate (existing loans)		7,688,324.00	7,688,324.00	7,688,324.00	7,688,324.00	30,753,296.00
b) Amortization (Old CAPEX)		12,178,237.00	12,178,237.00	12,178,237.00	12,178,237.00	48,712,948.00
c) Payable (materials and hardwares from reinvestment fund)		30,345,033.51	21,905,460.00	25,524,417.60	25,682,361.41	103,457,272.52
d) Amortization (new loan - unplanned CAPEX)		827,763.00	827,763.00	827,763.00	827,763.00	3,311,052.00
e) Amortization - Force Majeure(Typhoon Lando)		2,896,416.00	2,896,416.00	2,896,416.00	2,896,416.00	11,585,664.00
f) Permit fees new CAPEX		319,309.97				319,309.97
g) Amortization of additional loan (replenishment from GF)		529,020.00	529,020.00	529,020.00	529,020.00	2,116,080.00
h) Amortization - Force Majeure(Typhoon Karen & Lawin)		265,381.89	1,061,527.58	1,061,527.58	1,061,527.58	3,449,964.62
<b>Total</b>		<b>55,049,485.38</b>	<b>47,086,747.58</b>	<b>50,705,705.18</b>	<b>50,863,648.99</b>	<b>203,705,587.12</b>
Projected Energy Sales		48,935,957.00	53,363,981.00	57,798,644.00	62,235,316.00	222,333,898.00
Annual RFSC @ 0.5324 / kwhr		26,053,503.51	28,410,983.48	30,771,998.07	33,134,082.24	118,370,567.30
Previous excess RFSC		27,420,067.69	(1,450,949.18)	(20,001,748.27)	(39,810,490.38)	27,420,067.69
50% Revenue from leased property		124,965.00	124,965.00	124,965.00	124,965.00	499,860.00
Total Available CAPEX fund		53,598,536.20	27,084,999.30	10,895,214.79	(6,551,443.15)	146,290,494.99
Excess (shortfall) on RFSC if 15 yrs of payment		(1,450,949.18)	(20,001,748.27)	(39,810,490.38)	(57,415,092.13)	(57,415,092.13)
Excess (shortfall) on RFSC if 15 yrs term of payment		(0.02965)	(0.37482)	(0.68878)	(0.92255)	(0.25824)

12. That due to the urgent nature of the said project, herein applicant has to immediately purchase the needed materials in order not to jeopardize the restoration of service and operation of the cooperative to its member-consumers in the typhoon-affected areas;

13. That in support of this application and in compliance with the guidelines and documentary requirements of this Hon. Commission, applicant herein hereby submit the following documents, as follows:

- a.) Board Resolution No. 65-2016- requesting emergency loan from NEA in the amount of PhP10,200,000.00;
  - b.) Board Resolution No. 66-2016- approval of emergency procurement of various materials and conducted a negotiation through accredited suppliers who will provide a very low price in favor of the coop in the amount of PhP10,200,000.00 as per NEA approval;
  - c.) Total cost of materials and equipment caused by Typhoon- PhP9,185,025.81.
14. That applicant, in support of this application has likewise submitted the following documents, as follows:
- a. Annex "A" – NPV, IRR and B/C Ratio Analysis and Impact/Effect on Rate Base for Rehabilitation of line by Typhoons Karen and Lawin
  - b. Annex "A-1" – Amortization Schedule
  - c. Annex "A-2" – Pictures of Damaged Electrical Lines

**ALLEGATIONS IN SUPPORT OF THE REQUEST FOR  
PROVISIONAL AUTHORITY:**

15. That due to the urgent nature of this project, herein applicant likewise requests immediate approval of this Force Majeure-CAPEX Project in the affected municipalities within the area-coverage of applicant in order to render adequate and efficient service to its affected member-consumers;
16. That herein applicant has initially undertaken in financing the said project from its internally generated funds and immediately applied for loans from the National Electrification Administration (NEA) to replace said funds in order to be able to replenish the cooperative funds for other equally important projects;
17. This application is definitely intended to allow AURELCO to render a more reliable, adequate and efficient electric service in compliance to its mandate of total electrification on an area coverage basis;
18. That as such, herein applicant requests the approval of the Force Majeure-CAPEX Project for the benefit of its member-consumers;

**P R A Y E R**

WHEREFORE, IN VIEW OF ALL THE FOREGOING, it is most respectfully prayed of this Hon. Commission that an Order be issued:

1. Granting immediately the Provisional Authority/approval for this Force Majeure-CAPEX Project which is the rehabilitation of its damaged distribution lines due to typhoons Karen and Lawin; And that the emergency loans secured from NEA be approved;

2. And approve the rehabilitation projects undertaken by herein cooperative-applicant in proceeding immediately with the construction of the said Force Majeure-CAPEX projects due to Typhoons Karen and Lawin;

Other relief/s just and equitable in the premises are likewise prayed for under the premises.

Finding the said *Application* sufficient in substance with the required fees having been paid, the Commission issued an *Order* dated 26 April 2017, setting the case for initial hearing on 23 May 2017.

On 3 May 2017, AURELCO filed an *Urgent Motion to Cancel Hearing Set on May 23, 2017*, through its counsel, Atty. Zenon S. Suarez due to conflict in the schedule of the attending lawyer and the imminent danger of Applicant's failure to comply with the publication requirement on time.

Finding the motion to be meritorious, the same is hereby GRANTED and the hearing scheduled on 23 May 2017 is cancelled.

NOW THEREFORE, the instant *Application* is hereby reset for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **6 June 2017 at ten o'clock in the morning (10:00 A.M.), at AURELCO's principal office at Brgy. Reserva, Baler, Aurora.**

Accordingly, AURELCO 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 initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors

and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, 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 *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicant 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 was 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 aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicant to inform of the filing of the *Application*, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the

Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;

- 5) The evidence of receipt of copies of the *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.

Applicant and all interested parties are also required to submit, at least five (5) days before the date of the initial 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 Applicant 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.


AURELCO must also be prepared to make an expository presentation of the instant *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, 10 May 2017.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ALFREDO J. NON**  
*Officer-in-Charge of ERC*

6/17

  
LS/SLAN/ARG/PAR/APV

**COPY FURNISHED:**

1. Aurora Electric Cooperative, Inc. (AURELCO)  
*Applicant*  
Brgy. Reserva, Baler, Aurora
2. Atty. Zenon S. Suarez  
*Counsel for Applicant*  
Rm. 506, Web-Jet Bldg., 64 Quezon Ave. corner BMA St., Quezon City
3. Office of the Mayor  
Dingalan, Aurora
4. Office of the LGU legislative body  
Dingalan, Aurora
5. Office of the Mayor  
Dilasag, Aurora
6. Office of the LGU legislative body  
Dilasag, Aurora
7. Office of the Mayor  
Casiguran, Aurora
8. Office of the LGU legislative body  
Casiguran, Aurora
9. Office of the Mayor  
Dinalungan, Aurora
10. Office of the LGU legislative body  
Dinalungan, Aurora
11. Office of the Mayor  
Dipaculao, Aurora
12. Office of the LGU legislative body  
Dipaculao, Aurora
13. Office of the Mayor  
Maria Aurora, Aurora
14. Office of the LGU legislative body  
Maria Aurora, Aurora

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15. Office of the Mayor  
Baler, Aurora
16. Office of the LGU legislative body  
Baler, Aurora
17. Office of the Mayor  
San Luis, Aurora
18. Office of the LGU legislative body  
San Luis, Aurora
19. Office of the Mayor  
General Nakar, Quezon
20. Office of the LGU legislative body  
General Nakar, Quezon
21. Office of the Mayor  
Dinapigue, Isabela
22. Office of the LGU legislative body  
Dinapigue, Isabela
23. Office of the Mayor  
Castañeda, Nueva Vizcaya
24. Office of the LGU legislative body  
Castañeda, Nueva Vizcaya
25. Office of the Governor  
Province of Aurora
26. Office of the LGU legislative body  
Province of Aurora
27. Office of the Governor  
Province of Quezon
28. Office of the LGU legislative body  
Province of Quezon
29. Office of the Governor  
Province of Isabela
30. Office of the LGU legislative body  
Province of Isabela
31. Office of the Governor  
Province of Nueva Vizcaya
32. Office of the LGU legislative body  
Province of Nueva Vizcaya
33. Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village, Makati City
34. Commission on Audit (COA)  
Commonwealth Avenue, Quezon City
35. Senate Committee on Energy  
GSIS Bldg. Roxas Blvd., Pasay City
36. House Committee on Energy  
Batasan Hills, Quezon City
37. Philippine Chamber of Commerce and Industry (PCCI)  
3<sup>rd</sup> Floor, Chamber and Industry Plaza (CIP),  
1030 Campus Avenue corner Park Avenue,  
McKinley Town Center, Fort Bonifacio, Taguig City

38. Regulatory Operations Service (ROS)  
(Standard and Compliance Monitoring Division)  
Energy Regulatory Commission  
17<sup>th</sup> Floor, Pacific Center Bldg., San Miguel Avenue, Pasig City