

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



**IN THE MATTER OF
THE APPLICATION FOR
APPROVAL OF THE RATE
ADJUSTMENT RELATING
TO INTERIM CAPITAL
EXPENDITURE PROJECTS
FOR 2015 TO 2016, WITH
PRAYER FOR PROVISIONAL
AUTHORITY,**

ERC CASE NO. 2017-018 RC

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

Applicant.

X-----X

D O C K E T E D
Date: SEP 18 2017
By: W

ORDER

On 10 March 2017, Cagayan Electric Power and Light Co., Inc. (CEPALCO) filed an *Application* dated 7 March 2017 (*Application*) seeking the Commission's approval of its rate adjustment relating to interim capital expenditure projects for 2015 to 2016, with prayer for provisional authority.

CEPALCO alleged the following in its *Application*:

THE APPLICANT

1. CEPALCO is a corporation duly organized and existing by virtue of the laws of the Republic of the Philippines, with principal office at CEPALCO's Administration Building, Fr. Masterson Avenue, Upper Balulang, Cagayan de Oro City. CEPALCO has a franchise to distribute electricity in the City of Cagayan de Oro and in the Municipalities of Tagoloan, Villanueva and Jasaan, all in the Province of Misamis Oriental;
2. CEPALCO may be served orders and other processes through the undersigned counsel;

NATURE OF THE APPLICATION

3. Pursuant to Sections 23, 24, 25 and 43 (f) of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (the

EPIRA), which provide that a distribution utility shall be entitled to impose and collect distribution wheeling charges and connection fees from end users, this Application is submitted to this Honorable Commission for its review and approval of the rate adjustment relating to CEPALCO's interim capital expenditure projects for 2015-2016 (the "Interim CAPEX Projects");

4. CEPALCO is one of the first entrants to the Performance Based Regulation (PBR) adopted by this Honorable Commission pursuant to Section 43 (f) of the EPIRA;
5. In accordance with the Rules in Setting Distribution Wheeling Rates (RDWR), CEPALCO filed an application for the approval of its Annual Revenue Requirement (ARR) and Performance Incentive Scheme (PIS) for its 3rd Regulatory Period, covering the period from 1 July 2011 to 30 June 2015. This Honorable Commission approved said application in a Decision dated 6 June 2011 in ERC Case No. 2010-064 RC entitled "*In the Matter of the Application for Approval of the Annual Revenue Requirement and Performance Incentive Scheme in Accordance with the Provisions of the Rules for Setting Distribution Wheeling Rates;*"
6. Pending the finalization of the rules that will govern the regulatory reset process for the 4th Regulatory Period (1 July 2015 to 30 June 2019), and considering the real and present needs of its customers, CEPALCO was constrained to file an application for the approval of the Interim CAPEX Projects for 2015-2016, docketed under ERC Case No. 2016-143 RC and entitled "*In the Matter of the Application for Approval of Interim Capital Expenditure Projects for 2015-2016, with Prayer for Provisional Authority;*"
 - 6.1 The aggregate value of the capital expenditures for the Interim CAPEX Projects for 2015-2016 is PhP4,005,887,645;
 - 6.2 It bears stressing that considering that its 4th Regulatory Period should have already commenced back in 1 July 2015, CEPALCO has been constrained to incur significant expenditures to implement the Interim CAPEX Projects. The timely implementation of the Interim CAPEX Projects was necessary in order to meet the significant increase in customer demand;
 - 6.3 As of December 2016, CEPALCO has already incurred at least 80% of the budgeted capital expenditures for the Interim CAPEX Projects.
7. Further, CEPALCO has filed other applications in view of the effects of the pendency of the issuance of the rules governing its 4th Regulatory Period application;

- 7.1 CEPALCO earlier filed an application for approval of the interim average rate and its corresponding translation into distribution charges, docketed under ERC Case No. 2016-007 RC and entitled "*In the Matter of the Application for Approval of the Interim Average Rate and its Corresponding Translation into Distribution Charges for each Rate Schedule, with Prayer for a Provisional Authority;*"
- 7.2 CEPALCO also filed an application for rate adjustment relating to its 138 kV Kirahon Substation, docketed under ERC Case No. 2016-029 RC and entitled "*In the Matter of the Application for Rate Adjustment for the Recovery of the Cost of CEPALCO's 138 kV Kirahon Substation, with Prayer for Provisional Authority;*"
8. Notably, the prevailing effective rate being implemented by CEPALCO is the approved Maximum Average Price ("MAP") for Regulatory Year ("RY") 2015, which would ordinarily be implemented only until 30 June 2015. It bears stressing that the said rate does not cover the significant costs already incurred by CEPALCO in implementing the Interim CAPEX Projects. Hence, the need to adjust the rates to account for said costs;
9. In the present Application, CEPALCO proposes to adjust the rates by applying a uniform increase over CEPALCO's prevailing effective rate based on the approved MAP for RY 2015. The uniform increase will be computed based on the percentage of the proposed rate adjustment to CEPALCO's MAP for RY 2015 approved by this Honorable Commission. This Honorable Commission has provisionally approved a similar approach adopted by Manila Electric Company in ERC Case No. 2015-112 RC entitled "*In the Matter of the Application for Approval of: a.) an Interim Average Rate; and b.) Translation of the Interim Average Rate into Distribution Rates for its Various Customer Classes, with Prayer for the Issuance of a Provisional Authority;*"

COMPLIANCE WITH PRE-FILING REQUIREMENTS

10. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, CEPALCO have furnished the legislative bodies of each of the local government units where it principally operates a copy of the present Application with all its annexes and accompanying documents.

The corresponding proofs of receipt are attached hereto as **Annexes "A" and series;**

11. Furthermore, CEPALCO have caused the publication of the present Application in its entirety, excluding its annexes, in a newspaper of general circulation within CEPALCO's franchise area.

Copies of the newspaper and the corresponding affidavit of publication are attached hereto as **Annexes "B"** and **"B-1,"** respectively;

NECESSITY OF THE APPLICATION

12. **Pendency of the Issuance of the Rules for Regulatory Reset.** In view of the pendency of the issuance of pertinent rules that will govern the regulatory reset for the 4th Regulatory Period, and taking into consideration the paramount interests of its customers, CEPALCO was constrained to implement the Interim CAPEX Projects;
13. The Interim CAPEX Projects are aimed to improve system capacity, reliability, efficiency, and comply safety requirements to meet the fast-growing demand of electricity in CEPALCO's franchise area. Hence, the implementation of these projects will enable it to comply with its obligation to provide reliable and efficient service to its customers;
14. It bears stressing that had the rules been available already, CEPALCO would have timely filed its application for the 4th Regulatory Period, and would have been allowed to collect the adjusted rates starting July 2015;
15. **Very Significant Load Growth.** CEPALCO expects a very significant load growth over the next ten years. The total peak demand of CEPALCO's customers will double in the low-growth scenario, or to more than triple in the high-growth scenario – from the 2015 peak demand of about 160 MW;
16. In fact, for 2015 and 2016, there is a very significant load growth due to large spot loads. To illustrate, from the peak demand of 160 MW in 2015, it will increase to 265 MW by 2017, and further to 389 MW in 2019;

The details of the demand forecast and the list of incoming customers are attached hereto as **Annexes "C"** and **"C-1,"** respectively.

17. In view of these very high load growths, CEPALCO was constrained to implement the Interim CAPEX Projects in order to serve its customers. CEPALCO had to construct new substations, switchyards, sub-transmission lines, primary distribution lines, and acquire heavy and transportation equipment such as service vehicles, tools and equipment and other necessary facilities. Aside from coping with the high load growth, these projects will also enhance the reliability and efficiency of CEPALCO's distribution system;
18. **Insufficiency of Prevailing Effective Rate.** As previously stated, CEPALCO has already incurred at least 80% of its planned capital expenditures for the Interim CAPEX Projects in order to meet the needs of CEPALCO's customers;

19. However, as previously stated, the prevailing effective rate being implemented by CEPALCO remains the approved MAP for RY 2015, which was to be implemented only until 30 June 2015. It bears stressing that the said rate does not cover the significant costs already incurred by CEPALCO in implementing its Interim CAPEX Projects;
20. Absent a rate adjustment, CEPALCO is unable to recover its capital costs and continues to incur mounting cost of capital as well as unrecovered operating costs;
21. It is paramount therefore that CEPALCO's rate be adjusted accordingly so that it will be able to recover its costs already;

PROPOSED RATE ADJUSTMENT

22. Pending the conduct of the regulatory reset process for the 4th Regulatory Period, and given the substantial expenditures that it has already incurred for the Interim CAPEX Projects, CEPALCO proposes a rate recovery pursuant to Section 23, 24, 25 and 43 (f) of the EPIRA. The proposed rate adjustment is derived using the computed ARR specific to the Interim CAPEX Projects;
23. Based on this methodology, CEPALCO determines a rate adjustment of PhPo.8507 per kWh, as presented in the table below:

	Values
Total CAPEX Implemented for 2015-2016, Peso	4,005,887,645
ADD: Working Capital equivalent to 7.8% of Operating and Maintenance Expense	53,435,729
Total Asset Base, Peso	4,059,323,375
ARR Building Blocks:	
1. Return on Capital at 14.97% RORB	607,680,709
2. Operating & Maintenance Expenses	685,073,453
3. Return of Capital	190,617,863
4. Other Taxes	63,233,202
Annual Revenue Requirement, Peso	1,546,605,227
Forecast Quantity, kWh	1,817,984,700
Rate Adjustment due to the Interim CAPEX, P/kWh	0.8507

24. The following Annexes contain the details of the computation and other pertinent information to support the present Application:

Annex	
D	Computation of the Proposed Rate Adjustment
D-1	List of Capital Expenditures for 2015 to 2016
D-2	Average Operating and Maintenance Expenses per kWh as approved by ERC in the 3 rd Regulatory Period
D-3	Computation of the Return of Capital
D-4	Computation of the Other Taxes

25. CEPALCO proposes to adjust the rates by applying a uniform increase over CEPALCO's prevailing effective rate based on the approved MAP for RY 2015. The uniform increase will be computed based on the percentage of the proposed rate adjustment to CEPALCO's MAP for RY 2015 approved by this Honorable Commission. As mentioned previously, this Honorable Commission has provisionally approved a similar approach adopted by Manila Electric Company in ERC Case No. 2015-112 RC;
26. In addition, CEPALCO proposes the translation of the resulting average rate into distribution charges for each type of customer, as presented in the table below:

Rate Schedule	Distribution			SUPPLY		METERING		
	P/kWh		P/kWh	P/kWh	P/Cust	P/kWh	1-phase/ 3-phase CT rated meter	3-phase/ Primary- metered
	1 st Block	Excess						
18	1.8851	-	-	0.0140	-	-	-	-
28	2.5017	-	-	0.6755	-	0.9635	5.00	-
38	2.2416	-	-	0.1819	-	-	229.03	1,656.86
48-A	0.1667	-	511.41	-	1,974.35	-	1,840.41	8,258.51
48-B	1.5084	-	-	-	1,974.35	-	1,840.41	8,258.51
58-58W	0.1031	0.0515	372.31	-	4,677.80	-	-	39,405.35
68-68W	0.0741	0.0371	59.19	-	4,677.80	-	-	39,405.35

The relevant computation is attached hereto as **Annex "D-5;"**

ALLEGATIONS IN SUPPORT OF
THE MOTION FOR PROVISIONAL AUTHORITY

27. CEPALCO re-pleads and incorporates the foregoing allegations as may be applicable herein;
28. As previously discussed, CEPALCO is one of the first entrants to the PBR adopted by this Honorable Commission pursuant to Section 43 (f) of the EPIRA;

29. Pending the issuance of the rules that will govern the regulatory reset process for the 4th Regulatory Period, and taking into consideration the growing needs of its customers, CEPALCO was constrained to implement the Interim CAPEX Projects. It should be emphasized, however, that a significant portion, at least 80% of the capital expenditures for the Interim CAPEX Projects has already been incurred by CEPALCO in order to meet the urgent and growing needs of its customers;
30. However, the prevailing rate being implemented by CEPALCO is still the approved MAP for RY 2015, which is supposedly to be implemented only until 30 June 2015. Evidently, the said rate does not cover the significant capital costs already incurred and the operating costs continuously incurred by CEPALCO in implementing its Interim CAPEX Projects. It likewise does not cover the cost of money that CEPALCO continues to incur on the capital expenditures;
31. It is paramount therefore that CEPALCO be allowed to recover through the necessary rate adjustments;
32. Further, it bears stressing that had the rules been available already, CEPALCO would have timely filed its application for the 4th Regulatory Period, and would have been allowed to collect the adjusted rates starting July 2015;
33. In view of the foregoing, CEPALCO respectfully moves for the provisional approval of the instant Application pursuant to Rule 14 of the ERC Rules of Practice and Procedure;

A copy of a sworn statement supporting the said motion is attached hereto as **Annex "E;"**

PRAYER

WHEREFORE, premises considered, CEPALCO respectfully prays that this Honorable Commission:

1. immediately issue an Order provisionally approving the present Application; and
2. after due hearing, render judgment approving the proposed rate adjustment of P0.8507 per kWh and the proposed translation of the resulting average rate into distribution charges for each type of customer using the procedure approved by the Honorable Commission in ERC Case No. 2015-112 RC, as follows:

Rate Schedule	Distribution			SUPPLY		METERING		
	P/kWh		P/kWh	P/kWh	P/Cust	P/kWh	1-phase/ 3-phase CT rated meter	3-phase/ Primary- metered
	1 st Block	Excess						
18	1.8851	-	-	0.0140	-	-	-	-
28	2.5017	-	-	0.6755	-	0.9635	5.00	-

38	2.2416	-	-	0.1819	-	-	229.03	1,656.86
48-A	0.1667	-	511.41	-	1,974.35	-	1,840.41	8,258.51
48-B	1.5084	-	-	-	1,974.35	-	1,840.41	8,258.51
58-58W	0.1031	0.0515	372.31	-	4,677.80	-	-	39,405.35
68-68W	0.0741	0.0371	59.19	-	4,677.80	-	-	39,405.35

CEPALCO prays for other just and equitable relief under the premises.

Finding the said *Application* sufficient in 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 presentation of evidence on **9 November 2017 (Thursday) at nine o'clock in the morning (9:00 A.M.), at CEPALCO's Principal Office, CEPALCO's Administration Building, Fr. Masterson Avenue, Upper Balulang, Cagayan de Oro City.**

Accordingly, CEPALCO 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, the City 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*, the 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 the 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*, the 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 the 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 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.

CEPALCO 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, 4 September 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ALFREDO J. NON
OIC, Chairman and CEO

Copy Furnished:

1. **Attys. Sundy Lorence C. Lachica and Anthony L. Maamo**
LACHICA & ASSOCIATES
Counsel for CEPALCO
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Philippine Stock Exchange Centre
Exchange Road, Ortigas Center, Pasig City
2. **Cagayan Electric Power and Light Co., Inc. (CEPALCO)**
CEPALCO's 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
5. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City
6. **House Committee on Energy**
Batasan Hills, Quezon City
7. **Office of the President of PCCI**
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building, Sen. Gil Puyat Avenue
Makati City
8. **Office of the City Mayor**
City of Cagayan de Oro, Misamis Oriental
9. **Office of the Local Government Unit (LGU) legislative body**
City of Cagayan de Oro, Misamis Oriental
10. **Office of the Municipal Mayor**
Tagoloan, Misamis Oriental
11. **Office of the Local Government Unit (LGU) legislative body**
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12. **Office of the Municipal Mayor**
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Villanueva, Misamis Oriental
14. **Office of the Municipal Mayor**
Jasaan, Misamis Oriental
15. **Office of the Local Government Unit (LGU) legislative body**
Jasaan, Misamis Oriental
16. **Office of the Governor**
Province of Misamis Oriental
17. **Office of the Local Government Unit (LGU) legislative body**
Province of Misamis Oriental
18. **Regulatory Operations Service (ROS)**
Energy Regulatory Commission
17th Floor, Pacific Center, San Miguel Avenue, Pasig City