

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR CONFIRMATION AND APPROVAL OF FORCE MAJEURE EVENT CAPITAL EXPENDITURE PROJECTS, NAMELY: REPAIR, RECONSTRUCTION, REPLACEMENT, RESTORATION AND REHABILITATION OF DISTRIBUTION NETWORK AS WELL AS NON-NETWORK ASSETS DAMAGED BY TYPHOON TISOY ON DECEMBER 2, 2019 AND TYPHOON AMBO ON MAY 14, 2020

ERC CASE NO. 2021-001 RC

**NORTHERN SAMAR ELECTRIC COOPERATIVE, INC. (NORSAMELCO),
*Applicant.***

Promulgated:
February 11, 2021

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 18 January 2021, Northern Samar Electric Cooperative, Inc. (NORSAMELCO) filed an *Application* dated 28 December 2020, seeking the Commission's confirmation and approval of its force majeure event capital expenditure (CAPEX) projects damaged by Typhoons Tisoy and Ambo, and the recovery of the full cost thereof pursuant to Section 3.3 of the Commission's Resolution No. 26, Series of 2009.

The pertinent portions of the said *Application* are hereunder quoted as follows:

1. NORSAMELCO is a non-stock, non-profit electric cooperative, duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Brgy. Magsaysay, Bobon, Northern Samar;
2. It holds an exclusive franchise from the National Electrification Commission to operate an electric light and power distribution service in all the municipalities of the province of Northern Samar, namely: San Isidro, Victoria, Allen, Lavezares, Rosario, San Jose, Bobon, Lope de Vega, Mondragon, Catarman, San Vicente, Capul, San Antonio, Biri, San Roque, Pambujan, Silvino Lobos, Laoang, Catubig, Las Navas, Palapag, Mapanas, Gamay and Lapinig.

LEGAL BASIS FOR THE APPLICATION

3. This application is being filed pursuant to Section 3.3 of ERC Resolution No. 26, Series of 2009, which provides that if a Force Majeure or Fortuitous Event, as the case may be, occurs, the regulated entity shall seek the ERC's confirmation of the implementation of capital expenditure projects arising from such event.

THE FORCE MAJEURE EVENTS

A. TYPHOON TISOY

4. Typhoon Kammuri, known in the Philippines as Typhoon Tisoy, was a powerful typhoon. In the 12th severe weather bulletin issued by PAGASA on December 02, 2019, it was reported that prior to its first landfall, the southern eye wall of Typhoon Tisoy brought violent winds and intense rainfall over the province of Northern Samar. Hours later, Tisoy made its first landfall near Gubat, Sorsogon with winds equivalent to a Category 4 hurricane;
5. In Northern Samar, winds were reported to reach up to 135 km/h (84 mph) with a total accumulated rainfall of 605.5 mm (23.8 inches) within the course of 24 hours on December 2. On December 4, 2019, the whole province was declared under a State of Calamity due to the massive destruction along with widespread flooding, damaged houses, landslides and weak communication signal. 224,171 individuals were affected by the typhoon, about 28,577 houses were damaged while an additional 3,774 were washed out by extreme flooding.

B. TYPHOON AMBO

6. Tropical Depression Ambo with international name "Vongfong", battered parts of the northern Philippines with torrential rain and high winds as it made landfall across several areas in the region;

7. Based on the severe weather bulletin of PAGASA, as of 4:00 A.M. of May 14, 2020 Ambo was 230 kilometers east of Catarman, Northern Samar packing maximum sustained winds of 150 kilometers per hour and gustiness of up to 185 kilometers per hour, and moving west at the speed of 15 kilometers per hour. Ambo made landfall over the northern part of Northern Samar on the same day, with violent winds and heavy to torrential rains of the eyewall region began affecting the whole Northern Samar and the northern portions of Samar and Eastern Samar. TCWS No. 3 (Winds of greater than 121 kph up to 170 kph) was experienced for at least of 18 hours or more;
8. The twenty-four towns of Northern Samar suffered power outages due to damaged power transmission lines. The hardest-hit areas were the towns of Bobon, Laoang, Lope de Vega, and Mondragon. The loss of power in the province was due to toppled and leaning structures along Palanas Cara-Catarman-Allen-Lao-ang 69kV line of the NGCP.
9. Due to the damage brought by the onslaught of the typhoon, the whole province of Northern Samar was declared under a State of Calamity.

COMPLIANCE WITH NOTICE REQUIREMENTS

10. In compliance with Section 3.3 of ERC Resolution No. 26, Series of 2009, on February 28, 2020, NORSAMELCO submitted to the Honorable Commission a Notice of Force Majeure Event pertaining to the damages sustained from the onslaught of Typhoon Tisoy;
11. Foregoing Resolution further requires that the corresponding Force Majeure Event CAPEX Application should be filed within thirty (30) days from submission of the Notice. However, due to the national government's declaration placing the entire country under Community Quarantines several times due to the COVID-19 crisis that has plagued the world, the Honorable Commission issued advisories extending the submission of all compliances and applications until sixty (60) days from April 30, 2020;
12. Unfortunately, while the rehabilitation activities were on-going, NORSAMELCO's franchise area was again hit by another strong typhoon on May 14, 2020, Typhoon Ambo. Some of the distribution lines and facilities undergoing rehabilitation from Typhoon Tisoy were again destroyed by Typhoon Ambo. As a result of the double damage sustained by the same assets, NORSAMELCO could not determine the exact cost of restoration and rehabilitation of the damages of Typhoon Tisoy hence, the cooperative could not finalize its force majeure event CAPEX application within the given timeline.
13. As NORSAMELCO was likewise in the process of assessing the damages caused by Typhoon Ambo, on June 22, 2020, it submitted a letter to the Honorable Commission appealing for

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more time to file the application relative to Typhoon Tisoy and further, in view of the close proximity of the occurrences of Typhoons Tisoy and Ambo and their common destruction to its assets, it likewise sought permission to file a joint Force Majeure Event CAPEX Application pertaining to the two typhoons.

14. In the meantime, the cooperative submitted to the Honorable Commission's Regulatory Operations Service-Standards Division (ROS-SD) its supporting data for the application for its review. On December 2, 2020, the cooperative received a clearance from the ROS-SD permitting the filing of a joint application. Hence, on 17 December 2020, the cooperative submitted to the Honorable Commission its updated Notice of Force Majeure Event pertaining to Typhoons Tisoy and Ambo.

DESCRIPTION OF THE PROJECTS

15. The Force Majeure Capital Expenditure Projects subject of the instant application consist of the repair, reconstruction, replacement, restoration and rehabilitation of the distribution lines, transformers, kWh meters, as well as non-network assets damaged by Typhoon Tisoy on December 2, 2019 and Typhoon Ambo on May 14, 2020.

PROJECT COST

16. The total cost for the repair, reconstruction, replacement, restoration and rehabilitation of the damages sustained from Typhoon Tisoy and Typhoon Ambo is in the amount of One Hundred Thirty Eight Million Nine Hundred Ninety Three Thousand Five Hundred Fifty Three and 10/100 (PhP138,993,553.10) as shown in the table below.

| Project Type | Project Description | Amount (PhP) |
|--|--|-----------------------|
| Typhoon Tisoy | | |
| Network Project | Emergency restoration of distribution lines and replacement damaged of kilowatt-hour meters | 95,608,507.49 |
| Non-Network Project | Emergency restoration of the main office building, warehouse and motorpool and replacement of ICT equipment | 5,638,086.0000 |
| Total | | 101,246,593.49 |
| Typhoon Ambo | | |
| Network Project | Emergency restoration and rehabilitation of distribution lines and replacement of damaged kilowatt-hour meters | 37,069,752.61 |
| Non-Network Project | Emergency restoration of the main office building, warehouse and motorpool | 677,207.00 |
| Total | | 37,746,959.61 |
| Grand Total (Typhoons Tisoy and Ambo) | | 138,993,553.10 |

PROJECT SCHEDULES

A. TYPHOON TISOY

17. The National Grid Corp. of the Phils. (NGCP) transmission lines to Northern Samar suffered damages from the typhoon, putting the entire coverage area of NORSAMELCO in total blackout starting December 02, 2019. The cooperative started restoring power lines immediately after the typhoon left, starting with clearing of obstructions along the national highway where primary distribution lines are situated.
18. Through the assistance of Region 8 Task Force Kapatid, distribution lines were reconstructed and power was gradually restored by December 08, 2019 and all sitios were energized by February 2020. Only the consumers whose houses were not considered safe for reconnection were not energized.
19. However, although sitios have been energized, NORSAMELCO has yet to continue rebuilding its distribution lines considering that certain parts of the distribution system were energized only temporarily in order to restore power immediately. To replace temporarily solved distribution lines, the cooperative needs additional budget for the “build back better” program to ensure more resilient distribution lines, considering NORSAMELCO’s locaation (sic) is in a typhoon prone area.

B. TYPHOON AMBO

20. NORSAMELCO was disconnected from the NGCP Calbayog Switching Station due to the onslaught of Typhoon Ambo and all its substations were energized only after two days. Considering the extent of the damage, it took two weeks to completely energize the twenty-four municipalities of Northern Samar. Restoration of lines was fast tracked with the help of Region 8 Task Force Kapatid consisting of linemen and equipment provided by electric Cooperatives within Eastern Visayas Region such as LEYECO II, LEYECO III, DORELCO, LEYECO V, SAMELCO I and SAMELCO II.
21. While the municipality centers were energized, energization of barangays under lateral lines were completed only by July 5, 2020 due to the fact that houses which were damaged but were not immediately rebuilt were not allowed to be connected to prevent electrocution and other injuries caused by faulty wirings.

JUSTIFICATIONS AND BENEFITS TO BE DELIVERED
BY THE PROJECTS

22. The projects were pursued by NORSAMELCO in order to restore power in the entire coverage area and enable the delivery of continuous, reliable, safe and efficient service to its

consumers. It was also intended to restore the safety and protection of the cooperative's entire distribution system;

23. The mandate and mission of NORSAMELCO being the sole supplier of electricity in the whole province of Northern Samar to electrify all corners of the province, is indispensable. Its justification is obligatory and immediate considering its necessity to the power-consuming public. The repair, reconstruction, restoration and rehabilitation of the damaged electric power infrastructure outline the existence of the distribution utilities being the shippers of electricity necessary to improve the lives of people in the community.

PROJECT FINANCING PLAN

24. For Typhoon Tisoy, the project cost is in the amount of PhP101,246,593.49. Out of this cost, the National Electrification Administration (NEA) extended a calamity loan in the amount of PhP20,505,984.01. Subsequently, a portion of the calamity loan in the amount of PhP14,085,019.80 was converted into a subsidy, while the remainder of PhP6,420,964.21 remains as calamity loan at 3.25% interest per annum payable in 10 years. The remaining project cost of PhP80,740,609.48 is due to suppliers of materials and overheads during the restoration and rehabilitation activities.
25. For Typhoon Ambo, the project cost is in the amount of PhP37,746,959.61. For the restoration activities, NORSAMELCO obtained materials from suppliers. It has a pending appeal to obtain a calamity subsidy from the government to pay off said suppliers.
26. Obligations to suppliers are being paid on monthly installments from the cooperative's collections of Reinvestment Fund for Sustainable Capital Expenditure (RFSC) as well as from its general funds. As of December 2020, the outstanding obligation amounts to PhP34,454,312.34.

INDICATIVE RATE IMPACT

27. The impact on the RFSC pertaining to the combined actual inventory of damage caused by Typhoon Tisoy and Typhoon Ambo will cause an increase in the existing RFSC rate of P0.4004/kWh from years 2020 to 2023. It is estimated that in 2020 there will an increase of P1.0663/kWh; in 2021, an increase of P0.7779/kWh; in 2022, an increase of P0.5010/kWh; and in 2023, an increase of P0.2342/kWh. It is calculated that from 2024 and onwards, there will be no increase in the RFSC. The table below illustrates the impact on the RFSC pertaining to the instant application.

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| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 |
|--|-------------------------|------------------------|------------------------|------------------------|----------------------|----------------------|-----------------------|-----------------------|
| Actual Energy Sales, KWh | 107,158,721 | 115,112,751 | 123,155,616 | 131,220,115 | 139,260,721 | 147,246,458 | 155,156,296 | 162,976,114 |
| Existing RFSC,P/KWh | 0.4004 | 0.4004 | 0.4004 | 0.4004 | 0.4004 | 0.4004 | 0.4004 | 0.4004 |
| Beginning RFSC Balance | (119,136,621.81) | (114,266,854.26) | (89,546,855.86) | (61,703,105.15) | (30,727,200.01) | 3,371,579.96 | 40,571,924.33 | 83,049,295.42 |
| CASH INFLOWS | | | | | | | | |
| Current year RFSC Collection | 41,619,161.38 | 44,708,411.20 | 47,832,163.52 | 50,964,317.94 | 54,087,192.78 | 57,188,757.17 | 60,260,843.58 | 63,297,966.96 |
| 50% Income on leased properties | 711,468.34 | 711,468.34 | 711,468.34 | 711,468.34 | 711,468.34 | 711,468.34 | 711,468.34 | 711,468.34 |
| Gov't Subsidy-Typhoon Tisoy | 14,085,019.80 | | | | | | | |
| Proposed loan proceeds from financial institution for this application | | | | | | | | |
| Typhoon Tisoy and Ambo | | | | | | | | |
| Loan proceeds from financial institution from this application | | | | | | | | |
| Typhoon Tisoy | 6,420,964.21 | | | | | | | |
| Loan proceeds from financial institution from pending CAPEX applications | | | | | | | | |
| Typhoon Nona ERC Case# | | | | | | | | |
| Total Cash Inflows | 62,836,613.73 | 45,419,879.54 | 48,543,631.86 | 51,675,786.28 | 54,798,661.12 | 57,900,225.51 | 60,972,311.92 | 64,009,435.30 |
| AVAILABLE CASH FOR DISBURSEMENT | (56,300,008.08) | (68,846,974.71) | (41,003,224.00) | (10,027,318.87) | 24,071,461.11 | 61,271,805.48 | 101,544,236.25 | 147,058,730.72 |
| CASH OUTFLOWS | | | | | | | | |
| Proposed CAPEX requirement | | | | | | | | |
| Typhoon Tisoy | | | | | | | | |
| Typhoon Ambo | 37,746,959.61 | | | | | | | |
| Proposed CAPEX requirement from pending CAPEX application (sic) | | | | | | | | |
| Proposed annual Capex Amortization from this CAPEX application | | | | | | | | |
| Approved Annual Capex Amortization from this CAPEX application | | | | | | | | |
| Typhoon Tisoy | | 763,097 | 763,097 | 763,097 | 763,097 | 763,097 | 763,097 | 763,097 |
| Approved Annual Capex Amortization from pending CAPEX application | | | | | | | | |
| Typhoon Ruby ERC Case# | 4,409,881 | 4,409,881 | 4,409,881 | 4,409,881 | 4,409,881 | 4,409,881 | 2,204,940 | - |
| Typhoon Nona ERC Case# | 15,526,904 | 15,526,904 | 15,526,904 | 15,526,904 | 15,526,904 | 15,526,904 | 15,526,904 | 5,694,583 |
| Other Fees Relative to Capex Application | | | | | | | | |
| Proposed ERC permit fees from | | | | | | | | |
| Typhoon Tisoy | | | | | | | | |
| Typhoon Ambo | 283,102.20 | | | | | | | |
| TOTAL CASH OUTFLOWS | 57,966,846.18 | 20,699,881.14 | 20,699,881.14 | 20,699,881.14 | 20,699,881.14 | 20,699,881.14 | 18,494,940.84 | 6,457,679.43 |
| CASH BALANCE ENDING, PHp. Excess/(Shortfall) | (114,266,854.26) | (89,546,855.86) | (61,703,105.15) | (30,727,200.01) | 3,371,579.96 | 40,571,924.33 | 83,049,295.42 | 140,601,051.29 |
| RATE IMPACT ON RFSC P/KWh | (1.0663) | (0.7779) | (0.5010) | (0.2342) | 0.0242 | 0.2755 | 0.5353 | 0.8627 |

COMPLIANCE WITH DOCUMENTARY AND PRE-FILING REQUIREMENTS

15. Finally, in compliance with the documentary requirements under ERC Resolution 26, Series of 2009 and ERC Rules of Practice and Procedure, NORSAMELCO is submitting herewith the following documents which are being made integral parts hereof, to wit:

| Markings | Nature of Document |
|----------------------------|---|
| Annexes A A-1 A-2 | Notice of Force Majeure Event (Re: Typhoon Tisoy) dated February 28, 2020 Letter to the Energy Regulatory Commission dated June 22, 2020 (Re: Typhoons Tisoy and Ambo) Updated Notice of Force Majeure Events (Re: Typhoons Tisoy and Ambo) dated December 17, 2020 |
| Annex B | Write up on the Force Majeure Event Capital Expenditure Projects |
| C and series | Proof of furnishing copies of the Application to the Sangguniang Bayan of Bobon and Sangguniang Panlalawigan of Northern Samar |
| D and series | Proof of publication of the Application in a newspaper of general circulation |

PRAYER

WHEREFORE, premises considered, NORSAMELCO respectfully prays of this Honorable Commission that after due notice and hearing, the repair, reconstruction, restoration, replacement and rehabilitation of its distribution network as well as non-network assets damaged by the onslaught of Typhoon Tisoy on December 2, 2019 and Typhoon Ambo on May 14, 2020 be confirmed and approved, and the cooperative be allowed to recover the full cost thereof.

Other reliefs, just and equitable in the premises, are likewise prayed for.

The Commission has set the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹, dated 24 September 2020:

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

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| Date | Platform | Activity |
|---|--|---|
| 31 March 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.) | Microsoft Teams Application | Determination of compliance with jurisdictional requirements and Expository Presentation |
| 07 April 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.) | | Pre-trial Conference and Presentation of Evidence |

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial

virtual hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All such persons who wish to have a copy of the *Application* may request from Applicant that they be furnished with the same prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, through any of the available modes of service, upon their agreement, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours. In the alternative, those persons who wish to have an electronic copy of the *Application* may request the Commission for the e-mail addresses of the Applicant by sending an e-mail to doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph. Nonetheless, any person may also access the *Application* as posted by the Commission in its official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled virtual hearings.

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WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 26th day of January 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO


LS: AMA/ARG/MCCG

