

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



IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE BUSINESS AND FRANCHISE TAX PAYMENTS RECOVERIES BASED ON THE FORMULA FOR THE VARIOUS AUTOMATIC COST ADJUSTMENTS AND TRUE-UP MECHANISMS AND CORRESPONDING CONFIRMATION PROCESS PURSUANT TO ERC RESOLUTION NO. 16, SERIES OF 2009 AND RESOLUTION NO. 21, SERIES OF 2010 OVER ALL TARIFF WITH PRAYER FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2018-001 CF

MARINDUQUE ELECTRIC COOPERATIVE, INC. (MARELCO), Applicant.
X-----X

DOCKETED
Date: APR 17 2018
By: *W*

ORDER

On 15 March 2018, an *Application* dated 19 February 2018 was filed by applicant Marinduque Electric Cooperative, Inc. (MARELCO) seeking the Commission's approval of its business and franchise tax payments recoveries based on the formula for the various Automatic Cost Adjustments and True-up Mechanisms and corresponding confirmation process, pursuant to ERC Resolution No. 16, Series of 2009 and ERC Resolution No. 21, Series of 2010 over-all tariff, with prayer for the issuance of provisional authority.

MARELCO alleged the following in its *Application*:

1. That applicant is an electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with

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the principal office at Ihatub, Boac, Marinduque, where it may be served with summons and other legal processes, represented in this instance by its General Manager, Engr. Gaudencio M. Sol Jr., of legal age, Filipino, married and with office address also located at Ihatub, Boac, Marinduque;

2. Herein applicant is the exclusive franchise holder issued by the National Electrification Administration (NEA) to operate an electric light and power services in the six (6) municipalities, namely the municipalities of Boac, Buenavista, Gasan, Mogpog, Sta. Cruz and Torrijos all in the province of Marinduque;
3. That pursuant to ERC Resolution No. 16 Series of 2009 Electric Cooperatives (ECs) are required to file their respective application for the approval of their confirmation filing on the recovery of Franchise and Business taxes paid to the Local Government Units covering the period from 2002 to December 2017;
4. That in connection with the said filing of the application, herein applicant MARELCO submits the various supporting documents, as follows:
 - a. Summary of Franchise Tax computation for the entire period
 - b. Proposed Rate and Period of Recovery on Franchise Tax
 - c. Prior year's tax assessment/s issued by the LGU
 - d. Provincial Tax Ordinance
 - e. Board Resolution authorizing the filing of applications
 - f. Official Receipts of Payments
 - g. Summary of Payments
 - h. Actual Distribution Revenues
 - i. Breakdown of Gross sales/receipts
5. That in applying the various formulae in the determination of the proposed Tax Recovery Charges for Franchise and Business Taxes paid by the applicant, herein applicant hereby adopts the respective formula as provided for in ERC Resolution No. 16 Series of 2009 in accordance with the specific definitions and sub-formula for each item thereof;

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Commission that the submitted calculations and computations prepared by applicant be approved; Upon receipt of the Order of approval, herein applicant be allowed to propose the scheme of refund/recovery also for the period of three (3) years, or as may be approved by this Hon. Commission;

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

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 determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **28 May 2018 at two o'clock in the afternoon (2:00 P.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, MARELCO is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, the date of the publication to be made not later than ten (10) days before the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor 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 affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public

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Hearing was published, and the complete issue of the said newspaper;

- 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 Governor, 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

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scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.


MARELCO 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.

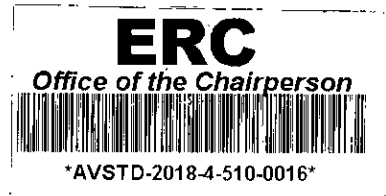
SO ORDERED.

Pasig City, 6 April 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: SLAN/KTB/APV



COPY FURNISHED:

1. Marinduque Electric Cooperative, Inc. (MARELCO)
Applicant
Ihatub, Boac, Marinduque
2. Atty. Zenon S. Suarez
Counsel for Applicant SURNECO
Rm. 506 Web-Jet Bldg., 64 Quezon Ave., cor. MBA St., Quezon City
3. Office of the Mayor
Boac, Marinduque
4. Office of the LGU legislative body
Boac, Marinduque
5. Office of the Mayor
Buenavista, Marinduque
6. Office of the LGU legislative body
Buenavista, Marinduque
7. Office of the Mayor
Gasán, Marinduque
8. Office of the LGU legislative body
Gasán, Marinduque
9. Office of the Mayor
Mogpog, Marinduque

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10. Office of the LGU legislative body
Mogpog, Marinduque
11. Office of the Mayor
Sta. Cruz, Marinduque
12. Office of the LGU legislative body
Sta. Cruz, Marinduque
13. Office of the Mayor
Torrijos, Marinduque
14. Office of the LGU legislative body
Torrijos, Marinduque
15. Office of the Governor
Province of Marinduque
16. Office of the LGU legislative body
Province of Marinduque
17. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
18. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
19. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
20. House Committee on Energy
Batasan Hills, Quezon City
21. 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
22. Regulatory Operations Service (ROS)
[Investigation and Enforcement Division (IED)]
17th Floor, Pacific Center Bldg., San Miguel Ave., Pasig City

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