

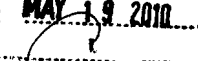
Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
APPLICATION FOR APPROVAL OF
FORCE MAJEURE PROJECT DUE
TO TYPHOON *PEPENG***

ERC CASE NO. 2010-010 RC

**CAGAYAN I ELECTRIC
COOPERATIVE, INC. (CAGELCO I),
Applicant.**

x-----x

D O C K E T E D
Date: **MAY 19 2010**
By: 

DECISION

Before the Commission for resolution is the application filed on January 28, 2010 by Cagayan I Electric Cooperative, Inc. (CAGELCO I) for approval of *Force Majeure* Project due to Typhoon Pepeng.

Having found said application sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated February 25, 2010, were issued setting the case for initial hearing on March 25, 2010.

In the same Order, CAGELCO I was directed to cause the publication of the Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. It was 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 hearings thereon.



The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and the Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the initial hearing.

Likewise, the Offices of the Mayors of the City and Municipalities within CAGELCO I's franchise area were furnished with copies of the Order and Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

On March 19, 2010, CAGELCO I filed its "*Pre-Trial Brief*".

On March 25 to 26, 2010 the Commission conducted an ocular inspection on CAGELCO I's assets subject of the instant application.

During the March 25, 2010 initial hearing, only CAGELCO I appeared. No intervenor/oppositor appeared nor was there any intervention/opposition registered.

At the said hearing, CAGELCO I presented its proofs of compliance with the Commission's posting and publication of notice requirements which were duly marked as Exhibits "A" to "B-15", inclusive. Thereafter, it conducted an expository presentation of its application.



At the termination of the expository presentation, CAGELCO I presented the following witnesses: 1) Engr. Gregorio P. Mappatao, Jr., its Officer-In-Charge of the Technical Services Department, who testified, among others, on the extent of the damage to the distribution system brought about by Typhoon Pepeng, the total cost of the damage, the number of customers which suffered power interruption, the repairs immediately undertaken to restore power to the devastated areas and the funding of the project; and 2) Ms. Rosalinda C. Binarao, its Finance Manager, who testified, among others, on her participation in obtaining a calamity loan with the National Electrification Administration (NEA) which is payable over a period of seven (7) years and three (3) months at an interest rate of nine percent (9%) per annum with a one (1) year grace period.

In the course of their direct examinations, additional documents were presented and duly marked as exhibits. The direct examinations having been terminated, the Commission propounded clarificatory questions on the said witnesses.

On March 30, 2010, CAGELCO I filed its "*Formal Offer of Evidence*" which is hereby admitted for being relevant and material in the final resolution of this case.

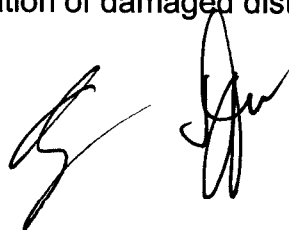
DISCUSSION

CAGELCO I sought the Commission's approval of the following project:

Repair and Restoration of Damaged Distribution Facility

a. Project Description:

- Repair and restoration of damaged distribution facilities



b. Rationale of the Project:

- To provide adequate, safe, efficient and reliable electric service

c. Project Cost:

PhP11,558,386.00

TECHNICAL ANALYSIS

CAGELCO I's proposed project involved the repair and restoration of its distribution line facility damaged by Typhoon Pepeng on October 3, 2009. The damaged facility consisted of wooden poles, cross-arms and distribution transformers toppled down due to strong winds and heavy rains. Some of the damaged distribution lines were replaced using a conductor with a larger cross-sectional area to increase the lines' *ampacity* to accommodate load growth.

Immediately after the typhoon, CAGELCO I commenced the repair of the damaged distribution facilities in order to prevent further outages. The immediate repair of its distribution system and restoration of electric power service have benefited its member-consumers.

Pursuant to Resolution No. 26, Series of 2009¹, CAGELCO I submitted its *Force Majeure Event Notice* to the Commission on December 29, 2009 as a result of the emergency capital expenditures. Subsequently, it filed the capital expenditure application within thirty (30) days as prescribed in the said Resolution.

¹ Resolution Amending the Rules for Approval of Regulated Entities' Capital Expenditure Projects



COST ANALYSIS

CAGELCO I applied for a calamity loan with the NEA in the amount of PhP11,558,386.00 to fund said *Force Majeure* capital projects. It plans to solicit a grant or subsidy from third party funders to pay off or buy down the calamity loan with NEA. If this plan does not materialize, CAGELCO I will settle its calamity loan by drawing from its Reinvestment Fund (now, Members' Contribution for CAPEX [MCC]).

The calamity loan is payable in seven (7) years with an interest rate of nine percent (9%) per annum and a grace period of one (1) year. The payment of the monthly amortization in the amount of PhP149,431.25 will commence on March 11, 2011. Further, CAGELCO I's RF/MCC as of December 2009 amounted to PhP50 Million, which is sufficient to cover the amortization for the calamity loan. Thus, the *Force Majeure* expenditure requires no adjustment on CAGELCO I's power rate.

A perusal of the evidence presented herein showed that the repair and restoration of CAGELCO I's distribution facilities redounded to the benefit of its consumers in terms of continuous, reliable and efficient power supply as mandated by Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 (Section 2. Declaration of Policy – (b) “to ensure the quality, reliability, security and affordability of the supply of electric power”).

WHEREFORE, the foregoing premises considered, the application filed by Cagayan I Electric Cooperative, Inc. (CAGELCO I) for approval of *Force Majeure* Project due to Typhoon Pepeng, is hereby **APPROVED**.



Relative thereto, CAGELCO I is hereby directed to pay a permit fee, within fifteen (15) days from receipt hereof, in the amount of **Eighty-Six Thousand Six Hundred Eighty-Eight Pesos (PhP86,688.00)**, computed as follows:

$$\begin{array}{r} \text{PhP11,558,386.00} \\ \hline \text{PhP100.00} \end{array} \times \text{PhP0.75} = \text{PhP86,688.00}$$

SO ORDERED.

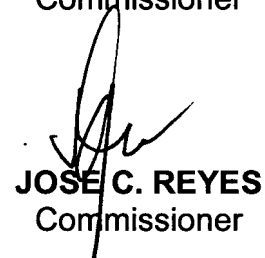
Pasig City, April 19, 2010.


ZENAIDA G. CRUZ-DUCUT
Chairperson *quarto*


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A. R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner

Copy Furnished:

1. **Atty. RANULFO M. CAMPO**
Counsel for CAGELCO I
8/F STRATA 100, F. Ortigas Jr., Road
Ortigas Center, Pasig City
2. **Mr. TITO R. LINGAN**
General Manager
Cagayan I Electric Cooperative, Inc. (CAGELCO I)
Maddarulug, Solana, Cagayan
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, Quirino City, Metro Manila
7. **Office of the City Mayor**
City of Tuguegarao
Province of Cagayan
8. **Office of the Municipal Mayor**
Municipality of Rizal
Province of Cagayan
9. **Office of the Municipal Mayor**
Municipality of Tuao
Province of Cagayan
10. **Office of the Municipal Mayor**
Municipality of Piat
Province of Cagayan
11. **Office of the Municipal Mayor**
Municipality of Sto. Niño
Province of Cagayan
12. **Office of the Municipal Mayor**
Municipality of Solana
Province of Cagayan
13. **Office of the Municipal Mayor**
Municipality of Enrile
Province of Cagayan

14. **Office of the Municipal Mayor**
Municipality of Peñablanca
Province of Cagayan
15. **Office of the Municipal Mayor**
Municipality of Iguig
Province of Cagayan
16. **Office of the Municipal Mayor**
Municipality of Amulung
Province of Cagayan
17. **Office of the Municipal Mayor**
Municipality of Alcala
Province of Cagayan
18. **Office of the Municipal Mayor**
Municipality of Baggao
Province of Cagayan