

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF
UNPLANNED CAPITAL
EXPENDITURE PROJECT
FOR THE CONSTRUCTION
OF OFFICE BUILDING
WITH APPLICATION FOR
AUTHORITY TO SECURE
LOAN FROM THE
NATIONAL
ELECTRIFICATION
ADMINISTRATION (NEA),
WITH PRAYER FOR THE
ISSUANCE OF
PROVISIONAL
AUTHORITY,**

ERC CASE NO. 2016-198 RC

**ZAMBOANGA DEL NORTE
ELECTRIC COOPERATIVE,
INC. (ZANECO),
Applicant.**

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DOCKETED
Date: FEB 14 2017
By: [Signature]

ORDER

On 15 December 2016, Zamboanga del Norte Electric Cooperative, Inc. (ZANECO) filed an application dated 8 December 2016 seeking the Commission's approval of unplanned capital expenditure project for the construction of office building with application for authority to secure loan from the National Electrification Administration (NEA), with prayer for the issuance of provisional authority.

ZANECO alleged the following in its Application:

1. Applicant ZANECO is an Electric Cooperative created and existing pursuant to the provisions of Presidential Decree

No. 269 as amended, with principal office located at Dipolog City, Zamboanga del Norte represented herein by its General Manager, ADELMO LAPUT, duly authorized by virtue of Resolution No. 180 Series of 2016 dated November 24, 2016 of the Board of Directors, copy of which is attached hereto as Annex "A" and made an integral part hereof.

The filing of the instant Application is likewise authorized under the aforesaid Board Resolution;

2. Applicant has been granted by the National Electrification Administration (NEA) an authority to operate and distribute electric light and power within the coverage area comprising the Cities of Dapitan and Dipolog, and the Municipalities of Rizal, Sibutad, La Libertad, Piñan, Mutia, Polanco, S. Osmeña, Katipunan, Roxas, Manukan, Jose Dalman, Sindangan, Siayan, Leon Postigo, Salug, Godod, Liloy, Labason, Gutalac, Tampilisan, and Kalawit, all in the Province of Zamboanga del Norte;

THE APPLICATION AND ITS PURPOSE

3. This Application is filed in compliance with ERC Resolution No. 26, Series of 2009, particularly under Article III, Section 3.5 thereof.

FACTUAL ANTECEDENTS

4. The building which currently houses the office of the Applicant was built way back in the year 1932. As it is now, the building through the years underwent several renovations and extensions in order to accommodate various offices, personnel and equipment, thus, overly burdening and further stressing the structural strength of the edifice;
5. When the building was inspected by the Office of the Building Official (OBO for brevity) of Dipolog City, it was found that the building is no longer safe for occupancy and needs to be demolished being categorized as ruinous pursuant to the provisions of the National Building Code of the Philippines. Copy of the Certification hereto attached as **Annex "B"**;
6. Such findings of the OBO is unprecedented but needs to be complied in order to prevent loss of lives and injuries, not to mention damages to properties in the eventuality of collapse or any serious untoward incidents occurring;
7. Finding the situation serious, the management, upon its recommendation to the Board of Directors, deemed it appropriate to demolish the building and construct a new and safer edifice not only for the safety of the personnel working thereat, but the transacting public and the members-consumer as well;

8. The unexpected findings of the OBO was received just recently, thus, the necessity for the construction of a new office building was not included in the regular CAPEX for the years 2016-2018 filed on February 23, 2016;
9. The need to demolish the current edifice to comply with the findings of the OBO and the construction of a new office was approved by the Board of Directors through Resolution No. 126, Series of 2016, dated August 23, 2016, copy of which is attached hereto as **Annex "C"**;
10. **PROPOSED UNPLANNED CAPEX PROJECT**

Project Title	Construction of New Building for ZANECO Main Office
Project Description	This project involves the design, planning and construction of a new building for ZANECO Main Office to eliminate the danger posed by its already dilapidated office building.
Justifications and Benefits to be Delivered	<p>The building utilized as the main office of ZANECO was constructed sometime in the year 1932 when it was originally built by the Visayan Electric Company. To date, ZANECO has been using the 84-year old building as its main office and where the member-consumers go to transact with the Cooperative and for the payment of electricity bills, among others.</p> <p>The age of the building have adversely affected the foundations of the building since the continuing pressure will spread the soil compaction downward making it denser over time. Thus, there is a tendency that the foundation will sink lower over time and this is not impossible to happen in the foundation of the ZANECO building.</p> <p>ZANECO has been doing its very best to give its member-consumers the best service they deserve. However, one of the things that hindered this is the condition of its main office.</p> <p>The Commission's approval to this application would help ZANECO give its member-consumers the best customer service they deserve. This is simply because the management believes that a good office/building can fundamentally</p>

	<p>support, as well as enhance the cooperative in many ways.</p> <p>In order for a company to give its best to its stakeholders, the employees must be comfortable and satisfied with their workplace. They would be able to do their jobs more efficiently when they feel they are safe and secured in their workplace. When they feel safe and secured, they will be able to give their best service to their clients.</p> <p>Therefore, the construction of the new office building does not only benefit ZANECO but also to the best interest and safety of the member-consumers as well.</p>
Estimated Project Cost	Php138,975,540.00
Project Schedule	Year 2017
Annexes	<p>Annex D : Unplanned CAPEX Plan</p> <p>Annex E : Photos of the Existing ZANECO Main Office</p> <p>Annex F : Architectural Plan of the New ZANECO Office Building</p> <p>Annex G : Financial Analysis</p>

PROJECT FINANCING PLAN

11. In the implementation of the proposed project, the Applicant shall source the funds through a loan with the National Electrification Administration (NEA), duly approved by the Board of Directors in the aforementioned Board Resolution. Thus, a parallel Application for the grant of authority to secure loan with the aforesaid government agency is incorporated herein.

Fund Source	Total Project Cost (PHP)
NEA	138,975,540.00

12. Shown further is the simulation of the Applicant as to the indicative rate impact on the existing RFSC rate of ZANECO with the implementation of the proposed capital project, to wit:

PARTICULARS	Unit	2016	2017	2018	2019	2020	TOTAL
Cash balance, beginning, excess/(shortfall)	PHP	39,634,481.34	80,561,164.73	(33,239,298.17)	(120,054,796.62)	(220,609,632.07)	-
kilowatt-hour Sales	kWh	181,994,268	193,643,182	206,452,946	220,539,645	236,019,366	1,038,649,406
CASH INFLOWS							
RFSC collected funds @ 0.2904 PHP/kWh	PHP	52,851,135.39	56,233,979.92	59,953,935.44	64,044,713.03	68,540,023.81	301,623,787.59
Income from leased properties (50%)	PHP						
Gov't. Subsidy	PHP						
Income from disposal of scrapped materials	PHP						
Loan Proceeds from NEA (Regular Capex)	PHP		339,564,504.54	139,597,653.78	97,076,844.65		576,239,002.97
Loan Proceeds from NEA (Unplanned Capex)	PHP		138,975,540.00				138,975,540.00
Loan Proceeds from Bank	PHP						
Loan Proceeds from NEA (Remaining Approved 5-year & Unplanned Capex)	PHP		118,213,500.00				118,213,500.00
Total Cash Inflows	PHP	52,851,135.39	652,987,524.47	199,551,589.21	161,121,557.68	68,540,023.81	1,135,051,830.55
Available Cash for Disbursement	PHP	92,485,616.73	733,548,689.19	166,312,291.05	41,066,761.06	(152,069,608.26)	1,135,051,830.55
CASH OUTFLOWS							
Capex Requirements	PHP		512,783,538.72	140,597,653.78	101,076,844.65		754,458,037.15
Capex Requirements (Remaining Approved 5-year & Unplanned Capex)	PHP		118,213,500.00				118,213,500.00
Rural Electrification Projects	PHP						
Amortizations of existing loans	PHP	11,924,452.00	20,906,691.57	11,924,452.00	11,924,450.00	6,690,764.00	63,370,809.57
Amortization of new loans (Remaining Approved 5-year & Unplanned Capex)	PHP		18,052,189.56	18,052,189.56	18,052,189.56	18,052,189.56	72,208,758.24
Amortizations of new loans (Regular Capex)	PHP		71,763,304.04	93,515,423.00	108,641,945.66	108,641,945.66	382,562,618.36
Amortizations of new loans (Unplanned Capex)	PHP		21,222,886.93	21,222,886.93	21,222,886.93	21,222,886.93	84,891,547.71
ERC Permit Fee	PHP		3,845,876.54	1,054,482.40	758,076.33		5,658,435.28
Total Cash Outflows	PHP	11,924,452.00	766,787,987.36	286,367,087.67	261,676,393.13	154,607,786.15	1,481,363,706.30
Cash balance, ending, excess/(shortfall)	PHP	80,561,164.73	(33,239,298.17)	(120,054,796.62)	(220,609,632.07)	(306,677,394.41)	(346,311,875.75)
Excess/(shortfall) on RFSC	PHP/kWh	0.4427	(0.1717)	(0.5815)	(1.0003)	(1.2994)	(0.3334)

**APPLICATION FOR AUTHORITY TO SECURE LOAN
WITH THE NATIONAL ELECTRIFICATION
ADMINISTRATION (NEA)**

13. That, Applicant reiterates and incorporate the foregoing allegations in support of its Application for Authority To Secure Loan with the National Electrification Administration (NEA for brevity) and further allege:
14. That the need of immediate implementation of the foregoing Unplanned Capital Expenditure Project is imperative to ensure safety and as remedial measure resulting from the findings and observation of the Office of the Building Official on the ruinous state and unsafe office building;
15. That, unfortunately however, a setback in the implementation of the Project is foreseen by Applicant due to insufficiency of funds. While Applicant has internally generated funds, same is insufficient and needs to be

augmented by a loan through NEA's lending program, designed to assist the electric cooperatives; hence, to apply for an authority to secure loan from the Commission is deemed prudent, necessary and consistent with Section 20 of Commonwealth Act No. 146, otherwise known as the Public Service Act, which for ready reference is hereunder quoted as follows:

"Sec. 20. Acts requiring the Approval of the Commission.-

Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or owner, lessee or operator thereof, without approval and authorization of the Commission previously had-

(e) Hereafter x x x to issue any bonds or other evidence of indebtedness payable in more than one year from the issuance thereof x x x.

APPLICATION FOR PROVISIONAL AUTHORITY

16. Applicant reiterates and incorporate the foregoing allegations in support of its application for issuance of provisional authority and further allege:
17. The unplanned capital project subject herein needs urgent and immediate implementation, not only in compliance with the order of the duly constituted authorities tasked to implement pertinent laws on the matter, but likewise to prevent/avoid the occurrence of untoward incidents which may result in unnecessary loss of lives and injuries as well as damage to properties.
18. Considering the length of time to resolve the instant Application, it being not the only application to be resolved by the Commission, it is only appropriate, justifiable and reasonable that a provisional authority to immediately implement the project be granted;

COMPLIANCE WITH PRE-FILING REQUIREMENTS

19. In compliance with Section 2, Rule 6 of the ERC Rules of Practice and Procedure, copies of this Application together with all its annexes and accompanying documents had been furnished by Applicant the Legislative Body of the city of Dipolog, Zamboanga del Norte where Applicant principally operates and the Legislative Body of the Province of Zamboanga del Norte. Likewise the Application was

published in a newspaper of general circulation within the franchise area of the Applicant;

20. As proof of compliance of the service of the copies of the Application together with all its annexes and accompanying documents to the aforementioned legislative bodies, and its publication in the newspaper of general circulation within the franchise of the Applicant, are the Certifications and/or Acknowledgement of Receipt issued by the Authorized Representatives of the Local Government Units concerned as **Annexes "H" and "I"** respectively. Likewise attached hereto as **Annexes "J" and "K"** are the Affidavit of Publication executed by the authorized representative and the complete issue of the said newspaper, containing the published Application;
21. Moreover, prior to the filing of this Application, a pre-filing conference with the concerned staff of the Commission was conducted pursuant to Section 4 of Rule 6, and for purposes of determining completeness of the supporting documents attached to the Application.

PRAYER

WHEREFORE, foregoing considered, Applicant respectfully prays that the Honorable Commission after due hearing and evaluation of the Application, an Order be issued:

1. Approving the unplanned capital expenditure project subject herein;
2. Pending hearing of the application, a provisional authority be issued allowing ZANECO to immediately implement the Project in compliance with the findings of the OBO in order to prevent/avoid the occurrence of untoward incidents which may result in unnecessary loss of lives and injuries as well as damage to properties.
3. Granting Applicant an Authority to Secure Loan from the National Electrification Administration (NEA) in the amount of One Hundred Thirty Eight Million Nine Hundred Seventy Five Thousand Five Hundred Forty Pesos (Php138,975,540.00) for the Capital Expenditure Project herein applied **or** upon the discretion of the Honorable Commission, allow Applicant to source the fund from other banks which offer better loan terms and conditions for the benefit of herein Applicant and its consumer-members.
4. Finally, upon approval of the application, ZANECO be allowed to pass on to, and recover from its consumer the cost of expenses in the implementation of the foregoing Unplanned Capital Expenditure Project.

Applicant further prays for such other reliefs just, equitable and consistent with law and pertinent rules and regulations.

Respectfully submitted.

Finding the said Application sufficient in substance with the required fees having been paid, the instant Application is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **23 March 2017 (Thursday) at one o'clock in the afternoon (1:00 P.M.) at ZANECO's principal office in Dipolog City, Zamboanga del Norte.**

Accordingly, ZANECO 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 their 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*, 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 therefor, 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 ZANECO 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 ZANECO 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.

ZANECO must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium it they 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, 3 February 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO,

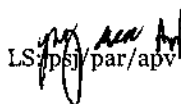
ERC



Office of the Chairman and CEO



B-2017-013-OC-00108


LS/psj/par/apv

Copy furnished:

1. **A.C. Gaviola Law Office**
Counsel for Applicant ZANECO
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3rd Ave., North Reclamation Area, Cebu City
2. **Zamboanga del Norte Electric Cooperative, Inc. (ZANECO)**
Applicant
Dipolog City, Zamboanga del Norte
3. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
Makati City 1229
4. **Commission on Audit**
Commonwealth Avenue, Quezon City 1121
5. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard, Pasay City 1308
6. **House Committee on Energy**
Batasan Hills, Quezon City 1126
7. **Office of the Provincial Governor**
Province of Zamboanga del Norte
8. **Office of the LGU Legislative Body**
Province of Zamboanga del Norte
9. **Office of the City Mayor**
Dapitan City, Zamboanga del Norte
10. **Office of the LGU Legislative Body**
Dapitan City, Zamboanga del Norte
11. **Office of the City Mayor**
Dipolog City, Zamboanga del Norte
12. **Office of the LGU Legislative Body**
Dipolog City, Zamboanga del Norte
13. **Office of the Municipal Mayor**
Rizal, Zamboanga del Norte
14. **Office of the LGU Legislative Body**
Rizal, Zamboanga del Norte
15. **Office of the Municipal Mayor**
Sibutad, Zamboanga del Norte
16. **Office of the LGU Legislative Body**
Sibutad, Zamboanga del Norte
17. **Office of the Municipal Mayor**
La Libertad, Zamboanga del Norte
18. **Office of the LGU Legislative Body**
La Libertad, Zamboanga del Norte

19. **Office of the Municipal Mayor**
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20. **Office of the LGU Legislative Body**
Piñan, Zamboanga del Norte
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Polanco, Zamboanga del Norte
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Siayan, Zamboanga del Norte
38. **Office of the LGU Legislative Body**
Siayan, Zamboanga del Norte

39. **Office of the Municipal Mayor**
Leon Postigo, Zamboanga del Norte
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41. **Office of the Municipal Mayor**
Salug, Zamboanga del Norte
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53. **Office of the Municipal Mayor**
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55. **Regulatory Operations Service**
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17th Floor, Pacific Center Building,
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