

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF RECOVERY
OF FRANCHISE TAX
PAYMENTS TO THE
PROVINCE OF CAMARINES
SUR FOR ASSESSMENT
YEARS 2007 TO 2010 AND
2012 TO 2016**

ERC CASE NO. 2017-071 CF

**CAMARINES SUR I
ELECTRIC COOPERATIVE,
INC. (CASURECO I),
Applicant.**

X-----X

D O C K E T E D
Date: APR 19 2018
By: [Signature]

ORDER

On 15 December 2017, an *Application* dated 25 September 2017 was filed by applicant Camarines Sur I Electric Cooperative, Inc. (CASURECO I) seeking the Commission's approval of the recovery of its franchise tax payments to the Province of Camarines Sur for assessment years 2007 to 2010 and 2012 to 2016.

CASURECO I alleged the following in its *Application*:

THE APPLICANT

1. CASURECO 1 is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of Philippine laws, with principal office at Puro-batia, Libmanan, Camarines Sur;

2. It holds an exclusive franchise from the National Electrification Commission to operate an electric light and power distribution service in certain municipalities of the province of Camarines Sur, namely: Cabusao, Camaligan, Gainza, Libmanan, Lupi, Pamplona, Pasacao, Ragay, San Fernando and Sipocot.

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NATURE OF THE APPLICATION

3. Pursuant to ERC Resolution No. 02, Series of 2006 and ERC Resolution No. 16, Series of 2009, this application is being submitted for review and approval of the Honorable Commission of CASURECO 1's proposed recovery of payments of franchise tax to the Province of Camarines Sur.

STATEMENT OF FACTS

4. Provincial Tax Ordinance No. 30, Series of 1992 entitled "*An Ordinance Enacting the Provincial Tax Code of 1992 of the Province of Camarines Sur*" provides in part, as follows:

"Article III
FRANCHISE TAX

Section 11. Franchise Tax. There is hereby imposed on businesses enjoying franchise a tax of fifty percent (50%) of one percent (1%) of the gross annual receipts from the preceding calendar year realized within the territorial jurisdiction of the Province of Camarines Sur. (Section 137, R.A. 7160)"

5. By virtue of said tax ordinance, the Province of Camarines Sur issued assessments to CASURECO I in 2007 to 2010 and 2012 to 2016 respectively, for the payment of franchise tax based on its gross receipts from the preceding calendar year, which CASURECO I paid, as summarized below, to wit:

Assess-ment Year	Distribution Revenue from Preceding Year	Franchise Tax Rate	Franchise Tax Assessed			Franchise Tax Paid (Surcharge & Interest were waived)	Principal Franchise Tax Paid and to be recovered
			Principal	25% Surcharge	Interest		
2007-2010	185,101,680.71	50% of 1%	514,171.20	128,542.8	228,520.47	514,171.20	514,171.20
2012	70,486,521.35		352,432.61			352,432.61	352,432.61
2013	70,816,374.32		354,081.87			354,081.87	354,081.87
2014	77,812,053.39		389,060.27			389,060.27	389,060.27
2015	91,398,408.12		456,992.04			456,992.04	456,992.04
2016	44,566,961.07		222,834.81			222,834.81	222,834.81
TOTAL	540,181,998.96			2,289,572.80	128,542.80	228,520.47	2,289,572.80

6. With respect to the franchise tax assessments for years 2007 to 2010, the total amount was PhP925,508.40. It is being paid by CASURECO I to the Province of Camarines Sur in installments over a period of thirty six (36) months at PhP25,708.56 per month, starting August 2012 and until April 2015. CASURECO I already recovered the payments from August 2012 to August 2013 through its previously approved application docketed as ERC Case No. 2013-040 CF. It is recovering in the instant application the

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remaining payments made from September 2013 to April 2015, in the total amount of PhP514,171.20.

On the other hand, the franchise tax payment for 2011 was also recovered through ERC Case No. 2013-040 CF.

PROPOSED RECOVERY

7. With the foregoing franchise tax payments made to the Province of Camarines Sur, CASURECO I now seeks approval from this Honorable Commission to recover from all its customers in its franchise area the total amount of PhP2,289,572.80 representing the principal amounts of the franchise taxes paid during the covered period and excluding surcharges and interests, applying the formula provided under ERC Resolution No. 16, Series of 2009;

8. Based on CASURECO I's forecasted kWh sales for the months of January to June 2017 with a total of 34,129,531.02 kWh, the cooperative proposes to recover from all its customers the franchise taxes paid to the Province of Camarines Sur in the total amount of PhP2,289,572.80, over a period of six (6) months or until the said amount is fully recovered, at the rate of PhP0.3612/kWh.

SUBMISSION OF SUPPORTING DOCUMENTS

9. In support of this application, CASURECO I is submitting herewith the following documents which are being made integral parts hereof, to wit:

Annex	Nature of Document
A	Provincial Tax Ordinance No. 30, Series of 1992
B	Camarines Sur Provincial Treasurer's Franchise Assessments for 2007-2010
C C-1 to C-4	Camarines Sur Provincial Treasurer's Franchise Assessments for 2012-2015 Schedules of Gross Receipts for 2012-2015
D D-1	Camarines Sur Provincial Treasurer's Franchise Assessments for 2016 Schedule of Gross Receipts for 2016
E	Breakdown of Gross Receipts for 2007 to 2010; 2012-2016
F to F-15	Official Receipts for Franchise Tax Payments
G	Summary of Franchise Tax Payments
H H-1	Calculation of TRAC in PhP/kWh Proposed recovery period with projected kWh sales for the proposed

	recovery period
I	Projected MWH Sales Per Area
J	Tax Recovery Adjustment Charge for May 2017
K	Actual Distribution Revenue for May 2017

SUBMISSION OF PRE-FILING REQUIREMENTS

10. Finally, in compliance with the ERC Rules of Practice and Procedure, CASURECO I is further submitting herewith the following documents which are being made integral parts hereof, as follows, to wit:

Annex	Nature of Document
L and series	Proof of furnishing copies of the Application to the Sangguniang Bayan of Libmanan and Sangguniang Panlalawigan of Camarines Sur
M and series	Proof of publication of the Application in a newspaper in circulation in the franchise area of CASURECO I or where it principally operates, with Affidavit of Publication

PRAYER

WHEREFORE, premises considered, CASURECO I respectfully prays of this Honorable Commission that after due notice and hearing, it be authorized:

1) To recover from all its customers in its franchise area the franchise taxes paid to the Province of Camarines Sur in the total amount of PhP2,289,572.80 over a period of six (6) months or until said amount is fully recovered, at the rate of PhPo.3612/kWh; and

2) To include the amounts of recovery as separate Line Items in the electric bills to be issued to its customers.

Other reliefs, 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 one o'clock in the afternoon (1:00 P.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, CASURECO I 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, 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 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;

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

CASURECO I 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.

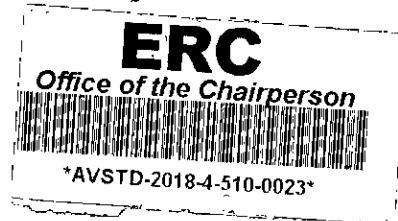
SO ORDERED.

Pasig City, 5 April 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS/SLAN/KTB/APV



COPY FURNISHED:

1. Camarines Sur I Electric Cooperative, Inc. (CASURECO I)
Applicant
Puro-batia, Libmanan, Camarines Sur
2. Atty. Jeremiah D. Francisco
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3. Office of the Mayor
Cabusao, Camarines Sur
4. Office of the LGU legislative body
Cabusao, Camarines Sur
5. Office of the Mayor
Camaligan, Camarines Sur
6. Office of the LGU legislative body
Camaligan, Camarines Sur
7. Office of the Mayor
Gainza, Camarines Sur
8. Office of the LGU legislative body
Gainza, Camarines Sur
9. Office of the Mayor
Libmanan, Camarines Sur
10. Office of the LGU legislative body
Libmanan, Camarines Sur
11. Office of the Mayor
Lupi, Camarines Sur
12. Office of the LGU legislative body
Lupi, Camarines Sur
13. Office of the Mayor
Pamplona, Camarines Sur

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14. Office of the LGU legislative body
Pamplona, Camarines Sur
15. Office of the Mayor
Pasacao, Camarines Sur
16. Office of the LGU legislative body
Pasacao, Camarines Sur
17. Office of the Mayor
Ragay, Camarines Sur
18. Office of the LGU legislative body
Ragay, Camarines Sur
19. Office of the Mayor
San Fernando, Camarines Sur
20. Office of the LGU legislative body
San Fernando, Camarines Sur
21. Office of the Mayor
Sipocot, Camarines Sur
22. Office of the LGU legislative body
Sipocot, Camarines Sur
23. Office of the Governor
Province of Camarines Sur
24. Office of the LGU legislative body
Province of Camarines Sur
25. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
26. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
27. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
28. House Committee on Energy
Batasan Hills, Quezon City
29. 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
30. Regulatory Operations Service (ROS)
[Investigation and Enforcement Division (IED)]
17th Floor, Pacific Center Bldg., San Miguel Ave., Pasig City

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