

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
RECOVERY OF FRANCHISE
PAYMENTS TO THE CITY OF
SURIGAO COVERING
YEARS 2013 TO 2015**

ERC CASE NO. 2015-038 CF

**SURIGAO DEL NORTE
ELECTRIC COOPERATIVE,
INC. (SURNECO),
Applicant.**

X-----X

D O C K E T E D
Date: APR 17 2018
By: [Signature]

ORDER

On 23 July 2015, an *Application* dated 8 July 2015 was filed by applicant Surigao del Norte Electric Cooperative, Inc. (SURNECO) seeking the Commission's approval of the recovery of its franchise payments to the City Government of Surigao covering years 2013 to 2015.

SURNECO alleged the following in its *Application*:

THE APPLICANT

1. SURNECO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of Philippine laws, with principal office address at Narciso corner Espina Sts., Surigao City, Surigao del Norte;
2. It holds an exclusive franchise issued by the National Electrification Commission to operate an electric light and power distribution service in Surigao City as well as certain municipalities in the province of Surigao del Norte, namely: Alegria, Bacuag, Claver, Gigaquit, Mainit, Malimono, Placer, San Francisco, Sison, Taganaan and Tubod;

NATURE OF THE APPLICATION

3. Pursuant to ERC Resolution No. 02, Series of 2006 and ERC Resolution No. 36, Series of 2006, this application is being submitted for review and approval of the Honorable Commission of

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SURNECO's proposed recovery of payments of franchise tax to the City of Surigao covering the years 2013, 2014 and 2015.

STATEMENT OF FACTS

4. The City Government of Surigao has levied, assessed and collected franchise tax on "every person, partnership or corporation enjoying a franchise to operate within the territorial jurisdiction of the City of Surigao" by virtue of its City Ordinance No. 12, Series of 1988, enacted on August 17, 1988. Said Ordinance imposes a franchise tax at the rate of three-fourths of one percent (3/4 of 1%) upon the franchisee's gross receipts for the next preceding fiscal year;

5. By virtue of said tax ordinance, the City of Surigao issued assessments to SURNECO for the payment of franchise tax based on gross receipts from previous year, which the latter religiously paid at the start of Year 2013, 2014 and 2015, respectively, as follows:

Year	Distribution Revenue from Preceding Year (PhP)	Franchise Tax Rate	Amount Paid (PhP)	Date Paid
2013	82,203,862.60	3/4 of 1%	616,528.96	January 17, 2013
2014	84,931,083.40	3/4 of 1%	636,983.12	January 16, 2014
2015	83,795,320.93	3/4 of 1%	628,464.92	January 16, 2015
Total	250,930,266.93		1,881,977.00	

PROPOSED RECOVERY

6. Having paid the franchise tax due for each corresponding year, SURNECO now seeks approval from this Honorable Commission to pass on to its customers in the City of Surigao the amounts of the franchise taxes paid, applying the formula provided under ERC Resolution No. 16, Series of 2009;

7. With respect to the franchise tax paid from 2013 to 2015, based on kWh sold in Year 2014, annual load growth of 4% and forecasted kWh sales of 37,849,620, SURNECO proposes to recover from its customers in Surigao City, the franchise taxes paid to the City of Surigao in the total amount of Php1,881,977.00 over a period of six (6) months or until the said amount is fully recovered, at the rate of PhPo.0497/kWh.

SUPPORTING DOCUMENTS

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

Annex	Nature of Document
A	Excerpt from Surigao City Ordinance No. 12, Series of 1988, enacted on August 17, 1988
B	Surigao City Treasurer's Tax Assessment which includes 2013 Franchise Tax computation
C	Surigao City Treasurer's Tax Assessment which includes 2014 Franchise Tax computation
D	Surigao City Treasurer's Tax Assessment which includes 2015 Franchise Tax computation
E	Official Receipt No. 6212668d dated January 17, 2013 representing payment of Franchise Tax of PhP616,528.96 for Year 2012
F	Official Receipt No. 6596310 dated January 16, 2014 representing payment of Franchise Tax of PhP636,983.12 for Year 2014
G	Official Receipt No. 6753983 dated January 16, 2015 representing payment of Franchise Tax of PhP628,464.92 for Year 2014
H to H-1	Calculations of TRAC for the years of 2013 to 2015 in PhP/kWh within the proposed recovery period and projected kWh sales for the recovery period
I	Actual revenue per customer class in Surigao City in Year 2012
J	Actual revenue per customer class in Surigao City in Year 2013
K	Actual revenue per customer class in Surigao City in Year 2014
L and series	Audited Financial Statements for the Years 2012-2014 (Revenue per customer class)

PRAYER

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

1) To recover from its customers in Surigao City the franchise taxes paid to the City of Surigao in Years 2013 to 2015 in the total amount of PhP1,881,977.00, over a period of six (6) months or until the said amount is fully recovered, at the rate of PhPo.0497/kWh.

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

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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 **16 May 2018 at ten o'clock in the morning (10:00 A.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, SURNECO 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, 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 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;
- 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.

SURNECO 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, 4 April 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: SLAN/KTB/APV



COPY FURNISHED:

1. Surigao del Norte Electric Cooperative, Inc. (SURNECO)
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3. Office of the Mayor
City of Surigao
4. Office of the LGU legislative body
City of Surigao
5. Office of the Mayor
Alegria, Surigao del Norte
6. Office of the LGU legislative body
Alegria, Surigao del Norte
7. Office of the Mayor
Bacuag, Surigao del Norte

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8. Office of the LGU legislative body
Bacuag, Surigao del Norte
9. Office of the Mayor
Claver, Surigao del Norte
10. Office of the LGU legislative body
Claver, Surigao del Norte
11. Office of the Mayor
Gigaquit, Surigao del Norte
12. Office of the LGU legislative body
Gigaquit, Surigao del Norte
13. Office of the Mayor
Mainit, Surigao del Norte
14. Office of the LGU legislative body
Mainit, Surigao del Norte
15. Office of the Mayor
Malimono, Surigao del Norte
16. Office of the LGU legislative body
Malimono, Surigao del Norte
17. Office of the Mayor
Placer, Surigao del Norte
18. Office of the LGU legislative body
Placer, Surigao del Norte
19. Office of the Mayor
San Francisco, Surigao del Norte
20. Office of the LGU legislative body
San Francisco, Surigao del Norte
21. Office of the Mayor
Sison, Surigao del Norte
22. Office of the LGU legislative body
Sison, Surigao del Norte
23. Office of the Mayor
Taganaan, Surigao del Norte
24. Office of the LGU legislative body
Taganaan, Surigao del Norte
25. Office of the Mayor
Tubod, Surigao del Norte
26. Office of the LGU legislative body
Tubod, Surigao del Norte
27. Office of the Governor
Province of Surigao del Norte
28. Office of the LGU legislative body
Province of Surigao del Norte
29. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
30. Commission on Audit (COA)
Commonwealth Avenue, Quezon City

31. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
32. House Committee on Energy
Batasan Hills, Quezon City
33. 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
34. Regulatory Operations Service (ROS)
[Investigation and Enforcement Division (IED)]
17th Floor, Pacific Center Bldg., San Miguel Ave., Pasig City