

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



**IN THE MATTER OF THE APPLICATION FOR CONFIRMATION AND APPROVAL OF FORCE MAJEURE EVENT CAPITAL EXPENDITURE PROJECT, RE: REPLACEMENT OF UTILIZED DISTRIBUTION LINE MATERIALS AND EQUIPMENT, SERVICE DROP WIRES AND KWH METERS; REPLACEMENT OF SF6 BREAKER, OFFICE FACILITIES, FURNITURE AND EQUIPMENT; AND CONSTRUCTION OF NEW MAIN OFFICE BUILDING DUE TO DAMAGE CAUSED BY TROPICAL DEPRESSION AURING AND 6.7 MAGNITUDE EARTHQUAKE**

**ERC CASE NO. 2018-095 RC**

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

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DOCKETED  
Date: NOV 21 2018  
By: [Signature]

**ORDER**

On 20 September 2018, the Surigao del Norte Electric Cooperative (SURNECO), Inc. filed an *Application* dated 10 August 2018, seeking for the confirmation and approval of force majeure event capital expenditure projects, replacement of utilized distribution line materials, equipment, service drop wires and kWh meters; replacement of sf6 breaker, office facilities, furniture and equipment; and construction of new main office building due to damage caused by Tropical Depression Auring and 6.7 magnitude earthquake.

In the said *Application*, SURNECO alleged, among others, the following:

1. It is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Narciso corner Espina Sts., Surigao City.
2. It holds an exclusive franchise from the National Electrification Commission (NEC), 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.

### **Legal Basis of the Application**

3. The instant force majeure capital expenditure (CAPEX) *Application* is being filed pursuant to Section 3.3 of ERC Resolution No. 26 Series of 2009, which provides that if a force majeure or fortuitous event, as the case may be, occurs, the regulated entity shall seek the Commission's confirmation of the implementation of capital expenditure projects arising from such event.

### **Force Majeure Events (Tropical Depression Auring and 6.7 Magnitude Earthquake)**

4. On 08 January 2017, Tropical Depression Auring made a landfall in the island of Siargao, Surigao del Norte. Storm Signal No. 1 was hoisted over several areas in Western and Southern Visayas, and the northeastern part of Mindanao which includes the Province of Surigao del Norte where SURNECO's franchise area is located. These areas affected by Typhoon Depression Auring experienced floods and landslides that caused damage to some of the distribution lines and other facilities of SURNECO in several barangays of Surigao City and some barangays in three (3) municipalities, namely: Placer, Tagana - an, and Malimono.
5. On 10 February 2017, following the disastrous Tropical Depression Auring, a magnitude 6.7 earthquake struck the Province of Surigao del Norte in Northeastern Mindanao and the entire Province of Surigao del Norte was declared under a state of calamity.
6. The total cost of damage from Tropical Depression Auring and the 6.7 magnitude earthquake on the distribution lines,

equipment and other facilities of SURNECO, including the construction of its new main office building is in the amount of Sixty-Five Million Seven Hundred Three Thousand Seven Hundred Sixty- Nine Pesos and 4/100 (PhP 65,703,769.04).

### **Description of the Project**

7. The force majeure CAPEX project subject of the instant application is for the immediate replacement of the distribution line materials and equipment as well as service drop wires, kWh meters and metering facilities utilized in the reconstruction, repair and rehabilitation of the damaged network assets, the procurement and installation of SF6 Breaker (primary protection) for the 10 MVA Tubod Substation, the replacement of damaged office facilities, furniture and equipment, and construction of new Main Office Building, as a result of the damage caused by Tropical Depression Auring and the 6.7 magnitude earthquake.

### **Project Cost**

8. The total cost of the project is Sixty-Five Million Seven Hundred Three Thousand Seven Hundred Sixty-Nine Pesos and 4/100 (PhP 65,703,769.04).

### **Project Schedule**

9. The restoration of SURNECO's facilities had already been completed and in this application, the cooperative only seeks the replacement of the distribution line materials and equipment as well as service drop wires, kWh meters and metering facilities utilized in the reconstruction, repair and rehabilitation of network assets.
10. With respect to the replacement of SF6 Breaker (Primary Protection) for the 10 MVA Tubod Substation damaged by the 6.7 magnitude earthquake, the works will take about 190 days.
11. The construction of the cooperative's new main office building as a result of the total damage caused by the 6.7 magnitude earthquake on the existing office building would take about 400 calendar days.

**Justifications or Benefits Delivered**

12. The project ensured power restoration in the entire coverage area of SURNECO and delivery of more reliable and efficient service to its consumers. It was also intended to restore the safety and protection of the cooperative's entire distribution system.

**Project Financing Plan**

13. The total cost of the project shall be funded partly through a Calamity Loan from the National Electrification Administration (NEA) and partly through loans from other financing institutions.

**Indicative Rate Impact**

14. There shall be no increase in the Reinvestment Fund for Sustainable Capital Expenditure (RFSC) Rate in the implementation of the force majeure CAPEX project. The table below shows the Cash Flow Analysis of the RFSC for years 2018 -2022, to wit:

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	2018	2019	2020	2021	2022	TOTAL
Forecasted Energy Sales, kWh	142,173,419	151,922,261	161,765,334	171,610,350	181,397,347	808,868,711
Cash Balance beginning, PhP, excess(shortfall)	48,688,252	62,022,125.58	73,290,445.77	89,075,958.79	109,369,154.83	382,445,937
<b>CASH INFLOWS</b>						
Project RFSE Revenue @0.2508PhP/kWh	35,657,093.49	38,102,103.06	40,570,745.77	43,039,875.78	45,494,454.63	202,864,272.72
Loan Proceeds from Financial Institutions, PhP		65,703,769.04				65,703,769.04
Government Subsidy						
Total Cash Inflows, PhP	35,657,093.49	103,805,872.10	40,570,745.77	43,039,875.78	45,494,454.63	268,568,041.76
Available Cash for Disbursement	84,345,345.64	165,827,997.68	113,861,191.54	132,115,834.57	154,863,609.46	651,013,978.88
<b>Cash Outflows</b>						
CAPEX requirement		65,703,769.04				65,703,769.04
Old Debt(old amortization)	22,323,220.05	21,195,452.58	20,432,270.00	18,393,716.98	12,527,006.62	94,871,666.22
Fortuitous CAPEX - NEA Calamity Fund 3.25%		1,814,617.13	1,814,617.13	1,814,617.13	1,814,617.13	7,258,468.54
Fortuitous CAPEX -DBP 5%		2,538,345.62	2,538,345.62	2,538,345.62	6,647,711.46	14,262,748.33
For registration of Loan Agreement		299,811.00				299,811.00
For Documentary Stamp Tax		492,778.27				492,778.27
ERC Permit Fee, PhP		492,778.27				492,778.27
Total Cash Outflows, PhP	22,323,220.05	92,537,551.91	24,785,232.75	22,746,679.74	20,989,335.22	183,382,019.66
Cash balance ending, PhP, excess/(shortfall)	62,022,125.58	73,290,445.77	89,075,958.79	109,369,154.83	133,874,274.24	467,631,959.22
Excess/(shortfall) on RFSC, PhP/kWh	0.44	0.48	0.55	0.64	0.74	0.58

### Submissions

15. Finally, in support of the instant application as well as compliance with the pre-filing requirements under the ERC Rules of Practice and Procedure, SURNECO submitted following documents which were made integral parts of the *Application*, as follows:

Annex Markings	Nature of Document
A	Notice of Force Majeure Event
B	Executive Summary of the Force Majeure Event Capital Expenditure Project
C and series	Proof of furnishing copies of the Application to the Sangguniang Panlungsod of Surigao City and the SangguniangPanlalawigan of Surigao del Norte
D and series	Proof of publication of the Application in a newspaper of general circulation within SURNECO's franchise area or where it principally operates.

16. SURNECO prayed that, after due notice and hearing, the Commission approves the following:
  1. The replacement of the cooperative's distribution line materials and equipment as well as service drop wires, kWh meters and metering facilities utilized in the reconstruction, repair and rehabilitation of network assets;
  2. The procurement and installation of SF6 Breaker (Primary Protection) for the 10 MVA Tubod Substation; the replacement of damaged office facilities, furniture and equipment; and
  3. Construction of Main Office Building, all undertaken in order to restore the damage caused to SURNECO by Tropical Depression Auring on 8 January 2017 and the 6.7 magnitude.

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 **24 January 2019 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at SURNECO's Principal's Office at Narciso corner Espina Street, Surigao City.**

Accordingly, SURNECO 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 its 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/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 the consumers within the affected franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, 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, SURNECO 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 were 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, LGU legislative body, or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicant to inform the consumers within the affected franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the OSG, 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

SURNECO 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 therefor; 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 SURNECO 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, 05 November 2018.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Commissioner*

LS: JMS/MCC/BSA/GLO



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Copy Furnished:

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3. Office of the Solicitor General  
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4. Commission on Audit  
Commonwealth Avenue, Quezon City
5. Senate Committee on Energy  
GSIS Bldg. Roxas Blvd., Pasay City
6. House Committee on Energy  
Batasan Hills, Quezon City
7. Philippine Chamber of Commerce and Industry (PCCI)  
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8. Office of the Governor  
Province of Surigao del Norte
9. Office of the LGU legislative body  
Province of Surigao del Norte
10. Office of the City Mayor  
Surigao City
11. Office of the Sangguniang Panlungsod  
Surigao City
12. Office of the Mayor  
Alegria, Surigao del Norte
13. Office of the LGU legislative body  
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Bacuag, Surigao del Norte
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16. Office of the Mayor  
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21. Office of the LGU legislative body  
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22. Office of the Mayor  
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24. Office of the Mayor  
Placer, Surigao del Norte
25. Office of the LGU legislative body  
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26. Office of the Mayor  
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27. Office of the LGU legislative body  
San Francisco, Surigao del Norte
28. Office of the City Mayor  
Sison, Surigao del Norte
29. Office of the LGU legislative body  
Sison, Surigao del Norte
30. Office of the City Mayor  
Taganaan, Surigao del Norte
31. Office of the LGU legislative body  
Taganaan, Surigao del Norte
32. Office of the Mayor  
Tubod, Surigao del Norte
33. Office of the LGU legislative body  
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34. Regulatory and Operations Service (ROS)  
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