

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF CAPITAL
EXPENDITURE PROJECTS
FOR CALENDAR YEAR 2018
AND VARIOUS PROJECTS UP
TO 2020, WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2018-122 RC

**COTABATO LIGHT AND
POWER COMPANY (CLPC),
Applicant.**

x -----x

Promulgated:
FEB 19 2019

ORDER

On 27 December 2018, Cotabato Light and Power Company (CLPC) filed an *Application* seeking the Commission's approval of its capital expenditure projects for the years 2018 to 2020, with prayer for the issuance of a provisional authority.

The pertinent provisions of the said *Application* are hereunder quoted as follows:

1. CLPC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at Sinsuat Avenue, Cotabato City. It is a grantee of a legislative franchise under Republic Act No. 10637, to construct, install, establish, operate and maintain a distribution system for the conveyance of electric power in Cotabato City, and portions of the municipalities of Sultan Kudarat and Datu Odin Sinsuat, Province of Maguindanao. It may be served with orders and other processes of the Honorable Commission through its undersigned counsel at the address indicated below.
2. Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 ("EPIRA"), under Section 23 thereof, obligates a distribution utility, such as CLPC, to provide distribution services and connections to its system for any

end-user within its franchise area consistent with the distribution code. Further, distribution utilities share in the objective of the EPIRA to ensure the quality, reliability, security and affordability of the supply of electric power.¹

3. For CLPC to pursue its mandate under its franchise and the EPIRA, it is necessary for CLPC to continuously invest in the improvement of its people, system and services to better serve its customers.
4. As such, CLPC, in accordance with Section 20 (b) of Commonwealth Act No. 146,² hereby applies for the approval of the Honorable Commission, to implement its Capital Expenditure Projects (“CAPEX”) for Calendar Year (“CY”) 2018 and various CAPEX up to CY 2020.
5. CLPC’s CAPEX program under this Application is categorized as follows:
 - A. Other Network
 - i. **Line Extension, Rehabilitation and Maintenance** - This category involves projects for CLPC’s Rural Electrification and upgrade of various distribution lines within the franchise area.
 - ii. **Residual CAPEX** – This category involves the upgrading and replacement of various distribution assets such as distribution lines, line devices, distribution transformers, poles, towers, and fixtures. This category also includes the purchase and installation of new meters, instruments and metering transformers, as well as purchase and installation of new streetlights and maintenance of current ones.
 - iii. **Upgrading of SCADA Hardware and Software** – This involves the upgrade of CLPC’s SCADA software and hardware.
 - iv. **Elevated Meter Center** – This involves the installation of new elevated meter centers (EMC) and rehabilitation of current EMCs within the franchise area.
 - v. **Rehabilitation Project** – This involves the rehabilitation and maintenance upgrade of several substations within the franchise area.
 - B. Non-Network
 - i. **Telecommunications** – This involves the acquisition of several communications equipment.

¹ Section 2 (b) of the EPIRA;

² Otherwise known as the Public Service Act.

- ii. **Tools and Work Equipment** – This involves the acquisition, replacement, repair and maintenance of various tools and equipment.
- iii. **Transportation** – This involves the acquisition of a new mini bucket truck, forklift and a transport vehicle.
- iv. **Building Improvements** – This involves the various building improvements, and acquisition of office furniture and equipment.
- v. **Computer Equipment** – This involves the acquisition of new computers and accessories, as well as upgrade of computer software.

6. The total estimated cost of CLPC's CAPEX under this Application is Php 140,415,492.34 broken down as follows:

Project Summary	
OTHER NETWORK	
Line Extension, Rehabilitation and Maintenance	
Rural Electrification Project and Distribution Lines Upgrade	35,181,890.51
Residual Capex	
Poles, Towers, and Fixtures	7,045,806.33
Overhead Conductors and Devices	7,248,652.63
Line Transformers	12,842,789.92
Meters, Instruments, and Metering Transformers	7,507,571.95
Streetlights and Signal Systems	2,864,271.54
Upgrading of SCADA Software and Hardware	1,931,000.00
Elevated Meter Center	16,855,568.37
Rehabilitation Project	8,186,701.00
NON-NETWORK	
Telecommunications	128,000.00
Tools and Work Equipment	8,173,420.09
Transportation	8,400,000.00
Building Improvements	11,047,829.00
Computer Equipment	13,001,991.00

- 7. The detailed justification, technical analysis, and economic analysis, as applicable, for CLPC's CAPEX under the instant Application are discussed in detail in **Annex "A"** of this Application.
- 8. The proposed CAPEX will not have a direct impact on the current rates of CLPC until approved by the Honorable Commission, as part of CLPC's Regulatory Asset Base, in the next applicable Regulatory Period.
- 9. Applicant undertakes to comply with the pre-filing requirements under Rule 3, Section 4(e) of the EPIRA IRR, as amended.

**ALLEGATIONS IN SUPPORT OF THE PRAYER
FOR PROVISIONAL AUTHORITY**

10. Public interest and necessity require the immediate implementation of the subject CAPEX projects. Most of CLPC's load centers are exceeding load limits and there is a need to upgrade various parts of the network in order to mitigate overloading and avoid breakdown of equipment. Furthermore, various projects are necessary for CLPC to accommodate new customer applications, as well as for CLPC to continue to effectively serve its existing customers. In the event that the various CAPEX projects are not immediately implemented, certain facilities of CLPC will be rendered obsolete, which may then lead to power interruptions or delay in accommodating the additional load coming from existing and new customers. These negative consequences, which are detrimental to the livelihood and everyday lives of CLPC's customers, may be tempered by the immediate approval of the instant CAPEX projects.
11. Thus, pending final approval, there is an urgent need for a provisional authority for CLPC to immediately implement its proposed CAPEX projects. In support of the prayer for the grant of the provisional authority, attached as **Annex "B"** is the Judicial Affidavit of Mr. Francis Per Miñoza, Officer-in-Charge of the Engineering Group of CLPC.
12. The foregoing CAPEX projects are indispensable for the systematic and economic expansion and rehabilitation of CLPC's distribution facilities and ensuring compliance with safety, performance and regulatory requirements. The benefits arising from these CAPEX projects will ultimately redound to the end-consumers of CLPC because these projects ensure continuous, reliable and efficient power supply.
13. CLPC prays of this Commission that, after due notice and hearing:
 - a. Approve the proposed Capital Expenditure Projects; and
 - b. Pending trial on the merits, issue an Order granting Provisional Authority authorizing CLPC to implement its proposed Capital Expenditure Projects.

Other reliefs just and equitable under the premises are likewise prayed for.

Finding the said *Application* sufficient in form and in substance, with the required fees having been paid, the same was set for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 13 March 2019 (Wednesday) at ten

o'clock in the morning (10:00 A.M.) at CLPC's Main Office in Sinsuat Ave., Cotabato City.

On 11 February 2019, CLPC filed a *Motion to Change Venue and Reset Hearing* (Motion) stating that Cotabato City and the rest of Maguindanao are currently on heightened security alert due to threats of attacks by a lawless group.

In view thereof and taking into consideration the safety of the public, the said *Motion* is hereby GRANTED. Thus, the instant *Application* is hereby set for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on **27 March 2019 (Wednesday) at ten o'clock in the morning (10:00 A.M.) at the ERC Mindanao Field Office, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City.**

Accordingly, CLPC is hereby directed anew 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 Governor, 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, CLPC 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 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 CLPC 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 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
- 6) Such other proofs of compliance with the requirements of the Commission.

CLPC 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:

- (a) A summary of admitted facts and proposed stipulation of facts;

- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form, to be attached to the Pre-trial Brief.

Failure of CLPC 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.


CLPC 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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

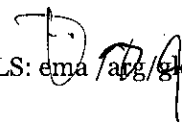
SO ORDERED.

Pasig City, 18 February 2019.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT

Commissioner 


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Copy furnished:

1. Attys. Paul Soriano, et. al.
Counsels for CLPC
16/F, NAC Tower
32nd St., Bonifacio Global City, Taguig City

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2. Cotabato Light & Power Co.
Sinsuat Ave., Cotabato City
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
4. Commission on Audit
Commonwealth Ave., Quezon City
5. The Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
6. The House Committee on Energy
Batasan Hills, Quezon City
7. Office of the City Mayor
Cotabato City
8. Office of the LGU Legislative Body
Cotabato City
9. Office of the Municipal Mayor
Sultan Kudarat, Maguindanao
10. Office of the LGU Legislative Body
Sultan Kudarat, Maguindanao
11. Office of the Municipal Mayor
Datu Odin Sinsuat, Maguindanao
12. Office of the LGU Legislative Body
Datu Odin Sinsuat, Maguindanao
13. Office of the Provincial Governor
Province of Maguindanao
14. Office of the LGU Legislative Body
Province of Maguindanao
15. National Grid Corporation of the Philippines (NGCP)
Quezon Avenue corner BIR Road, Diliman, Quezon City
16. ERC-Regulatory Operations Service
17/F Pacific Center Bldg., San Miguel Ave.
Ortigas, Pasig City