

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



**IN THE MATTER OF THE
APPLICATION FOR THE
ISSUANCE OF A
CERTIFICATE OF PUBLIC
CONVENIENCE AND
NECESSITY FOR THE
OPERATION OF THE
ELECTRIC DISTRIBUTION
SYSTEM FOR ILOILO CITY,
WITH A PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2018-019 MC

**MORE ELECTRIC AND
POWER CORPORATION,**

Applicant.

X-----X

Promulgated:

FEB 21 2019

ORDER

On 27 December 2018, the MORE Electric and Power Corporation (MORE) filed an *Application* dated 19 December 2018, seeking for the issuance of a Certificate of Public Convenience and Necessity (CPCN) for the operation of the electric distribution system for Iloilo City, with a prayer for provisional authority.

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

1. MORE is a Filipino corporation duly organized and existing under Philippine laws with principal office address at Unit 3304-B West Tower, Tektite Towers, Exchange Road, Ortigas Center, Pasig City, Metro Manila, Philippines. It may be served with process and papers through the undersigned counsel.
2. MORE currently has an office located at the GST Corporate Center, Quezon Street, Brgy. Sampaguita, Iloilo City, Province of Iloilo 5000.
3. On 11 December 2018, the Board of Directors and the Shareholders of MORE approved the amendment of the Articles of Incorporation to change the principal office of

MORE to GST Corporate Center, Quezon Street, Brgy. Sampaguita, Iloilo City, Province of Iloilo 5000.

4. MORE is in the process of securing a 25-year legislative franchise to construct, maintain, and operate an electric light, heat and power system in the City of Iloilo, Island of Panay. The House of Representatives passed House Bill No. 8302 entitled: "AN ACT GRANTING MORE ELECTRIC AND POWER CORPORATION A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN, FOR COMMERCIAL PURPOSES AND IN THE PUBLIC INTEREST, A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN ILOILO CITY, PROVINCE OF ILOILO." This approved House Bill was then transmitted to the Philippine Senate last 08 October 2018.
5. On 26 November 2018 the Philippine Senate passed an amended version of House Bill No. 8302 entitled: "AN ACT GRANTING MORE ELECTRIC AND POWER CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN, FOR COMMERCIAL PURPOSES AND IN THE PUBLIC INTEREST, A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE CITY OF ILOILO, PROVINCE OF ILOILO AND TO ENSURE CONTINUITY AND UNINTERRUPTED SUPPLY OF ELECTRICITY AND SIMILAR PUBLIC SERVICES IN THE SAID AREA."
6. On 5 December 2018 the Bicameral Conference Committee adopted a reconciled version of the House of Representatives and Philippine Senate versions of House Bill No. 8302 which was now entitled: "AN ACT GRANTING MORE ELECTRIC AND POWER CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN, FOR COMMERCIAL PURPOSES AND IN THE PUBLIC INTEREST, A DISTRIBUTION SYSTEM FOR THE CONVEYANCE OF ELECTRIC POWER TO THE END USERS IN THE CITY OF ILOILO, PROVINCE OF ILOILO, AND ENSURING CONTINUOUS AND UNINTERRUPTED SUPPLY OF ELECTRICITY IN THE FRANCHISE AREA." This reconciled version was subsequently ratified by the Philippine Senate and the House of Representatives on 11 December 2018.
7. Pursuant to Section 1(a)(1) of Resolution No. 5 Series of 2008 entitled: "A Resolution Adopting the Rules to Govern the Issuance of Certificate of Public Convenience and Necessity (CPCN) to Entities Engaged in the Transmission and Distribution of Electricity", the application for the grant of a CPCN may be filed prior to the grant of the franchise to operate a distribution system provided applicant shall submit copies of the proposed House and Senate Bills filed with the Congress of the Philippines.

8. As such, the filing of this Application is allowed under the rules of the Honorable Commission.
9. The franchise of the current electric service provider in Iloilo City, the Panay Electric Company (PECO) will expire on 18 January 2019, and under current laws and relevant rules and regulations, PECO cannot continue to provide electric distribution services in Iloilo City except in a transition capacity provided under the transitory provision of the reconciled version of House Bill No. 8302. Congress has authorized MORE Electric to precisely take over and continue the electric distribution services in the Iloilo City franchise area.
10. Section 10 of the reconciled version of House Bill No. 8302 further granted Applicant MORE the authority to:

“acquire such private property as is actually necessary for the realization of the purposes for which this franchise is granted, including but not limited to poles, wires, cables, transformers, switching equipment and stations, buildings, infrastructures, machineries and equipment previously, currently or actually used, or intended to be used, or have been abandoned, unused or underutilized, or which obstructs its facilities, for the operation of a distribution system for the conveyance of electric power to end users in its franchise area; Provided, that proper expropriation proceedings shall have been instituted and just compensation paid.”
11. Under the foregoing provision, the Philippine Congress expressly granted MORE the right and power of expropriation or eminent domain for MORE Electric to take over the distribution assets of PECO in order for MORE to carry out this franchise. Based on this provision, MORE shall institute the proper proceedings for the acquisition of the distribution assets in Iloilo City. MORE will need a CPCN before it can legally operate such assets under its legislative franchise and under Section 43(p) of Republic Act 9136.
12. One of the further amendments introduced by the Philippine Senate in House Bill No. 8302 was the inclusion of a provision on “*Transition of Operations*” in Section 16 which reads among others that: “x x x To minimize the length of the transition period, ERC and all agencies issuing the requisite licenses, shall prioritize all applications relevant to the establishment and operation of the distribution system under this franchise. x x x” This transitory provision was retained in the reconciled version of House Bill No. 8302 adopted by the Bicameral Conference Committee of the House of Representatives and Philippine Senate.
13. Based on the foregoing, Applicant MORE hereby respectfully but urgently applies for the grant of a provisional or final Certificate of Public Convenience and Necessity (CPCN) pursuant to the Rules to Govern the Issuance of CPCN to

Entities Engaged in the Transmission and Distribution of Electricity, as approved in ERC Resolution No. 5, Series of 2008.

14. In compliance with requirements under ERC Resolution No. 5 Series of 2008 and in support of this Application, MORE respectfully submits copies of the following documents with their respective markings which are all made integral parts hereof:

DESCRIPTION	Annex/Marking
House Bill 8302 as approved by the House of Representatives and transmitted to the Senate with the Letter of Transmittal	A
House Bill No. 8302 as approved by the Phil. Senate	B
Bicameral Conference Committee Report on the reconciled version of the House of Representatives and Philippine Senate versions of House Bill No. 8302	C
Certificate of Incorporation of MORE	D
Articles of Incorporation of MORE	E
By-Laws of MORE	F
General Information Sheet (latest)	G
The list of names, positions and responsibilities of all key management officials	H
Franchise Area Coverage	I
Statement on Utility Practices and Procedures with proposed practices and procedures of the applicant	J
Statement on Proposed interim tariff showing all rates, deposits and charges	K
List of Names and Addresses of Personnel Responsible for the Design, Installation, Maintenance, and Repair of the Distribution System with provisional table of organization	L and L-1
Statement on the proposed the power for the supply for the proposed service area	M
Single line diagram of the distribution system with Technical Description and Total Number of Energized and unenergized Barangays and system map	N, N-1 and N-2
Statement on Proposed Compliance Plan to the PGC and PDC	O
Description of any negotiations with telephone and/or cable television utilities on the joint use of pole lines	P
Audited Financial Statements (latest)	Q
Copies of the most recent year's audited balance sheet and income statement	R

Secretary's Certificate showing that Board of Directors of MORE authorized the filing of the application for a CPCN	S
Indicative business plan/3 year CAPEX Program	U

15. The foregoing documents show that MORE possesses all the requisite legal qualifications for the grant of a CPCN from the Honorable Commission and that MORE has the technical and financial capabilities to operate the system for the distribution of electricity to end-users in Iloilo City.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY OR INETRIM RELIEF**

16. Applicant MORE hereby repleads by way of reference the foregoing allegations to form part of its application for issuance of provisional authority.
17. As stated above, MORE is in the process of securing the legislative franchise for the development and operation of the electric distribution system for Iloilo City. Once MORE has been granted such franchise, it will initiate proceedings for the acquisition of the distribution facilities of the current distribution utility of Iloilo City.
18. As stated above, the Transitory Provision in the approved Senate Version of House Bill No. 8302 provided among others that the ERC shall prioritize the applications filed relating to the entry of the newly franchised distribution utility in Iloilo City to minimize the length of the transition period. Further, the same provision mandated the Honorable Commission to ensure that there is no interruption in the provision of electric distribution services in Iloilo City during the transition between the current operator and MORE.
19. In order to ensure that MORE has all the legal requirements to operate the distribution facilities in Iloilo City, MORE respectfully submits that it must have a CPCN from the Honorable Commission. Thus, the provisional approval of this Application must be secured as there might be a difficulty in getting a final decision in such a short span of time due to the tremendous case load of the Honorable Commission.
20. Upon filing of the instant Application and pending the hearing and final resolution of the same, a Provisional Authority or Interim Relief should respectfully be issued by the Honorable Commission to enable Applicant MORE to provisionally operate the distribution facilities in Iloilo City and thus ensure that there will be no interruption in the delivery of electric services to the consumers of Iloilo City in compliance with the above-quoted transitory provision in the approved Senate Version of House Bill No. 8302 and with the directives of the Committee on Public Franchises of the Philippine Senate.

Otherwise, Applicant MORE will not be able to legally operate the distribution system in Iloilo City, to the detriment of the continued security of the power supply of the consumers therein. In compliance with the Rules of the Honorable Commission, attached as Annex "T" of this Application is the Affidavit of Mr. Roel Z. Castro, the President and Chief Executive Officer of Applicant MORE, in support of the Prayer for Provisional Authority.

PRAYER

WHEREFORE, premises considered, Applicant MORE respectfully prays that the Honorable Commission:

1. Pending hearing of the Application on the merits, issue a Provisional CPCN to Applicant MORE for the immediate development and operation of a system for the distribution of electricity in Iloilo City;
2. After full proceedings on the merits, issue a Decision GRANTING a CPCN to Applicant MORE for the development and operation of a system for the distribution of electricity in Iloilo City for a term coterminous with its legislative franchise.

MORE prays for all other reliefs just and equitable under the premises.

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 **27 March 2019 (Wednesday), at two o'clock in the afternoon (2:00 P.M.), at the 15th Floor, ERC Hearing Room, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, MORE 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, with the date of 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 Office of the Mayor of Iloilo City, and the legislative body of the said city, for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within Iloilo City 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, MORE 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 issues 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, issued by the Mayor and the office of the LGU legislative body, or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by MORE to inform the consumers 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, the 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 proof of compliance with the requirements of the Commission.

MORE 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 MORE 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.

MORE 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, 21 February 2019.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner

LS: LED/ARG/efo

Copy Furnished:

1. Del Callar and Partners
Counsel for Petitioner MORE Electric and Power Corporation
Unit 9D Belvedere Tower, San Miguel Ave.
Ortigas Center, Pasig City
2. MORE Electric and Power Corporation (MORE)
Petitioner
Unit 3304-B West Tower, Tektite Towers, Exchange Road, Ortigas Center,
Pasig City, Metro Manila, Philippines
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
4. Commission on Audit (COA)
Commonwealth Avenue
Quezon City, Metro Manila
5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Metro Manila
6. House Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
7. Office of the City Mayor
Iloilo City
8. LGU Legislative Body
Iloilo City
9. Regulatory Operations Service
17/F, Energy Regulatory Commission, Pacific Center Bldg.,
San Miguel Ave., Ortigas Center, Pasig City