

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
CONFIRMATION AND
APPROVAL OF FORCE
MAJEURE EVENT CAPITAL
EXPENDITURE PROJECTS
FOR THE YEAR 2021, RE:
REPAIR, RESTORATION,
REPLACEMENT AND/OR
REHABILITATION OF
DISTRIBUTION LINES,
FACILITIES AND
EQUIPMENT DAMAGED BY
TYPHOON QUINTA AND
TYPHOON ROLLY, AND FOR
PRAYER FOR THE
AUTHORITY TO SECURE
LOAN FROM THE NATIONAL
ELECTRIFICATION
ADMINISTRATION (NEA)
AND OTHER FINANCING
INSTITUTIONS**

ERC CASE NO. 2021-040 RC

**MARINDUQUE ELECTRIC
COOPERATIVE, INC.
(MARELCO),**

Applicant.

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Promulgated:
June 21, 2021

ORDER

On 01 June 2021, Marinduque Electric Cooperative, Inc. (MARELCO) filed an *Application* dated 08 March 2021, seeking the Commission's approval of its Force Majeure Event Capital Expenditure Projects for the Year 2021 pertaining to the repair, restoration, replacement and/or rehabilitation of its distribution lines, facilities and equipment damaged by Typhoon Quinta and Typhoon Rolly with prayer for the authority to secure loan from the National Electrification Administration (NEA) and other financing institutions.

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

Applicant is an electric cooperative duly organized and existing under and by the virtue of the laws of the Republic of the Philippines, with principal office at Brgy. Ihatub, Boac, Marinduque.

1. It is the holder of an exclusive franchise issued by the National Electrification Administration (NEA), to operate an electric light and power distribution services in the six (6) municipalities, namely the municipalities of Boac, Mogpog, Sta. Cruz, Torrijos, Buenavista and Gasan in the province of Marinduque, for a period of 50 years from December 1, 1979 and will expire on December 1, 2029[.]
2. That this 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 ERC's confirmation of the implementation of the capital expenditure projects arising from such event.

FORCE MAJEURE EVENT
(TYPHOON QUINTA AND TYPHOON ROLLY)

3. On October 23, 2020, the Low Pressure Area (LPA) east of Mindanao developed into a Tropical Depression (TD) "Quinta", with international name "MOLAVE". On 24 October 2020, TD "Quinta" maintained its strength while moving west-northwestward towards Bicol Region. It rapidly intensified into a typhoon and endangered Albay-Camarines Sur area on 25 October 2020. Typhoon "Quinta" further intensified on 26 October 2020, on the night of October 26 until dawn of October 27, 2020 typhoon Quinta hit hard the province of Marinduque with the maximum sustained wind of 130 Km per hour near the center.
4. After Typhoon Quinta devastated the Philippines, the Japan Meteorological Agency (JMA) announced the formation of a new tropical depression in the Pacific Ocean, west of the Mariana Islands, on October 27. Given its proximity to the Philippine Area of Responsibility (PAR), along with its westward forecasted track, the Philippine Atmospheric, Geophysical, and Astronomical Services Administration (PAGASA) also began issuing advisories on the newly formed system named Typhoon Rolly with international name "GONI". On October 31, 2020 the JTWC estimated 1-minute sustained winds of 315 km/h (195 mph), this made PAGASA declare Typhoon Rolly a super typhoon, hours before its first landfall.
5. Although Typhoon Rolly does not directly make a landfall in Marinduque, it passed the Mongpong Pass, located

between Quezon province and Marinduque on November 1, 2020, where its wind had intensified and continued its massive destruction of properties in Marinduque. Right after Typhoon Quinta, the Cooperative have started the restoration of power but was halted when Typhoon Rolly hit Marinduque, leaving behind severe devastation of distribution lines and electrical equipment including those that were previously restored.

6. The total assessed damages of Typhoon Quinta and Typhoon Rolly was Php12, 510,622.55 and Php14,157,958 respectively, or a total of Php26, 668,581.31 of destroyed distribution infrastructure.

DESCRIPTION OF THE PROJECT

7. In order to minimize MARELCOs' loss due to energy not being served to its consumers, as well as to lessen the economic impact and resume the operation of other agencies to normal, the electric power at the backbone line were immediately restored. However, in areas where the destruction was massive that require substantial fund to rehabilitate or reconstruct the lines under a different location due to landslides and areas washed out by rivers and need to relocate the poles, power were temporarily restored only to some certain extent, where existing construction materials are available in the warehouse.
8. With the above scenario, there is still the need to rehabilitate and repair the temporarily restored lines to be compliant to the safety construction standards set by the industry hence, we proposed this Force Majeure Event Capital Expenditure Project (Typhoons Quinta and Rolly) – FME-CAPEX-TQR.

ESTIMATED PROJECT COST

9. The funding requirement for the repair, restoration, replacement and/or rehabilitation of the damaged properties was estimated at Twenty-Six Million Six Hundred Sixty-Eight Thousand Five Hundred Eighty-One and 31/100 pesos (Php26, 668,581.31).

PROJECT SCHEDULE

10. Portion of the project was undertaken right after the typhoon to lessen the loss and economic impact and to bring back normalcy in the operation of other agencies. However, some of those works were temporary just to immediately bring back the power and therefore MARELCO needs to rehabilitate those temporarily restored to ensure safety of the public and reliability of the system. Hence, MARELCO is in continuous rehabilitation of the distribution system.

JUSTIFICATION OR BENEFITS TO BE DELIVERED

11. It intends to restore the safety and protection of the cooperative's entire distribution system. The rehabilitation will make MARELCO distribution system more resilient particularly in times of disasters and calamities. The project will ensure the delivery of reliable and efficient service to its member consumers.

PROJECT FINANCING PLAN

12. The total cost of restoration and rehabilitation of MARELCO'S damaged properties shall be sourced through loan. The National Electrification Administration (NEA) initially released a calamity loan of Php 1,558,208.32 and Php1,763,385.40. The loan was used to fund the temporary restoration of power in Marinduque after Typhoon Quinta and Typhoon Rolly left the place respectively.
13. No other funds from NEA were released after the typhoons. The Cooperative intends to borrow funds from other lending institutions to finance the aforementioned projects in the amount of Twenty-Six Million Six Hundred Sixty-Eight Thousand Five Hundred Eighty-One and 31/100 pesos (Php26, 668,581.31) [.]

INDICATIVE RATE

14. In the event that the funding for the restoration and rehabilitation works is not converted into a subsidy from the government, the project shall have an indicative rate impact to MARELCO's consumers, derived from the total project cost against the forecasted KWHr sales for Seven (7) years of implementation, as follows:

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	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
Forecasted Energy Sales, Kwh	62,240,464.46	65,933,561.27	69,636,015.02	73,345,463.41	77,058,703.18	80,772,000.00	84,481,000.00	88,161,000.00	91,966,000.00	96,829,000.00	792,423,207.35
Add: Balance, beg.	505,679.36	(7,013,749.88)	(17,181,437.10)	(28,711,835.33)	(36,532,130.30)	(35,365,081.42)	(32,518,273.45)	(27,788,023.98)	(16,707,032.15)	464,162.57	505,679.36
CASH INFLOWS:											
Current Year Collection @ 0.4265kwh	26,545,558.09	28,120,663.88	29,699,760.41	31,281,840.14	32,865,536.91	34,449,258.00	36,031,146.50	37,600,666.50	39,223,499.00	42,150,568.50	337,968,497.93
Loan From NEA	60,041,249.23	84,283,023.12	36,158,882.18	24,262,407.56							204,745,562.09
Force Majeure Loan - Tisoy	21,943,199.78										
Force Majeure Loan - Rolly Quinta	26,668,581.34	-	-	-	-	-			-	-	26,668,581.34
TOTAL CASH INFLOWS	135,196,588.44	112,403,687.00	65,858,642.59	55,544,247.70	32,865,536.91	34,449,258.00	36,031,146.50	37,600,666.50	39,223,499.00	42,150,568.50	569,382,641.36
Total	135,704,267.80	105,389,937.13	48,677,206.49	26,832,412.38	(3,666,593.39)	(915,823.42)	3,512,873.05	9,812,642.52	22,516,466.85	42,614,731.07	390,478,119.47
CASH OUTFLOW											
Cash for Capital Expenditures											
Force Majeure projects	48,611,781.12	-	-	-	-	-			-	-	48,611,781.12
Safety Projects	20,674,423.79	29,682,867.50	2,460,689.34	1,261,741.67							54,079,702.30
Capacity Projects	26,339,837.69	22,861,057.69	22,521,317.69	22,721,177.69							94,443,390.76
Non-Network projects	23,769,647.75	39,631,077.93	18,113,529.15	5,140,982.20							86,655,237.03
	119,395,680.35	92,175,003.12	43,095,516.18	29,123,901.56	-						
ERC Capex Approval Fees	-	-	-	-	-	-			-	-	-00
ERC Regular Capex Approval Fee	895,467.68	681,312.52	323,216.37	218,429.26							2,128,425.83
Subtotal	120,291,158.03	92,866,315.64	43,418,732.55	29,342,330.82	-	-			-	-	285,918,537.04
CASH FOR DEBT SERVICE											
Existing Loans	3,983,431.00	1,872,652.00	607,096.00	607,096.00	607,096.00	504,108.00	195,144.00				7,070,275.00
Regular CAPEX Loan	13,976,058.28	18,897,665.84	24,428,471.52	24,480,375.11	22,156,651.29	22,163,601.29	22,171,012.29	22,052,304.29	22,052,304.29	22,052,304.29	214,430,748.48
2020 Force Majeure CAPEX	2,016,556.44	4,033,112.89	4,033,112.89	4,033,112.89	4,033,112.89	4,033,112.89	4,033,112.89	2,016,556.44			28,231,790.22
New Loans	2,450,813.93	4,901,627.85	4,901,627.85	4,901,627.85	4,901,627.85	4,901,627.85	4,901,627.85	2,450,813.93			34,311,394.98
Subtotal	22,426,859.65	29,705,058.58	33,970,308.26	34,022,211.85	31,698,488.03	31,602,450.03	31,300,897.03	26,519,674.66	22,052,304.29	22,052,304.29	227,529,984.99
TOTAL OUTFLOWS	142,718,017.68	122,571,374.23	77,389,040.81	63,364,542.67	31,698,488.03	31,602,450.03	31,300,897.03	26,519,674.66	22,052,304.29	22,052,304.29	513,448,522.03
Balance, End	(7,013,749.88)	(17,181,437.10)	(28,711,835.33)	(36,532,130.30)	(35,365,081.42)	(32,518,273.45)	(27,788,023.98)	(16,707,032.15)	464,162.57	20,562,426.78	(122,970,402.55)
Excess (Shortfall) on RFSC Rate	(0.11269)	(0.26059)	(0.41231)	(0.49608)	(0.45884)	(0.40258)	(0.32993)	(0.18951)	0.00505	0.20806	(0.15518)

**COMPLIANCE WITH PRE-FILING
AND OTHER DOCUMENTARY REQUIREMENTS**

15. Finally, in compliance with the pre-filing and other documentary requirements under the ERC Rules of Practice and as well as ERC Resolution 26, Series of 2009, MARELCO is submitting herewith the following documents which are being made integral parts hereof, to wit:

Annex No.	Nature of Document
A	Notice of Force Majeure Event
B	Executive Summary of the Force Majeure Event Capital Expenditure Project
B-1	List of Materials and Funding Requirement for Project Implementation
B-2	Images of Typhoon Damage
C	Proof of furnishing copies of the Application to the Local Government Units of Marinduque

PRAYER

WHEREFORE, premises considered, it is respectfully prayed to the Honorable Commission to render a decision approving the following:

- Proposed Force Majeure Capital Project in the total amount of Php26, 668,581.31, in view of the need to immediately implement the project which are necessary to replace, restore and rehabilitate materials and equipment damage by the typhoons.
- Authority to borrow funds from NEA and other financial institutions to fund the capital expenditure in the amount of Twenty-Six Million Six Hundred Sixty-Eight Thousand Five Hundred Eighty-One and 31/100 pesos (Php26, 668,581.31).
- Finally, upon approval of this application, request the Honorable Commission to allow the Cooperative to include the indicative rate impact to the existing Reinvestment Fund rate to provide the lending institution the assurance that MARELCO has the capacity to fund the amortization.

Finding the said *Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹, dated 24 September 2020:

Date	Platform	Activity
10 August 2021 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and expository presentation
17 August 2021 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

Accordingly, MARELCO is hereby directed to host the virtual hearings at **MARELCO's principal office located at Brgy. Ihatub, Boac, Marinduque**, as the designated venue for the

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, MARELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, MARELCO is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual 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 Virtual Hearing* the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within MARELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within MARELCO's franchise area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual 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 and attend the scheduled hearings scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to the resolution of the prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.²

Within five (5) calendar days prior to the date of the initial virtual hearing, MARELCO must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the

² For the e-mail address of the applicant, please see page 11.

aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual 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 Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by MARELCO to inform the consumers within its 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 Virtual 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.

Moreover, MARELCO is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Mayors, Provincial Governors and Local Legislative Bodies, and to submit proof of its posting thereof.

MARELCO and all interested parties are also required to submit via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled virtual 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, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

MARELCO must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of MARELCO 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.

MARELCO 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.

MARELCO is hereby directed to file a copy of its Expository Presentation via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. MARELCO shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments

and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

MARELCO is hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, MARELCO, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 07 June 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO

ERC

Office of the Chairperson



AVSTD-2021-06-510-0048


LS: KJP/LSP/MCCG

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COPY FURNISHED:

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