

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL/CONFIRMATION  
OF FORCE MAJEURE EVENT  
CAPITAL EXPENDITURE  
PROJECTS RE: REPAIR,  
RESTORATION AND  
REHABILITATION OF  
DISTRIBUTION FACILITIES  
AND INFRASTRUCTURES  
AND REPLACEMENT OF  
MATERIALS AND  
EQUIPMENT DAMAGED BY  
SUPER TYPHOON ODETTE  
WITH APPLICATION FOR  
AUTHORITY TO SECURE  
LOAN FROM THE NATIONAL  
ELECTRIFICATION  
ADMINISTRATION AND/OR  
PRIVATE FINANCIAL  
INSTITUTION**

**ERC CASE NO. 2022-073 RC**

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

*Applicant.*

**X-----X**

**Promulgated:**  
October 17, 2022

**NOTICE OF VIRTUAL HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 11 October 2022, Surigao Del Norte Electric Cooperative, Inc. (SURNECO) filed an *Application* dated 16 August 2022, for the approval or confirmation of force majeure event capital expenditure projects for the repair, restoration and rehabilitation of distribution facilities and infrastructures and replacement of materials and equipment damaged by Super Typhoon Odette, with application for authority to secure loan from the National

Electrification Administration (NEA) and/or private financial institutions.

The pertinent allegations of the said *Application* are hereunder quoted:

1. Applicant SURNECO is an Electric Cooperative created and existing pursuant to the provisions of Presidential Decree No. 269 as amended, with principal office located at Surigao City, Surigao del Norte, Philippines, represented herein by its Officer-in-Charge to the Office of the General Manager, **Engr. Virbuen U. Ladaga**, duly authorized by virtue of Resolution No. 108, Series of 2022 dated July 6, 2022, of the Board of Directors, copy of which is attached hereto as **Annex "A"** and made an integral part hereof.

The filing of the instant Application is likewise authorized under the aforecited Board Resolution;

2. Applicant has been granted by the National Electrification Administration (NEA) an authority to operate and distribute electric light and power within the coverage area comprising the City of Surigao, and the Municipalities of Alegria, Bacuag, Claver, Gigaquit, Mainit, Malimono, Placer, San Francisco, Sison, Tagana-an and Tubod, all in the Province of Surigao del Norte;

#### **THE APPLICATION AND ITS PURPOSE**

3. This Application is filed in compliance with ERC RESOLUTION No. 26, Series of 2009, particularly under Article III, Section 3.3 thereof.

#### **FACTUAL ANTECEDENTS**

4. On 16 December 2021, super typhoon Odette hit the Province of Surigao del Norte with sustained winds of 185 kph and gustiness of up to 230 kph, thus, declared by PAGASA as under Storm Signal No. 4.
5. The powerful and catastrophic super typhoon caused massive destruction on the distribution lines, facilities and equipment of the Applicant, resulting to power blackout within the franchise area of SURNECO and damaged at least 54.62% of the whole distribution system.
6. In compliance with its mandate and in consonance with the pertinent provisions of the EPIRA to provide and ensure quality, reliable and secured supply of electric power to its member-consumers, SURNECO immediately proceeded to



repair the damaged distribution lines, facilities and equipment and exhausted all available materials and buffer stocks in its warehouse.

7. On March 15, 2022, SURNECO informed the Honorable Commission of the occurrence of the Force Majeure Event in accordance with ERC Resolution No. 26, series of 2009.

**PROJECT DESCRIPTION**  
**AND ESTIMATED PROJECT COST**

8. Repair and restoration of the damaged distribution lines and facilities were done phase by phase incurring unprogrammed expenditures in the estimated amount of **Four Hundred Ninety-Five Million Seven Hundred Seventy Five Thousand Eight Hundred Eighty Nine Pesos and 74/100 (Php 495,775,889.74) Pesos**. Materials used in the urgent repair and restoration were procured from suppliers on account at the least cost available.
9. Hereunder is the project undertaken by SURNECO after the occurrence of the force majeure event consisting of the repair, restoration, replacement and/or rehabilitation of the cooperative’s damaged distribution facilities described as follows, to wit:

Project Title	Repair, Restoration and Rehabilitation of Distribution Facilities & Infrastructures and Replacement of Materials & Equipment.
Project Description	This project consists of replacement of damaged distribution lines, facilities and equipment brought by typhoon Odette which needs to be immediately repaired, restored and rehabilitated to provide fast-paced power restoration as possible. This includes 5,906 damaged poles; 10 steel towers with concrete foundation supplying the mainland and island barangays; line hardwares; distribution equipment such as distribution transformers, reclosers and capacitors; metering equipment such as instrument transformer (potential & current); electric revenue meters(kilowatt-hour meters) and conductors. It also includes repair of damaged infrastructure in call center and guard house, control centers of substation, warehouse and SURNECO Devotional Building.
Project Cost	<b>Php495,775,889.74</b>
Project Schedule	On December 17, 2021, SURNECO started the assessment of network and non-network assets and the repair, restoration, replacement and rehabilitation activities including line clearing of damaged distribution facilities.
Annexes	Annex B : Executive Summary of the Force Majeure CAPEX Plan Annex B-1 : SURNECO Certificate of Franchise

Annex B-2	: PAGASA Weather Advisory
Annex B-3	: SURNECO's Letter Notifying the ERC of the occurrence of the Force Majeure Event
Annex B-4	: Gantt Chart
Annex B-5	: Details on the Costs of the Force Majeure Capital Expenditure Project
Annex B-6	: Financing Plan
Annex B-7	: Rate Impact Computation
Annex B-8	: Audited Financial Statements
Annex B-9	: RFSC Utilization Report
Annex B-10	: Photos and List of Damaged Lines and Facilities

**PROJECT FINANCING PLAN**

10. In the implementation of the proposed projects, the Applicant shall source the funds from its Reinvestment Fund for Sustainable CAPEX (“RFSC”) and through a loan with the National Electrification Administration (NEA) and/or other Private Financing Institution that will provide the least interest rate to the benefit of the member-consumers. Thus, a parallel Application for the grant of authority to secure loan with the aforesaid government agency and/or other private financing institution is incorporated herein.
11. The implementation of the proposed CAPEX shall bring forth an indicative rate impact as follows:

**INDICATIVE RATE IMPACT**

Particulars	Year 2020	Year 2021	Year 2022	TOTAL
<b>Forecasted/Actual Energy Sales, kWh</b>	155,827,395	159,068,328	145,876,448	<b>460,772,171</b>
RFSC Rate, PhP/kWh	0.2508	0.2508	0.2508	
Beginning Balance, PHP, excess(shortfall)	68,449,075	13,796,430	17,211,709	<b>68,449,075</b>
<b>FUND INFLOWS</b>				
Forecasted RFSC Collection, PhP	-	-	36,585,813	<b>36,585,813</b>
Actual RFSC Collection, PhP	29,796,605	27,347,594	-	<b>57,144,199</b>
Stranded RFSC Collection in General Fund Account	-	33,880,881	-	<b>33,880,881</b>
50% Income on Leased Properties, PhP	-	-	-	-
Govt Subsidy, PhP	-	-	-	-
NEA-Loan for FM CAPEX ERC Case No. 2018-095RC	8,439,499	-	-	<b>8,439,499</b>
Calamity Loan from NEA – Super Typhoon Odette	-	-	87,652,658	<b>87,652,658</b>
Calamity Loan from DBP – Super Typhoon Odette	-	-	350,000,000	<b>350,000,000</b>



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Donated Capital/Grant – NEA – Super Typhoon Odette	-	-	27,332,873	<b>27,332,873</b>
<b>Total Inflows for the year, PhP</b>	<b>38,236,105</b>	<b>61,228,475</b>	<b>501,571,345</b>	<b>601,035,925</b>
<b>TOTAL Funds Available for Disbursement</b>	<b>106,685,180</b>	<b>75,024,905</b>	<b>518,783,053</b>	<b>669,485,000</b>
<b>FUND OUTFLOWS</b>				
CAPEX requirement ERC Case No. 2018-095RC	8,439,499	-	-	<b>8,439,499</b>
CAPEX Requirement ERC Case No. 2021-094RC	30,693,151	37,899,311	-	<b>68,592,462</b>
CAPEX Requirement RFSC	32,320,841	-	-	<b>32,320,841</b>
CAPEX – Restoration of Damaged DX Lines by Typhoon Odette	-	-	495,775,890	<b>495,775,890</b>
<b>CASH FOR DEBTSERVICE/Annual Amortization</b>				
Existing Loans – NEA (debt service before CAPEX filing guidelines)	33,072	33,072	33,072	<b>99,216</b>
Existing Loans – NEA Approved ERC Case No. 2009-008MC	5,701,447	5,701,447	5,701,447	<b>17,104,342</b>
Existing Loans – LGUGC_UCPB (ERC Case No. 2009-008MC)	10,363,426	9,090,122	3,424,525	<b>22,878,073</b>
Existing Loans – NEA FM CAPEX – ERC Case No. 2018-095RC	1,002,989	1,002,989	1,002,989	<b>3,008,966</b>
Existing Loans – NEA (ERC Case No. 2012-056RC)	4,334,325	3,569,075	3,367,963	<b>11,271,363</b>
For Documentary Stamp Tax and Front end fee	-	-	3,062,500	<b>3,062,500</b>
ERC Permit Fee, PhP (ERC Case No. 2018-095RC)	-	517,180	-	<b>517,180</b>
ERC Permit Fee, PhP (ERC Case No. 2021-094RC)	-	-	514,443	<b>514,443</b>
ERC Permit Fee, PhP (FM Odette)	-	-	3,718,319	<b>3,718,319</b>
<b>Total Cash Outflows, PhP</b>	<b>92,888,750</b>	<b>57,813,197</b>	<b>516,601,148</b>	<b>667,303,094</b>
<b>Cash Balance ending, PHP, excess/(shortfall)</b>	<b>13,796,430</b>	<b>17,211,709</b>	<b>2,181,906</b>	<b>2,181,906</b>
<b>Excess/(shortfall) on RFSC, PhP/kWh</b>	<b>0.0885</b>	<b>0.1082</b>	<b>0.0150</b>	

12. The immediate repair, restoration and rehabilitation of distribution facilities & infrastructures and replacement of materials & equipment conducted by the Applicant is necessary to ensure a safe, reliable and efficient power service for the benefit of the consumer-members.

**APPLICATION FOR AUTHORITY TO SECURE LOAN  
WITH THE NATIONAL ELECTRIFICATION  
ADMINISTRATION (NEA) AND/OR OTHER PRIVATE  
FINANCING INSTITUTIONS**

13. Applicant reiterates and incorporate the foregoing allegations in support of its Application for Authority to Secure Loan with the National Electrification Administration (NEA) and/or other Private Financing Institutions, which will provide the least interest rate, and further allege:
14. The implementation of the Force Majeure Capital Expenditure Projects is urgently necessary for the immediate restoration of the services of the cooperative for the benefit of its member-consumers.
15. Unfortunately, the current rate of the Reinvestment Fund for Sustainable CAPEX (RFSC) of Applicant SURNECO is not enough to finance its obligations in the implementation of the Force Majeure Capital Expenditure Project, as can be shown below:

**INDICATIVE RATE IMPACT**  
**(Without availing a Loan)**

Particulars	Year 2020	Year 2021	Year 2022	TOTAL
Forecasted/Actual Energy Sales, kWh	155,827,395	159,068,328	145,876,448	460,772,171
RFSC Rate, PhP/kWh	0.2508	0.2508	0.2508	
Beginning Balance, PHP, excess(shortfall)	68,449,075	13,796,430	17,211,709	68,449,075
INFLOWS				
Forecasted RFSC Collection, PhP	-	-	36,585,813	36,585,813
Actual RFSC Collection, PhP	29,796,605	27,347,594	-	57,144,199
Stranded RFSC Collection in General Fund Account	-	33,880,881	-	33,880,881
50% Income on Leased Properties, PhP	-	-	-	-
Govt Subsidy, PhP	-	-	-	-
NEA-Loan for FM CAPEX ERC Case No. 2018-095RC	8,439,499	-	-	8,439,499
Loan from Banks	-	-	-	-
Donated Capital/Grant – NEA – Super Typhoon Odette	-	-	27,332,873	27,332,873
Total Inflows for the year, PhP	38,236,105	61,228,475	63,918,687	163,383,267
TOTAL Funds Available for Disbursement	106,685,180	75,024,905	81,130,395	231,832,342
OUTFLOWS				
CAPEX requirement ERC Case No. 2018-095RC	8,439,499	-	-	8,439,499
CAPEX Requirement ERC Case No. 2021-094RC	30,693,151	37,899,311	-	68,592,462



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CAPEX Requirement RFSC	32,320,841	-	-	<b>32,320,841</b>
CAPEX – Restoration of Damaged DX Lines by Typhoon Odette	-	-	495,775,890	<b>495,775,890</b>
<b>CASH FOR DEBT SERVICE/ Annual Amortization</b>				
Existing Loans – NEA (debt service before CAPEX filing guidelines)	33,072	33,072	33,072	<b>99,216</b>
Existing Loans – NEA Approved ERC Case No. 2009-008MC	5,701,447	5,701,447	5,701,447	<b>17,104,342</b>
Existing Loans – LGUGC_UCPB (ERC Case No. 2009-008MC)	10,363,426	9,090,122	3,424,525	<b>22,878,073</b>
Existing Loans – NEA FM CAPEX – ERC Case No. 2018-095RC	1,002,989	1,002,989	1,002,989	<b>3,008,966</b>
Existing Loans – NEA (ERC Case No. 2012-056RC)	4,334,325	3,569,075	3,367,963	<b>11,271,363</b>
ERC Permit Fee, PhP (ERC Case No. 2018-095RC)	-	517,180	-	<b>517,180</b>
ERC Permit Fee, PhP (ERC Case No. 2021-094RC)	-	-	514,443	<b>514,443</b>
ERC Permit Fee, PhP (FM Odette)	-	-	3,718,319	<b>3,718,319</b>
<b>Total Cash Outflows, PhP</b>	<b>92,888,750</b>	<b>57,813,197</b>	<b>513,538,648</b>	<b>664,240,594</b>
<b>Cash Balance ending, PHP, excess/(shortfall)</b>	<b>13,796,430</b>	<b>17,211,709</b>	<b>(432,408,252)</b>	<b>(432,408,252)</b>
<b>Excess/(shortfall) on RFSC, PhP/kWh</b>	<b>0.0885</b>	<b>0.1082</b>	<b>(2.9642)</b>	

16. While Applicant has internally generated funds, same is insufficient and needs to be augmented by a loan through NEA’s lending program, designed to assist the electric cooperatives and/or other Private Financing Institution, which can offer the least interest rates to the benefit of the member-consumers; hence, to apply for an authority to secure loan from the Commission is deemed prudent, rational and necessary.

**MOTION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY IN SECURING A LOAN**

17. That, Applicant reiterates and incorporate the foregoing allegations in support of its application for issuance of provisional authority and further allege:
- a. That the amount and the extent of the damage caused by super typhoon Odette is unprecedented which not only affected the distribution system of SURNECO but likewise significantly affected the financial condition of the Applicant;
  - b. The negative impact in its financial condition is seen to affect SURNECO’s financial obligation and its operations to the detriment of its member-consumers;

- c. Considering that financial institutions, which could provide the least interest rates, requires an approval of the Force Majeure CAPEX or a provisional authority issued by the Honorable Commission in order to avail said loan facility;
- d. Thus, the provisional authority that may be issued by the Honorable Commission will provide Applicant the opportunity to draw a loan from these financial institutions and settle the cooperative's obligation due to its suppliers in the implementation the Force Majeure Capital Expenditure Project.
- e. That Applicant is aware that the Provisional Authority that may be granted is subject to the final evaluation of the Honorable Commission.

**COMPLIANCE WITH**  
**PRE-FILING REQUIREMENTS**

- 18. In compliance with Section 2, Rule 6 of the ERC Rules of Practice and Procedure, copies of this Application together with all its annexes and accompanying documents had been furnished by Applicant the Office of the Mayor and the Legislative Body of the City of Surigao, where Applicant principally operates and the Office of the Governor and the Legislative Body of the Province of Surigao del Norte. Likewise, the Application was published in a newspaper of general circulation within the franchise area of the Applicant.
- 19. As proof of compliance of the service of the copies of the Application together with all its annexes are the Certifications issued by the Authorized Representatives of the Local Government Units and/or the Affidavit of Service executed by an employee of the Applicant and the first page of the Application bearing the receiving stamp of the aforementioned Offices as **Annexes "C", "D", "E" and "F"**, respectively. Likewise attached hereto as **Annexes "G" and "H"** are the Affidavit of Publication and the newspaper issue containing the published Application;
- 20. Moreover, prior to the filing of this Application, a pre-filing conference with the concerned staff of the Commission was conducted pursuant to Section 4 of Rule 6, and for purposes of determining completeness of the supporting documents attached to the Application.

**PRAYER**

**WHEREFORE**, foregoing considered, Applicant respectfully prays that the Honorable Commission after due hearing and evaluation of the Application, an Order be issued:



1. **Confirming and approving** the repair, restoration and rehabilitation of distribution facilities & infrastructures and replacement of materials & equipment damaged by Typhoon Odette;
2. **Approving** the application for authority to secure a loan with the National Electrification Administration (NEA) and/or other Private Financing Institution that will provide the least interest rate to the benefit of the member-consumers;
3. **Allowing** Applicant, through a Provisional Authority, to Secure a Loan with the National Electrification Administration (NEA) and/or other Private Financing Institution that will provide the least interest rate to the benefit of the member-consumers pending resolution of the Application in order to allow Applicant to draw loan from other Private Financing Institution that will provide the least interest rate to the benefit of the member-consumers.

Other reliefs just and equitable are likewise prayed for.

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>1</sup> dated 24 September 2020, and Resolution No. 01, Series of 2021<sup>2</sup> dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
<b>02 December 2022 (Friday)</b> at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams or Zoom Application</b>	Determination of compliance with jurisdictional requirements and Expository Presentation
<b>09 December 2022 (Friday)</b> at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

SURNECO has been directed to host the virtual hearings at **SURNECO's Principal Office in Surigao City, Surigao del Norte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. SURNECO shall also guarantee

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

<sup>2</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled virtual hearing, via electronic mail (e-mail) at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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.

Moreover, any person who has interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:



- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

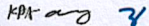


Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform **within five (5) working days** prior to the scheduled hearings.

**WITNESS**, the Honorable Chairperson and CEO **MONALISA C. DIMALANTA**, and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 17<sup>th</sup> day of October 2022 in Pasig City.

  
**FLORESINDA G. BALDO-DIGAL**  
Oversight Commissioner  
For the Legal Service 

  
LS: KPA/ARG/MCCG