

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE POWER
SUPPLY AGREEMENT
BETWEEN ENERGY
DEVELOPMENT
CORPORATION AND
DAGUPAN ELECTRIC
CORPORATION, WITH
PRAYER FOR PROVISIONAL
AUTHORITY AND MOTION
FOR CONFIDENTIAL
TREATMENT OF
INFORMATION

ERC CASE NO. 2022-082 RC

ENERGY DEVELOPMENT
CORPORATION (EDC) AND
DAGUPAN ELECTRIC
CORPORATION (DECORP),
Applicants.

Promulgated:
November 23, 2022

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ORDER

On 07 November 2022, Energy Development Corporation (EDC) and Dagupan Electric Corporation (DECORP) filed a *Joint Application* dated 27 September 2022, seeking the Commission’s approval of their Power Supply Agreement (PSA), with prayer for provisional authority and motion for confidential treatment of information.

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

1. Applicant DECORP is a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at A.B. Fernandez West, Dagupan City, where it may be served with summons and other legal processes. DECORP is represented, by its President, Rene L. Llames, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary’s Certificate dated July 11, 2022 attached hereto as Annex “B-2”.

2. Applicant EDC is a generation company duly organized, incorporated and registered, with principal office at 9th Floor, Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Senior Vice President and Chief Financial Officer, Erwin O. Avante, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated June 15, 2022 attached hereto as Annex "B".
 - 2.1 EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA").
 - 2.2 Pursuant to the Honorable Commission's Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.
 - 2.3 While EDC is a co-applicant, it manifests that this joint Application shall neither modify, diminish nor constitute as a waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.
3. Applicant DECORP is the exclusive franchise holder issued by the Congress of the Philippines to operate electric light and power services in the City and Municipalities of Dagupan, Calasiao, San Fabian, Sta. Barbara, San Jacinto, Manaoag, Barangays Cruz and Bolingit of San Carlos City, all in the Province of Pangasinan.
4. Applicant owns and operates the 592.33-megawatt plant located in Ormoc City and Kananga, Leyte ("Plant").
5. DECORP is in need of a 20MW (10MW baseload with 10MW load following) contracted capacity for ten (10) years. To maintain an uninterruptible and reliable power supply due to an increasing demand by DECORP's new and existing customers, DECORP decided to source the needed power at affordable and cheaper generation rates through the competitive selection process.
6. Under Section 45(b) of the EPIRA, it is provided that "-distribution utilities may enter into bilateral power supply contracts subject to the review by the ERC xxx".
7. Moreover, Applicant DECORP, through its Third-Party Bids and Awards Committee, conducted a Competitive Selection Process ("CSP") for the supply of 20MW Baseload with Load Following Contracted Capacity power requirement for a term of ten (10) years commencing on October 26, 2022 until

October 25, 2032 pursuant to DOE Circular No. DC2015-06-0008, DC201802-0003 and RA 9184¹.

8. The basic terms of reference (“TOR”) and conditions of the proposal of DECORP are as follows:

Subject	Description
Contract Capacity	20MW Baseload with Load Following Contracted Capacity, with 50% minimum nomination, for a period of ten (10) years commencing on October 26, 2022, subject to the approval of the Energy Regulatory Commission (ERC) of the Power Supply Agreement (PSA) which shall be jointly filed by DECORP and the Winning Bidder.
Bid Security	All Prospective Bidders shall furnish, as part of its bid, a bid security amounting to Php 50,000,000.00 in the form of cash or Cashier’s/Manager’s Check, Bank draft/guarantee or irrevocable Letter of Credit or Surety Bond in favor of DECORP. Such bid security in the prescribed form will be returned to unsuccessful bidders, without interest, after the PSA is awarded to the Winning Bidder.
Monthly Maximum Energy	Equivalent Energy at 100% of the Contracted Capacity
Start of Supply	Supply shall commence on October 26, 2022, subject to the approval of the Energy Regulatory Commission (ERC). In the event that DECORP will require the Winning Bidder to procure replacement power due to the failure of the Winning Bidder to deliver the supply on the Start of Supply Date, the Winning Bidder shall shoulder the replacement cost in excess of

¹ See Department Circular No. DC2018-02-0003 “Adopting and Prescribing the Policy for Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market” and DOE Circular No. DC2015-06-0008 “Mandating all Utilities to Undergo Competitive Selection Process in Securing Power Supply Agreements”

	the contract price of the ERC approved rate.
Term of PSA	Ten (10) years from 26 October 2022 to 25 October 2032.
Receiving Point	NGCP Metering Points of DECORP
Replacement Power	Winning bidder shall provide replacement power to DECORP at a cost lower or equal to the contract price during planned or forced outages/shutdowns including force majeure.
Payment Currency	Philippine Peso
Tariff Structure	Straight Energy Fee (in Php/kWh).
Taxes	Prospective Bidders shall indicate all applicable taxes including future taxes, fees, and imposts.
Reduction in Contract Capacity	The Contract Capacity must have a carving out provisions due to the Retail Competition and Open Access, RA No. 9513 or the Renewable Energy Act of 2008, or other laws, and legal requirements to which DECORP is required to comply.
Grounds for Termination	<p>The following are grounds for termination of the PSA:</p> <ul style="list-style-type: none">• Event of default• Non-fulfillment of conditions to effective date• Force majeure events• Expiration of term• Upon mutual agreement• Change in circumstances

9. On September 27, 2021 and October 4 2021, DECORP caused the publication of an Invitation to Bid for Power Supply Agreement, which contained the Pre-Qualification, the TOR, as well as a summary of the process and timelines of the bidding process.
10. The opening and evaluation of bids was held on December 15, 2021. Three (3) bidders participated, namely: 1) Applicant

EDC; 2) SN Aboitiz Power – Magat Inc.; and 3) Sem Calaca Power Corporation.

11. After careful evaluation and review of the terms of the bid offers, Applicant DECORP deemed that the proposal of Applicant EDC was the most advantageous and beneficial for its end consumers and accordingly issued a Notice of Award dated January 12, 2022 to EDC. The Notice of Award stated that Applicant EDC's commercial offer for the procurement of 20MW (10MW baseload with 10MW load following) contracted capacity at a rate of Php4.2888/kWh with 3% discount and 0% VAT has been accepted.
12. Thereafter, Applicants executed a Power Supply Agreement ("PSA") on February 21, 2022 in accordance with the terms of reference of the CSP and EDC's bid offer.
13. Applicants come now to this Honorable Commission for the approval of the PSA, in compliance with the implementing rules and regulations ("IRR") of the EPIRA and the rules and guidelines issued by the Energy Regulatory Commission ("ERC").

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND
RELATED INFORMATION**

14. Under the PSA, EDC shall supply power to DECORP for a term of ten (10) years with Contracted Capacity of 20MW (10MW baseload with 10MW load following).²
 - 14.1 Supply Commencement Date – Whichever is later of (a) October 26, 2022, or (b) the 26th day of the month immediately following the approval by the ERC, whether provisional or final, of the Agreement and rate acceptable to the Parties; provided that, in both cases, all the Conditions Precedent in the Agreement have been complied with;
 - 14.2 Contract Period – The Agreement shall take effect on the Supply Commencement Date and shall remain in force for a period of ten (10) years, unless earlier terminated.
 - 14.3 Terms of Supply – EDC shall supply energy up to and within the Contracted Capacity, for DECORP to take at the Delivery Point in an amount equal to the Minimum Capacity and up to and within the Contracted Capacity in every interval for the Contract Period. If DECORP has not fully taken or dispatched the Minimum Contracted Energy in any Billing Period, DECORP shall be billed and shall be obligated to pay EDC a Minimum Charge.

² Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the PSA.

- 14.4 Contract Price – It shall be 4.2888 Pesos per kilowatt-hour which is a straight energy fee (single rate) for the entire Contract Period, without any escalation. It may be subject to Prompt Payment Discount.
- 14.5 Replacement Power – In the event that EDC’s facility is unavailable or EDC is unable to supply the Contracted Capacity, in whole or in part, due to an event of Force Majeure affecting EDC (except in case of grid-wide transmission failure in Luzon or suspension of the Luzon WESM), EDC shall source Replacement Power from the WESM and/or its own back-up facility and/or any third party, at EDC’s sole discretion, and supply it to DECORP. If EDC supplies Replacement Power, DECORP shall pay EDC fees equivalent to the lower of the actual cost of Replacement Power or Contract Price.

RATE IMPACT ANALYSIS

15. DECORP simulated a rate impact analysis, which resulted in Php 0.8360/kWh reduction in the weighted average rate with the execution of the PSA with EDC.

Simulation of Generation Mix Rate with EDC

Power Suppliers	Quantity (kWh)	Amount (Php)	Percent Share (%)	Average Rate (Php/kWh)	Weighted Average Rate (Php/kWh)
Supplier 1	174,284,28 9	900,815,024	41.30%	5.1687	4.8421
Supplier 2		End of Contract			
Supplier 3	27,964,952	154,925,835	6.63%	5.5400	
EDC	170,851,59 2	732,763,344	40.49%	4.2889	
WESM	48,910,971	254,921,546	11.59%	5.2120	
Total	422,011,805	2,043,425,749	100%		

Simulation of Generation Rate Mix without EDC

Power Suppliers	Quantity (kWh)	Amount (Php)	Percent Share (%)	Average Rate (Php/kWh)	Weighted Average Rate (Php/kWh)
Supplier 1	182,378,838	900,815,024	43.22%	5.2103	5.6781
Supplier 2	87,600,000	471,388,351	20.76%	5.3811	
WESM	152,032,967	974,596,103	36.03%	6.4104	
Total	422,011,805	2,396,239,006	100%		

Generation Rate Impact (Php/kWh) (0.8360)

- 16. Analysis and simulations are based on DECORP’s actual 2021 hourly load profile and prices.
- 17. Moreover, the contract with Supplier 2, as indicated above, will end on October 25, 2022. Meanwhile, Supplier 3 is scheduled to start commercial operations in 2022.
- 18. Lastly, the WESM prices are based on actual 2021 data.

OTHER RELATED DOCUMENTS

- 19. In further support of the instant application, Applicants most respectfully submit to the Honorable Commission the following documents:

ANNEX	DOCUMENTS
A	DECORP - Amended Articles of Incorporation
A-1	DECORP - Certificate of Incorporation with Original Articles of Incorporation
A-2	DECORP - By-laws
B	EDC Secretary's Certificate for Joint Application
B-1	EDC Special Power of Attorney
B-2	DECORP - Secretary's Certificate PSA Application
C	DECORP - Secretary's Certificate Election of Board of Directors
C-1	DECORP - General Information Sheet for 2021
D	EDC Articles of Incorporation and By-Laws (1976)
D-1	EDC Latest Amended Articles of Incorporation
D-2	EDC Latest Amended By-Laws (2019)
D-3	EDC General Information Sheet (2021)
E	Verified Certification on the List of Board Members
F	Write ups explaining the non-applicability of certain documents required by the ERC
G	EDC SEC Certificate of Registration
H	EDC BOI Certificate of Registration
I	EDC DENR Environmental Compliance Certificate
I-1	EDC DENR Environmental Compliance Certificate (Amended)
J	EDC ERC Certificates of Compliance and Provisional Authority to Operate
K	EDC DOE Certificate of Endorsement
L*	EDC DOE Geothermal Renewable Energy Contract
M*	EDC DOE Certificate of Registration
N	DECORP - DSM Program
O	DECORP - Write up on the Non-Applicability of the Transition Supply Contract
P	DECORP - Load Forecast Variability
P-1	DECORP - Write up on Load Forecast Variability
Q	Supply-Demand Scenario
Q-1	Average Daily Load Curve
R*	DECORP – full page of the Invitation to Bid
R-1*	DECORP - CSP Matrix and Type of CSP

R-2*	DECORP - Notice of Award
R-3*	DECORP - Terms of Reference
R-4*	DECORP - Tender Offer
R-5*	DECORP - Bid Evaluation Report
R-6*	DECORP - Sec Cert. Approval Bid Evaluation Report
R-7*	DECORP - Certification on the conduct of Competitive Selection Process
R-8*	DECORP - Invitation to Bid published in Philippine Star on September 27 2021
R-9*	DECORP - Invitation to Bid published on Philippine Star on October 04 2021
S	DECORP - Single Line Diagram
T	DECORP - Performance Assessment
U	DECORP - Reduction GEOP
U-1	DECORP - Write up on Reduction GEOP
V	DECORP - Write up explaining that there are no inconsistencies in the documents submitted
W	DDP and PSPP
X	DECORP – WESM Membership Certificate
Y	EDC-DECORP Power Supply Agreement
Z	Transmission Service Agreement (NGCP-PSALM)
AA*	EDC Write-Up Executive Summary
BB*	EDC DECORP Total Cost of Generation Write Up
BB-1*	EDC Bank Certification (PNB, BDO, SBC, BPI, UnionBank, IFC, RCBC, Mizuho & DBP)
CC*	EDC DECORP TCG Computation
CC-1	Rate Impact Simulation
CC-2*	EDC-DECORP Sample Power Bill for Power Rate
DD	EDC Sworn Statement on Fuel Procurement
EE*	EDC Technical Characteristics of the Power Plant
FF	EDC Audited Financial Statement (2021)
FF-1	EDC Heat Rate - Mahanagdong
FF-2	EDC Heat Rate - UL Malitbog
FF-3	EDC Heat Rate UL Upper Mahiao
FF-4	EDC-DECORP PSA - Write-Up on Simulation of the No[.] of Operating Units
FF-5	EDC WESM Registration

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

20. In Compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the legislative bodies of the municipality and province wherein the principal place of business of DECORP is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the certifications of receipt from the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Dagupan City and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Pangasinan, or from their duly authorized representatives, attesting to the fact of service are attached hereto as Annexes “GG” to “GG-3”, respectively.

21. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC’s principal place of business is located. Copies of the certification of receipt from the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of EDC, and the place of operation in the City of Ormoc, Municipality of Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes “HH” to “HH-7”.
22. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of DECORP. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as Annexes “II” and “II-1”, respectively.

ALLEGATIONS IN SUPPORT OF THE MOTION FOR
CONFIDENTIAL TREATMENT

23. The allegations in the preceding paragraphs are reproduced and incorporated herein by reference where applicable.
24. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

L	EDC DOE Geothermal Renewable Energy Contract
M	EDC DOE Certificate of Registration
R-series	Competitive Selection Process documents (Annex R to R-9)
BB	EDC DECORP Total Cost of Generation Write Up
BB-1	EDC Bank Certification (PNB, BDO, SBC, BPI, UnionBank, IFC, RCBC, Mizuho & DBP)
AA	EDC Write-Up Executive Summary
CC	EDC DECORP TCG Computation
CC-2	EDC-DECORP Sample Power Bill for Power Rate
EE	EDC Technical Characteristics of the Power Plant

25. Applicants treat other documents in the competitive selection process, such as the other bid proposals of generation companies, related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

26. Information which is within the definition of a trade secret, as defined by jurisprudence, is clearly information which merits the confidential treatment provided for under Rule 4 of the ERC Rules. The case of *Air Philippines Corp. v. Pennswell, Inc.*³ is instructive:

A trade secret is defined as a plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it. 16 The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having a commercial value. **A trade secret may consist of any formula, pattern, device, or compilation of information that: (1) is used in one's business; and (2) gives the employer an opportunity to obtain an advantage over competitors who do not possess the information.** Generally, a trade secret is a process or device intended for continuous use in the operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information "in confidence" or through a "confidential relationship." American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:

- (1) the extent to which the information is known outside of the employer's business;
- (2) the extent to which the information is known by employees and others involved in the business;
- (3) the extent of measures taken by the employer to guard the secrecy of the information;
- (4) the value of the information to the employer and to competitors;
- (5) the amount of effort or money expended by the company in developing the information; and
- (6) the extent to which the information could be easily or readily obtained through an

³ G.R. No. 172835, December 13, 2007.

independent source. (*Emphasis supplied.*)

27. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential. Pursuant to such Rule, the Applicants respectfully pray for the issuance of a protective order declaring Annexes "L", "M", "R-series", "AA", "BB", "BB-1", "CC", "CC-2", and "EE" as confidential information since Applicants intend to present them as evidence in the Joint Application.
28. Applicants hereby submit one (1) copy of each of the forgoing confidential documents in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential."

ALLEGATIONS IN SUPPORT OF THE MOTION FOR
PROVISIONAL AUTHORITY

29. The allegations in the preceding paragraphs are reproduced and incorporated herein by reference where applicable.
30. As can be gleaned from the Rate Impact Analysis, clearly and without iota of doubt, the approval of the Contracted Capacity at the rate applied for as specified in the PSA, will generally benefit the consumers of DECORP as it will reduce the weighted average rate significantly, where the simulated weighted average weight decreased from Php 5.6781 per kWh to Php 4.8421 per kWh in 2021.
31. The implementation of the PSA with EDC will enable DECORP to accommodate the rapidly increasing demand of DECORP from its new and current customers which, if not immediately addressed, could adversely affect the supply and the current generation charge of DECORP to the prejudice of its end-users. The approval and immediate implementation of the PSA with EDC will enable DECORP to continuously provide the end-users with stable, uninterruptible and reliable power supply at an affordable rate.
32. Thus, in view of the urgency above-mentioned, DECORP respectfully moves for the issuance of a provisional authority ("PA") in this instant case to enable it to immediately proceed with the implementation of the PSA, and for the lower rate and benefits derived therein to be immediately enjoyed by the customers of DECORP. In support of the Motion for Issuance of Provisional Authority, DECORP has executed an Affidavit in Support of the Prayer for Issuance of Provisional Authority, which is attached as Annex "GG" of the instant Application.

33. Under Rule 14 of the ERC Rules, and as affirmed by jurisprudence,⁴ this Honorable Commission may exercise its discretion to grant provisional authority prior to a final decision should the facts and circumstances justify it.
34. Applicants understand that whatever rate that may be fixed and approved by the Honorable Commission under the PA shall be without prejudice to whatever rights and legal remedies the Applicants may have under the law and the PSA, and the implementation of the PA shall be conditioned upon their acceptance of the terms thereof.
35. Finally, Applicants hereby aver and emphasize that should a PA be issued to and accepted by the Applicants, and the PSA is provisionally implemented, the same shall be considered an ERC approval under the definition of the Supply Commencement Date under the PSA⁵.

PRAYER

WHEREFORE, premises considered, Applicants Energy Development Corporation ("EDC") and Dagupan Electric Corporation ("DECORP") respectfully pray that this Honorable Commission;

- a. Immediately issue a Provisional Authority authorizing Applicants to implement the PSA, including the rates pursuant to Rule 14, Section 1 of the ERC Rules of Practice and Procedure, during the pendency of the hearing of the instant case and until the Honorable Commission approves the Joint Application;
- b. Treat the documents, and the information therein, duly marked as Annexes "L", "M", "R-series", "AA", "BB", "BB-1", "CC", "CC2", and "EE" as confidential information pursuant to Rule 4, Section 1 of the ERC Rules of Practice and Procedure; and
- c. After due notice and hearing and consideration, the Provisional Authority be made permanent and final.

Other reliefs, just and equitable, are likewise prayed for.

Finding the said *Joint 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 platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁶

⁴ *Alyansa para sa Bagong Pilipinas, Inc. v. Energy Regulatory Commission*, G.R. No. 227670, May 3, 2019.

⁵ Sections 1.1 and 2.2 of the Power Supply Agreement.

⁶ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

and Resolution No. 01, Series of 2021⁷ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
13 January 2023 (Friday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
20 January 2023 (Friday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial conference and presentation of evidence

Accordingly, EDC and DECORP are hereby directed to host the virtual hearing at **DECORP’s principal office located at A.B. Fernandez West, Dagupan City** 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. Moreover, EDC and DECORP shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, EDC and DECORP are 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 their 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 Mayors and the Local Government Unit (LGU) legislative bodies within DECORP’s franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within DECORP’s franchise area, by any other means available and appropriate, of the filing of

⁷ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

the *Joint Application*, its reasons therefor, and of the scheduled virtual 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 hearing; and
- 5) Furnish with copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days before the date of the virtual hearing, EDC and DECORP 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 their 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 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 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 EDC and DECORP to inform the consumers within DECORP's franchise area of the filing of the *Joint 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 *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, EDC and DECORP are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Mayors, Provincial Governor, and Local Legislative Bodies, and to submit proof of their posting thereof.

EDC and DECORP 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.

EDC and DECORP 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 EDC and DECORP 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.

EDC and DECORP must also be prepared to make an expository presentation of the instant *Joint Application*, aided by whatever communication medium that they 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 *Joint Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

EDC and DECORP are hereby directed to file a copy of their 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. EDC and DECORP shall also be required, upon the request of any stakeholder, to provide an advance copy of their 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 expository presentation.

EDC and DECORP are 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 their 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.

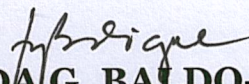

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


Finally, EDC and DECORP, including their 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, 23 November 2022.

FOR AND BY AUTHORITY
OF THE COMMISSION:


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

  
LS: CNR/LSP/MCCG

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Copy Furnished:

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10. Office of the City Mayor
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11. Office of the Sangguniang Panlungsod
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12. Office of the City Mayor
San Carlos, Pangasinan
13. Office of the Sangguniang Panlungsod
San Carlos, Pangasinan
14. Office of the Municipal Mayor
Calasiao, Pangasinan
15. Office of the Sangguniang Bayan
Calasiao, Pangasinan

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16. Office of the Municipal Mayor
San Fabian, Pangasinan
17. Office of the Sangguniang Bayan
San Fabian, Pangasinan
18. Office of the Municipal Mayor
Santa Barbara, Pangasinan
19. Office of the Sangguniang Bayan
Santa Barbara, Pangasinan
20. Office of the Municipal Mayor
San Jacinto, Pangasinan
21. Office of the Sangguniang Bayan
San Jacinto, Pangasinan
22. Office of the Municipal Mayor
Manaoag, Pangasinan
23. Office of the Sangguniang Bayan
Manaoag, Pangasinan
24. Office of the Governor
Province of Pangasinan
25. Office of the Sangguniang Panlalawigan
Province of Pangasinan