

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

**IN THE MATTER OF THE
PETITION FOR THE
RECOVERY OF CY 2018
REVENUE SHORTFALL
FROM THE UNIVERSAL
CHARGE FOR MISSIONARY
ELECTRIFICATION (UC-ME)
AND THE CORRESPONDING
ADJUSTMENT OF THE UC-
ME WITH PRAYER FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2020-004 RC

**NATIONAL POWER
CORPORATION (NPC),
Petitioner.**

**Promulgated:
September 1, 2020**

x _____ x

ORDER

On 23 January 2020, the National Power Corporation (NPC) filed a *Petition* dated 20 January 2020, seeking the Commission's approval of the recovery of its revenue shortfall for Calendar Year (CY) 2018 from the Universal Charge-Missionary Electrification (UC-ME) and the corresponding adjustment of the UC-ME, with prayer for the issuance of provisional authority.

In the *Order* dated 03 February 2020, the Commission has set the instant *Petition* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates:

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Date and Time	Venue	Hearing Coverage
15 April 2020 (Wednesday), at two o'clock in the afternoon (2:00 PM)	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Jurisdictional and Expository Presentation for Luzon Stakeholders
23 April 2020 (Thursday), at nine o'clock in the morning (9:00 AM)	ERC Visayas Area Division (VAOD) St. Mary's Drive Banilad, Cebu City	Expository Presentation for Visayas Stakeholders
30 April 2020 (Thursday), at nine o'clock in the morning (9:00 AM)	ERC Mindanao Area Operations Division (MAOD) Mintrade Bldg. Monteverde Ave. cor. Sales St. Davao City	Expository Presentation for Mindanao Stakeholders
06 May 2020 (Wednesday), at ten o'clock in the morning (10:00 AM)	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Pre-trial Conference and Presentation of Evidence

However, due to the extension of the Enhanced Community Quarantine (ECQ) over the entire Luzon until 30 April 2020¹ WHERE a strict work from home arrangement is being implemented in the Executive Branch², all hearings scheduled during the extended ECQ period have been cancelled.

In view of the foregoing, the Commission cancelled the series of scheduled hearings for the instant *Petition* pursuant to the *Order* dated 03 February 2020.

Subsequently, in the *Order* dated 03 July 2020, the Commission has set the hearing of the instant *Petition* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference and presentation of evidence on the following dates:

Date and Time	Venue	Hearing Coverage
30 September 2020 (Wednesday), at nine o'clock in the morning (9:00 AM)	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Jurisdictional and Expository Presentation for Luzon Stakeholders
08 October 2020 (Thursday), at two o'clock in the afternoon (2:00 PM)	ERC Visayas Area Division (VAOD) St. Mary's Drive Banilad, Cebu City	Expository Presentation for Visayas Stakeholders

¹ Memorandum from the Executive Secretary dated 07 April 2020 (Extension of the Enhanced Community Quarantine Over the Entire Luzon until 30 April 2020).

² Memorandum from the Executive Secretary dated 16 March 2020 (Community Quarantine Over the Entire Luzon).

Date and Time	Venue	Hearing Coverage
15 October 2020 (Thursday), at two o'clock in the afternoon (2:00 PM)	ERC Mindanao Area Operations Division (MAOD) Mintrade Bldg. Monteverde Ave. cor. Sales St. Davao City	Expository Presentation for Mindanao Stakeholders
21 October 2020 (Wednesday), at two o'clock in the afternoon (2:00 PM)	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Pre-trial Conference and Presentation of Evidence

However, due to the continuous threat to public health and safety brought about by the coronavirus disease 2019 (COVID-19), the Commission deemed it necessary to conduct all previously scheduled physical hearings through virtual hearings.

IN VIEW OF THE FOREGOING, the Commission shall convene the virtual hearing through video conferencing, subject to certain limitations as set forth herein.

ACCORDINGLY, the Commission hereby sets the instant *Petition* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence through a virtual hearing using the **Zoom Application** as the online platform for the conduct thereof, on the following dates:

- a) **30 September 2020** (Wednesday), at nine o'clock in the morning (9:00 A.M.) for determination of jurisdictional compliance and expository presentation for Luzon stakeholders;
- b) **08 October 2020** (Thursday), at two o'clock in the afternoon (2:00 P.M.) for expository presentation for Visayas stakeholders;
- c) **15 October 2020** (Thursday), at two o'clock in the afternoon (2:00 P.M.) for expository presentation for Mindanao stakeholders; and
- d) **21 October 2020** (Wednesday), at two o'clock in the afternoon (2:00 P.M.) for Pre-trial Conference and presentation of evidence.

RELATIVE THERETO, NPC 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 virtual hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies covered by the franchise area of the Distribution Utilities (DUs) where the National Power Corporation-Small Power Utilities Group (NPC-SPUG) operates for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Petition*, its reasons therefor, and of the scheduled initial virtual hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this *Order* and the attached *Notice of 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 at the scheduled virtual hearings; and
- 5) Furnish with copies of the *Petition* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearing, NPC must submit to the Commission via electronic mail (e-mail) at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, 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 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 NPC to inform the consumers affected of the filing of the *Petition*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Petition* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, NPC 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, or Provincial Governors and Local Legislative Bodies, and to submit proof of its posting thereof.

NPC and all interested parties are also required to submit via e-mail at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, 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.

NPC 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 NPC 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.

NPC must also be prepared to make an expository presentation of the instant *Petition*, 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 *Petition* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

NPC are hereby directed to file a copy of their Expository Presentation via e-mail at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, at least five (5) calendar days prior to the scheduled virtual hearing. NPC 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 records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com. 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.


NPC 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 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.


Finally, Petitioner, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com, 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, 17 August 2020.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


RCP/LSP/MCCG