

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE POWER SUPPLY AGREEMENT AND THE TOTAL COST OF GENERATION RATE (TCGR) BETWEEN BANTAYAN ISLAND ELECTRIC COOPERATIVE, INC. (BANELCO) AND ISLA NORTE ENERGY CORPORATION (INEC), WITH MOTION FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2020-032 RC

**BANTAYAN ISLAND ELECTRIC COOPERATIVE, INC. (BANELCO) AND ISLA NORTE ENERGY CORPORATION (INEC),
*Applicants.***

Promulgated:
November 20, 2020

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ORDER

On 12 October 2020, the Bantayan Island Electric Cooperative, Inc. (BANELCO) and Isla Norte Energy Corporation (INEC) filed a *Joint Application* dated 22 April 2020, seeking the Commission's approval of their Power Supply Agreement (PSA) and the total cost of generation rate (TCGR), with motion for provisional authority.

On 11 November 2020, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both dated 30 October 2020, setting the instant *Joint Application* for determination of compliance with the jurisdictional requirements and expository presentation on 03 December 2020, Pre-trial Conference and presentation of evidence on 22 January 2021, through virtual hearings.

However, on 17 November 2020, INEC sent through electronic mail an *Urgent Motion for Postponement of the December 3, 2020*

Public Hearing of even date, alleging that the Applicants encountered difficulty in booking appropriate spaces in two (2) newspapers of nationwide circulation due to the consecutive typhoons “Rolly” and “Ulysses.” Thus, INEC prayed that the Commission postpone the virtual public hearing scheduled on 03 December 2020 to 11 December 2020.

IN VIEW OF THE FOREGOING, the *Urgent Motion for Postponement of the December 3, 2020 Public Hearing* filed by INEC is hereby granted and the virtual hearing scheduled on 03 December 2020 is cancelled.

ACCORDINGLY, the Commission hereby sets anew the instant *Joint Application* 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. 07, Series of 2020 dated 23 July 2020:

Date	Platform	Activity
11 December 2020 (Friday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
22 January 2021 (Friday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

BANELCO and INEC are directed to host the virtual hearing at **BANELCO’s Principal Office in Barangay Bantigue, Bantayan, Bantayan Island, Cebu**, as the designated venue, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, the Applicants shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, BANELCO and INEC 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 Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within BANELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within BANELCO's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, their 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 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, BANELCO and INEC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, records@erc.gov.ph, and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal@erc.ph and 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* were 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 BANELCO and INEC to inform the consumers affected of the filing of the *Joint Application*, their 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, 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 by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, BANELCO and INEC 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 Office of the Mayors, Provincial Governor and Local Legislative Bodies, and to submit proof of the posting thereof.

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

BANELCO and INEC 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 BANELCO and INEC to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from the said date of cancellation.

BANELCO and INEC 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.

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

BANELCO and INEC 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.

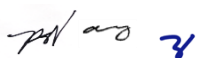
Finally, BANELCO and INEC, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com and legal.virtualhearings@erc.ph, with their respective e-mail address upon receipt of this *Order*. The access link/s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

SO ORDERED.

Pasig City, 18 November 2020.


FOR AND BY AUTHORITY
OF THE COMMISSION:

AGNES VST DEVANADERA
Chairperson and CEO


LS: RSPV/ARG/MCCG

Copy Furnished:

1. Bantayan Island Electric Cooperative, Inc. (BANELCO)
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3. Isla Norte Energy Corporation (INEC)
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4. J.P. GARCIA AND ASSOCIATES
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6. Office of the LGU Legislative Body
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7. Office of the Municipal Mayor
Sta. Fe, Cebu
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Sta. Fe, Cebu
9. Office of the Municipal Mayor
Madrirdejos, Cebu
10. Office of the LGU Legislative Body
Madrirdejos, Cebu
11. Office the Municipal Mayor
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13. Office of the LGU Legislative Body
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