

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
PETITION FOR DISPUTE
RESOLUTION WITH
DEMAND FOR SPECIFIC
PERFORMANCE AND
PRAYER FOR DAMAGES**

**BANTAYAN ISLAND
ELECTRIC COOPERATIVE,
INC. (BANELCO),**
Petitioner,

-versus-

ERC CASE NO. 2020-005 DR

**BANTAYAN ISLAND POWER
CORPORATION (BIPCOR),**
Respondent.

Promulgated:
February 16, 2021

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ORDER

On 03 November 2020, Bantayan Island Electric Cooperative, Inc. (BANELCO) filed a *Petition* dated 12 October 2020, for dispute resolution with demand for specific performance and prayer for damages against Bantayan Island Power Corporation (BIPCOR).

On 26 November 2020, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both dated 20 November 2020, setting the instant *Petition* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference and presentation of evidence, through virtual hearings on the following dates:

Date	Activity
03 February 2021	Determination of compliance with jurisdictional requirements and Expository Presentation
10 February 2021	Pre-trial Conference and Presentation of Evidence
17 February 2021	Presentation of Evidence
24 February 2021	Presentation of Evidence

However, on 01 February 2021, BANELCO sent through electronic mail (e-mail) a *Motion to Reset Scheduled Hearings* of even date, alleging that it was not able to complete the jurisdictional requirements because of the difficulty in the coordination with its counsel due to the distance and travel time involved, as well as confusion on the instructions contained in the aforementioned *Order* and *Notice of Virtual Hearing*. Thus, BANELCO prayed for the resetting of the scheduled hearings to give it ample time to comply with the jurisdictional requirements.

IN VIEW OF THE FOREGOING, the *Motion to Reset Scheduled Hearings* filed by BANELCO is hereby granted and the previously scheduled virtual hearings are cancelled.

ACCORDINGLY, the Commission hereby sets anew the instant *Petition* 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 09, Series of 2020¹, dated 24 September 2020:

Date	Platform	Activity
25 March 2021 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
08 April 2021 (Thursday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

RELATIVE THERETO, BANELCO is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, at least ten (10) days before the date of the scheduled initial hearing; and
- 2) 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

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

authorized representatives and attend the scheduled hearings.

Moreover, pursuant to Section 6, Rule 5 of the ERC Rules of Practice and Procedure, BIPCOR is hereby directed to file its *Answer* within fifteen (15) days from receipt of this *Order* via e-mail at docket@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph.

Likewise, within five (5) calendar days prior to the date of the initial virtual hearing, BANELCO must submit to the Commission via e-mail at docket@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its 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 affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issue of the said newspaper; and
- 2) 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.

BANELCO and BIPCOR are also required to submit via e-mail at docket@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled 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 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 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 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.

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

BANELCO 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. BIPCOR is also directed to submit, through any of the available mode of service, one (1) set of the original hard/printed copy of its *Answer* within the same period provided. 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.

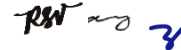
Finally, BANELCO and BIPCOR, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail address upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned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

SO ORDERED.

Pasig City, 08 February 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: RSPV/ARG/MCCG



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Copy Furnished:

1. Bantayan Island Electric Cooperative, Inc. (BANELCO)
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