

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE THREE
(3) YEAR CAPITAL
EXPENDITURE PROJECTS
FOR THE YEARS 2019 TO
2021, AND FOR AUTHORITY
TO SECURE LOAN, WITH
PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2019-102 RC

**ISABELA II ELECTRIC
COOPERATIVE, INC.,
*Applicant.***

Promulgated:
June 11, 2021

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ORDER

On 27 December 2019, Applicant Isabela II Electric Cooperative, Inc. (ISELCO II) filed an *Application* dated 02 September 2019, seeking the Commission's approval of its Capital Expenditure (CAPEX) Projects for years 2019 to 2021, and for authority to secure loan, with motion for provisional authority.

In the *Order* dated 17 January 2020, the Commission has set the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 12 March 2020 at ISELCO II's Principal Office.

However, due to the public health emergency brought about by the coronavirus disease 2019 (COVID-19), the Commission deemed it necessary, as a precautionary measure, to cancel all out-of-town hearings for the months of February and March 2020.

In view thereof, the Commission, in its *Order* dated 18 February 2020, cancelled the hearing set for the instant *Application* on 12 March 2020 until further notice. In the same *Order*, the Commission directed ISELCO II to comply with the following:

In the event that the Applicant has already completed the publication and posting of notice requirements pursuant to the *Order* dated 17 January 2020, it is hereby **DIRECTED** to submit, **within ten (10) days** from receipt of this *Order*, its *Compliance*, subject to the Commission's verification. On the other hand, the Applicant is hereby **DIRECTED** to submit within the same period of **ten (10) days** from receipt of this *Order*, a *Manifestation*, in lieu of the *Compliance*, if no publication or posting of notice has been made.

Thereafter, the Commission will issue a new *Order* and *Notice of Public Hearing* of the next scheduled hearing.

On 04 March 2020, ISELCO II filed a *Manifestation of Compliance* dated 02 March 2020, attaching thereto the publication and certificates of posting pursuant to the directives of the Commission in its *Order* dated 18 February 2020.

In the *Order* dated 03 July 2020, the Commission has set the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 24 September 2020 at ISELCO II's Principal Office.

However, due to the continuous threat to public health and safety brought about by COVID-19, the Commission deemed it necessary to conduct all previously scheduled physical hearings through virtual hearings. Thus, the Commission directed that it shall convene the virtual hearing for the instant *Application* through video conferencing on 24 September 2020, using the Microsoft Teams Application.

On 21 September 2020, ISELCO II filed through electronic mail (e-mail) its *Pre-trial Brief* and *Manifestation on Compliance of the Jurisdictional Requirements with Attached Documentary Evidences*, both dated 18 September 2020, together with a copy of the expository presentation and *Judicial Affidavit* of Mr. Liborio P. Medrano.

During the 24 September 2020 hearing, only Applicant ISELCO II appeared. In the course of the determination of compliance with the jurisdictional requirements, the Commission noted and ISELCO II manifested that there were some discrepancies between the *Application* and the newspaper publications. Hence, ISELCO II was directed to comply with Rule 7 of the Commission's Rules of Practice

and Procedure (RPP) and to file a Motion for Leave to Amend the *Application*.

On 19 October 2020, ISELCO II filed via e-mail a *Motion for Reconsideration and/or Motion to Amend Application with Leave (with Attached Proposed Amended Application)* of even date.

In an *Order* dated 04 November 2020, the Commission granted the *Motion to Amend Application with Leave (with attached Proposed Amended Application)* and directed ISELCO II to comply with Rule 6 and Section 1, Rule 7 of the RPP.

On 09 December 2020, the Commission issued an *Order* and a *Notice of Virtual Hearing* both dated 03 December 2020, setting the *Amended Application* for the determination of compliance with the jurisdictional requirements and expository presentation on 08 January 2021, pre-trial conference and presentation of evidence on 15 January 2021.

However, an *Urgent Motion to Reset Notice of Virtual Hearing* dated 05 January 2021 was filed via e-mail by ISELCO II on 06 January 2021, praying for the cancellation of the 08 and 15 January 2021 virtual hearings to give it ample time to comply with the required posting and publication under Rule 6 of the RPP.

On 07 January 2021, the Commission issued an *Order* and a *Notice of Virtual Hearing* both dated 06 January 2021, setting the *Amended Application* for the determination of compliance with the jurisdictional requirements and expository presentation on 09 March 2021, pre-trial conference and presentation of evidence on 16 March 2021.

During the 09 March 2021 hearing, only Applicant ISELCO II appeared. Before proceeding with the determination of compliance with the jurisdictional requirements, the Commission first inquired as to ISELCO II's pre-filing compliance pursuant to the *Order* dated 04 November 2020.

ISELCO II explained that it has electronically filed a *Manifestation with Urgent Motion to Reset Virtual Hearing* dated 09 March 2021 at 7:57 o'clock in the morning prior to calling the case for hearing.

The Commission received ISELCO II's *Manifestation with Urgent Motion to Reset Virtual Hearing* on 09 March 2021. In the said *Motion*, ISELCO II prayed for the cancellation of the scheduled hearings on 09 and 16 March 2021 and to reset the same to another date so as to give it ample time to comply with the directives in the Commission's *Order* dated 04 November 2020.

On 24 March 2021, the Commission issued an *Order* dated 10 March 2021, granting the aforementioned *Manifestation with Urgent Motion to Reset Virtual Hearing*. In the same *Order*, the Commission also reiterated the directives in its *Order* dated 04 November 2020 for ISELCO II to comply with Sections 2 and 3, Rule 6 of the RPP.

On 19 May 2021, ISELCO II filed via e-mail a *Compliance* dated 17 May 2021, pursuant to the aforementioned *Orders* dated 04 November 2020 and 10 March 2021.

IN VIEW OF THE FOREGOING, ISELCO II is hereby declared to have complied with the Commission's *Orders* dated 04 November 2020 and 10 March 2021.

ACCORDINGLY, the Commission hereby sets anew the instant *Amended 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. 09, Series of 2020,¹ dated 24 September 2020:

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

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

RELATIVE THERETO, the Commission hereby directs ISELCO II to host the virtual hearings at **ISELCO II's Main Office in Barangay Alibagu, Ilagan, Isabela**, 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, ISELCO II shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

ISELCO II 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 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 ISELCO II's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within ISELCO II's franchise area, by any other means available and appropriate, of the filing of the *Amended Application*, their reasons therefor, and of the scheduled virtual hearings 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 hearings; and
- 5) Furnish with copies of the *Amended Application* and its attachments all those making requests therefor, subject to the resolution of the prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.²

² For the e-mail address of the Applicant, please see page 9.

Within five (5) calendar days prior to the date of the virtual hearing, ISELCO II must submit to the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph its written compliance to the aforementioned directives by 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 ISELCO II to inform the consumers affected of the filing of the *Amended Application*, 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 *Amended 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, ISELCO II is hereby required to post on its bulletin boards, the scanned copies of the 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 posting thereof.

ISELCO II and all interested parties are also required to submit to the Commission 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.

ISELCO II 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 ISELCO II 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.

ISELCO II is hereby directed to file a copy of its 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. ISELCO II 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, 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.

ISELCO II 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. 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, ISELCO II, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, 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 hearings.

SO ORDERED.

Pasig City, 01 June 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES YST DEVANADERA
Chairperson and CEO


LS: RSPV/ARG/MCCG



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4. Commission on Audit (COA)
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5. Senate Committee on Energy
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6. House Committee on Energy
Batasan Hills, Quezon City 1126
7. Office of the Governor
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8. Office of the Local Government (LGU) legislative body
Province of Isabela
9. Office of the Municipal Mayor
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Ilagan, Isabela
11. Office of the Municipal Mayor
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17. Office of the Municipal Mayor
Naguilian, Isabela
18. Office of the Local Government (LGU) legislative body
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19. Office of the Municipal Mayor
Gamau, Isabela
20. Office of the Local Government (LGU) legislative body
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21. Office of the Municipal Mayor
Roxas, Isabela

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Roxas, Isabela
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Sto. Tomas, Isabela
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Delfin Albano, Isabela
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Quezon, Isabela
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San Manuel, Isabela
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Burgos, Isabela
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42. Office of the Local Government (LGU) legislative body
Benito Soliven, Isabela
43. Office of the Municipal Mayor
San Mariano, Isabela
44. Office of the Local Government (LGU) legislative body
San Mariano, Isabela

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45. Office of the Municipal Mayor
Maconacon, Isabela
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Maconacon, Isabela
47. Office of the Municipal Mayor
Palanan, Isabela
48. Office of the Local Government (LGU) legislative body
Palanan, Isabela
49. Office of the Municipal Mayor
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