

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO DEVELOP, OWN AND/OR OPERATE DEDICATED POINT-TO-POINT LIMITED TRANSMISSION FACILITIES TO CONNECT THE ±20MW TOLEDO BATTERY ENERGY STORAGE SYSTEM TO THE VISAYAS GRID VIA THE CALONG-CALONG SUBSTATION OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES, WITH PRAYER FOR PROVISIONAL AUTHORITY AND CONFIDENTIAL TREATMENT OF INFORMATION

ERC CASE NO. 2021-018 MC

UNIVERSAL POWER SOLUTIONS, INC. (UPSI),
Applicant.

X-----X

Promulgated:
June 11, 2021

ORDER

On 19 May 2021, Universal Power Solutions, Inc. (UPSI) filed an *Application with Prayer for Provisional Authority and Confidential Treatment of Information* (Application) dated 11 May 2021, seeking the Commission's authority to develop, own and/or operate dedicated point-to-point limited transmission facilities to connect the ±20MW Toledo Battery Energy Storage System to the Visayas Grid via the Calong-Calong Substation of the National Grid Corporation of the Philippines, with prayer for provisional authority and confidential treatment of information.

The pertinent allegations in the said *Application* are hereunder quoted as follows:

THE APPLICANT

1. UPSI (formerly, Limay Power Generation Corporation or “LPGC”) is a corporation duly organized and existing by virtue of and under the laws of the Republic of the Philippines, with principal office address at 40 San Miguel Avenue, Mandaluyong City, Metro Manila, Philippines.

Copies of LPGC’s Certificate of Incorporation, UPSI’s Certificate of Filing of Amended Articles of Incorporation, Amended Articles of Incorporation, Amended By-Laws, and latest General Information Sheet, are attached hereto and made integral parts hereof as Annexes “A,” “B,” “C,” “D,” and “E,” respectively.

2. UPSI may be served orders and other processes through the undersigned counsel.

NATURE OF THE APPLICATION

3. This Application is submitted to this Honorable Commission pursuant to Section 9(f) of Republic Act No. 9136 otherwise known as the *Electric Power Industry Reform Act of 2001* (“EPIRA”),¹ Rule 5, Section 5(a)(i) of the EPIRA Implementing Rules and Regulations,² and Section 4.2 of Resolution No. 23 Series of 2016 or the *Resolution Adopting Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Providers*³

¹ Section 9. Functions and Responsibilities.

xxx

(f) xxx

A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: *Provided*, That such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: xxx

² Section 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company.

(a) Subject to prior authorization from ERC, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities; *Provided*, That:

- (i) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly.

³ 4.2. Connection Assets for Generation Customers of Transmission Provider

Connection Assets for generation customers of Transmission Provider include those assets from the last Single Mechanical Connection of a User System or Equipment of a Generation Company, at its Connection Point, to the last Single Mechanical Connection which is not shared with another Customer within the Grid.

xxx

A Generation Company may develop and own or operate a dedicated point-to-point limited facilities provided, that such facilities are required only for the purpose of connecting to the

for its consideration and approval of UPSI's proposed development, ownership, and operation of interconnection facilities which shall connect the ±20MW Toledo Integrated Renewable Power Facility Hub (R- HUB) – Battery Energy Storage System Component ("**Toledo BESS**") to the Visayas Grid via direct connection to the existing 69 kV Calong – Calong Substation of the National Grid Corporation of the Philippines ("**NGCP**") (the "**Dedicated Facility Project**").

*A copy of the Secretary's Certificate authorizing the construction and operation of the Dedicated Facility Project, as well as the filing of the instant Application and appointing the authorized representative/s therefor is attached hereto and made an integral part hereof as **Annex "F."***

STATEMENT OF FACTS

4. UPSI is a wholly-owned subsidiary of SMC Powergen Inc., and is authorized to engage in the business of producing, generating and storing electricity and processing fuels alternative for power generation.
5. Pursuant to its primary purpose, UPSI is engaged in the development, construction, operation and ownership of the Toledo BESS, which is targeted to commence commercial operation in 2021 and is intended to provide ancillary services to NGCP as a Regulating Reserve for the Visayas Grid.

*Copies of UPSI's letter dated 22 June 2020 addressed to the Department of Energy requesting for confirmation that its various Battery Energy System Storage ("**BESS**") projects are consistent with the Power Development Plan, Project Brief of the Toledo BESS, Project Rationale of the Toledo BESS, summary of relevant dates indicating the dates of start and completion of construction, testing and commissioning, and commercial operations of both the Toledo BESS and Dedicated Facility Project, as well as the Environmental Compliance Certificate for the Toledo BESS and the Dedicated Facility Project issued by the Department of Environment and Natural Resources are attached hereto and made integral parts hereof as **Annexes "G," "H," "H-1," "I," and "J,"** respectively.*

6. On 22 June 2020, UPSI submitted a letter to the DOE requesting for the processing of the Certificate of Endorsement for its various BESS projects as a requirement for the issuance of the Certificate of Compliance by the ERC. On 30 June 2020, the DOE requested UPSI to submit several documents for the processing of the Certificate of Endorsement, including a Power Supply Agreement with the offtaker filed before the ERC.

- 6.1. However, we note that as opposed to a Power Supply Agreement which may entered into while the generating plant of the supplier is still being constructed, NGCP requires that the generating plant of an Ancillary Service Provider be certified as capable of providing Ancillary Services. Such certification may only be obtained after UPSI has completed the construction of the generating plant and the same is tested by the NGCP.
- 6.2. UPSI therefore endeavors to submit a copy of the DOE Certificate of Endorsement as soon as the construction of the Toledo BESS is completed and it receives the certification from the NGCP that the Toledo BESS is capable of providing Ancillary Services.

A copy of the e-mail from the DOE dated 30 June 2020 is attached hereto and made an integral part hereof as “Annex K.”

7. In order to test, commission and dispatch electricity from the Toledo BESS, UPSI shall develop and construct a dedicated point-to-point facility which will connect the Toledo BESS to the NGCP Calong – Calong Substation.
 - 7.1. The Toledo BESS shall connect to the Visayas Grid through a direct connection to the NGCP Calong-Calong Substation via a 200-meter connection and shall utilize a single circuit, 336.4 MCM ACSR conductor transmission line.
 - 7.2. In the System Impact Study dated May 2020, the NGCP recommended that the Dedicated Facility Project utilize a 100-meter, 69kV transmission line, while in the Facility Study dated March 2020, it was recommended that the Dedicated Facility Project utilize a 40-meter, 69kV XLPE direct-burial conductor transmission line to connect to the NGCP Calong-Calong Substation. However, in the Interconnection Facilities Study Report dated 1 July 2020, the NGCP recommended the use of 69kV OTHL instead of XLPE underground cable for the incoming line. In several discussions with NGCP, it was noted that the initial location of the take-off substation of the Toledo BESS was located within the proposed location of the NGCP expansion. The take-off substation was relocated to a nearby location within the same property and as a result, the Dedicated Facility Project will connect to the grid via an approximately 230 meter, single circuit, 336.4 MCM ACSR conductor transmission line.

A copy of the Project Description and Detailed Single Line Diagram of the Dedicated Facility Project are attached hereto and made integral parts hereof as Annexes “L” and “M,” respectively.

- 7.3. The estimated cost of the construction of the Dedicated Facility Project is **PHP 20,000,000.00** with the following major cost components:

Project Component	Cost
A. Supply of electrical works, protection, control and communication works, and civil works, and materials, labor, equipment supervision for complete installation, testing and commissioning of the BESS Take-Off Substation and the NGCP Calong-Calong Substation	15,871,800.00
B. Supply of materials, labor, equipment supervision for complete installation, testing and commissioning of the Transmission Line	4,128,200.00
TOTAL COST	PHP 20,000,000.00

*A copy of the detailed breakdown of the Dedicated Facility Project Cost Estimate is attached hereto and made an integral part hereof as **Annex “N.”***

- 7.4. The Dedicated Facility Project will be exclusively funded by UPSI and will, therefore, not impact any regulated charges.
8. UPSI respectfully submits that the Dedicated Facility Project is the only viable option for connecting the Toledo BESS in view of its proximity to the NGCP Calong-Calong Substation. In addition, in the System Impact Study (“**SIS**”), NGCP recommended the connection of the Toledo BESS to the Visayas Grid through the Dedicated Facility Project.
- 8.1. The construction of the Dedicated Facility Project, including civil and electromechanical works, may be completed in approximately two (2) months.

*Copies of the Conceptual Engineering Design and Drawing, and the Gantt Chart for the construction of the Dedicated Facility Project are attached hereto and made integral parts hereof as **Annexes “O” and “O-1,”** respectively.*

9. The Dedicated Facility Project shall be constructed by BARE Electrique System Inc. as the contractor of UPSI.

*A copy of the Company Profile of BARE Electrique System Inc. and matrix of its ongoing and completed projects is attached hereto and made an integral part hereof as **Annex “P.”***

10. In May 2020, the NGCP performed a SIS to determine the impact of connecting the Toledo BESS to the Visayas Grid and evaluate the technical feasibility of the Dedicated Facility

Project. The connection of the Toledo BESS to the Visayas Grid was found to be technically feasible through the Dedicated Facility Project.

*Copies of the SIS and NGCP's SIS Review Report dated 20 May 2020 are attached hereto and made integral parts hereof as **Annexes "Q" and "Q-1,"** respectively.*

10.1. UPSI also engaged Power System Research and Consultancy Group ("**PSRCG**") to conduct the Interconnection Facilities Study ("**Facilities Study**") to ensure that the equipment to be installed will satisfy the recommendation of the SIS, and that the Dedicated Facility Project complies with the provisions of the Philippine Grid Code. Upon the recommendation of NGCP, an updated Facilities Study Report was prepared by PSRCG dated May 2021 ("**Updated Facilities Study**") to reflect the adjustment in the length of the transmission line and the use of 69kV OTHL instead of XLPE underground cable for the connection of the Dedicated Facility Project. The Updated Facilities Study was submitted by UPSI to NGCP.

*Copies of the Facilities Study and NGCP's Review Report on the Facilities Study dated 1 July 2020 are attached hereto and made integral parts hereof as **Annexes "R" and "R-1,"** respectively. A copy of the Updated Facilities Study is attached hereto and made an integral part hereof as **Annex "R-2."***

11. The Toledo BESS has been considered in NGCP's Transmission Development Plan. In a Certification dated 19 April 2021, NGCP has confirmed the inclusion of the Toledo BESS in the formulation of the 2021-2040 Transmission Development Plan.
12. In addition, NGCP and UPSI are currently in the process of finalizing the terms of their Connection Agreement for the interconnection of the Toledo BESS to the Visayas Grid through the Dedicated Facility Project. NGCP and UPSI are also currently in the process of finalizing the service agreements for the Toledo BESS.

*A Copy of the Certification from NGCP dated 19 April 2021 stating that the Toledo BESS was considered in the formulation of the Transmission Development Plan and that NGCP and UPSI are finalizing the terms of their Connection Agreement is attached hereto and made an integral part hereof as **Annex "S"**. A copy of the Certification from NGCP dated 8 March 2021 on the status of the NGCP service agreements for the Toledo BESS is attached hereto and made an integral part hereof as **Annex "T."***

13. Upon completion of the Dedicated Facility Project and the commercial operation of the Toledo BESS, UPSI intends to engage NGCP for the operation, service, and maintenance (O&M) services of the Dedicated Facility Project.

*A copy of UPSI's Letter dated 10 March 2021 stating that it intends to contract NGCP for the operations and maintenance of the Dedicated Facility Project is hereto attached and made an integral part hereof as **Annex "U."***

14. As of date, UPSI has secured or is in the process of securing the necessary permits, licenses and authority from the appropriate regulatory agencies for the Dedicated Facility Project.

*A copy of the sworn statement of UPSI's authorized representative dated 9 March 2021 attesting to the fact that UPSI obtained all the necessary permits from all concerned agencies that may have an interest in the Dedicated Facility Project is hereto attached and made an integral part hereof as **Annex "V."***

15. In light of the foregoing, UPSI respectfully seeks the confirmation and approval of the Honorable Commission that the Dedicated Facility Project is the most viable option for the connection of the Toledo BESS to the Visayas Grid.

**ALLEGATIONS IN SUPPORT OF
PRAYER FOR PROVISIONAL AUTHORITY**

16. In order to provide ancillary services as a regulating reserve to the Visayas Grid in 2021, there is a need for UPSI to commence operations in 2021. Needless to state, the construction of the Dedicated Facility Project is a prerequisite for the testing and commissioning, and ultimately, the commercial operations of the Toledo BESS. A provisional authority is thus urgently needed to enable UPSI to achieve the target commercial operations date of the Toledo BESS by 2021 and provide ancillary services to the Grid.

*A copy of the Affidavit dated 9 March 2021 executed by UPSI's authorized representative in support of the prayer for issuance of provisional authority is hereto attached and made an integral part hereof as **Annex "W."***

17. Considering the foregoing, UPSI submits that there is clear and sufficient basis for the issuance of a provisional authority for the development, ownership, and operation of the Dedicated Facility Project by UPSI to connect the Toledo BESS to the Visayas Grid, pending the Honorable Commission's issuance of a final decision on the instant Application.

**ALLEGATIONS IN SUPPORT OF
CONFIDENTIAL TREATMENT OF INFORMATION**

16. UPSI respectfully manifests that Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2” of the instant Application contain valuable, non-public information, and data and insight, and be treated as confidential. These confidential documents contain commercially sensitive information which, if disclosed to the public, might adversely affect UPSI’s competitiveness in future projects. It is therefore submitted that Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2” fall within the bounds of proprietary “trade secrets” which are confidential in nature and entitled to protection from disclosure under the Constitution, statutes, and rules and regulations of this Honorable Commission.
17. Rule 4 of the ERC Revised Rules of Practice and Procedure states that the Honorable Commission may, upon request of a party and determination of the existence of conditions which would warrant the remedy, treat certain information submitted to it as confidential. Pursuant to this provision, UPSI respectfully requests for the issuance of a protective order declaring the documents attached as Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2” of this Application as confidential information, as the Applicant intends to present them as evidence in the instant Application.
18. Considering the confidential nature of these documents, UPSI respectfully requests that said annexes not be disclosed to third parties and the public and be treated as confidential documents. In accordance with Section 1(b), Rule 4 of the ERC Revised Rules of Practice and Procedure, UPSI hereby submits one copy of Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2” in a sealed envelope, with the envelope and each page of the documents stamped with the word “Confidential”.
19. The data contained in Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2” attached to this Application constitute “trade secrets” of UPSI; thus, UPSI has actual and valuable proprietary interest to protect with respect to such information. The Supreme Court, in the case of *Air Philippines Corporation vs. Pennswell, Inc.*, had the opportunity to discuss the definition of “trade secrets” and the great extent to which the same are protected under our laws. The Supreme Court defined the term “trade secret” as follows:

“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. 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 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 independent source.”⁴ (Emphasis supplied.)

20. In the *Air Philippines* case, the Supreme Court emphasized the status of trade secrets as protected information, shielded from disclosure except for the most pressing of reasons. The Supreme Court stated unequivocally that trade secrets are of a privileged nature, as is evident from the protection that is afforded them in our laws, including the Revised Penal Code, the Securities Regulation Code, the National Internal Revenue Code of 1997, and the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990. The Supreme Court went on to state:

“Clearly, in accordance with our statutory laws, this Court has declared that intellectual and industrial property rights cases are not simple property cases. Without limiting such industrial property rights to trademarks and trade names, this Court has ruled that all agreements concerning intellectual property are intimately connected with economic development. The protection of industrial property encourages investments in new ideas and inventions and stimulates creative efforts for the satisfaction of human needs. It

⁴ G.R. No. 172835, 13 December 2007.

speeds up transfer of technology and industrialization, and thereby bring about social and economic progress. Verily, the protection of industrial secrets is inextricably linked to the advancement of our economy and fosters healthy competition in trade.

Jurisprudence has consistently acknowledged the private character of trade secrets. There is a privilege not to disclose one's trade secrets. Foremost, this Court has declared that trade secrets and banking transactions are among the recognized restrictions to the right of the people to information as embodied in the Constitution. We said that the drafters of the Constitution also unequivocally affirmed that, aside from national security matters and intelligence information, trade or industrial secrets (pursuant to the Intellectual Property Code and other related laws) as well as banking transactions (pursuant to the Secrecy of Bank Deposits Act), are also exempted from compulsory disclosure.” (Emphasis supplied.)

21. Information which falls 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 Revised Rules of Practice and Procedure. **UPSI respectfully submits that the technical and commercial information contained in the documents qualify as trade secrets, as it reflects commercially sensitive information of UPSI. Annexes” H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2”** of this Application should therefore be entitled to the protection of confidential information provided under Rule 4 of the ERC Revised Rules of Practice and Procedure.
22. Lastly and corollary to the foregoing, UPSI would like to implore the discerning wisdom of the Honorable Commission to include in its issuance for this purpose the *“procedures for the handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period provided in this Rule”*.⁵
23. This is guided by the fact that UPSI will seek for the return of these sought to be declared confidential annexes after its utilization as evidence in this case and/or at the close of the proceedings hereof, so as to relieve the Honorable Commission of the burden of safekeeping the trade secrets of UPSI enclosed in the subject annexes.
24. In view of all the foregoing, Applicant respectfully submits the instant Application for the Honorable Commission’s urgent and utmost consideration.

⁵ Rule 4, Section 2, paragraph 5 of the 2021 ERC Rules of Practice and Procedure.

PRAYER

WHEREFORE, premises considered, Applicant **UNIVERSAL POWER SOLUTIONS, INC.** respectfully prays that the Honorable Commission:

1. Issue an Order:
 - a. granting provisional authority for the implementation of the development, ownership and operation of the Dedicated Facility Project by UPSI to connect the Toledo BESS to the Visayas Grid;
 - b. treating Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “R,” “R-1,” and “R-2” and the information contained therein as confidential information within the purview of Rule 4 of the ERC Revised Rules of Practice and Procedure and prescribing the guidelines for the protection thereof; and,
 - c. providing for the procedures to be observed in handling the confidential information upon the close of the proceedings and its return/delivery to UPSI within the purview of Rule 4 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof
2. After hearing on the merits, a Decision be rendered approving the instant Application.

Other just and equitable reliefs are likewise prayed for.

Finding the said *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 platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,⁶ dated 24 September 2020:

Date	Platform	Activity
14 July 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation

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

Date	Platform	Activity
21 July 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Pre-trial Conference and Presentation of Evidence

RELATIVE THERETO, UPSI 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, with the date of 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 the affected areas for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected areas, by any other means available and appropriate, of the filing of the *Application*, its 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 *Application* and its attachments, all those making requests therefor, subject to the resolution of the pending prayer for confidential treatment of information, and reimbursement of reasonable photocopying costs.⁷

Within five (5) calendar days prior to the date of the scheduled initial virtual hearing, UPSI must submit to the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through

⁷ For the e-mail address of the Applicant, please see page 16.

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 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;
- 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 UPSI to inform the consumers affected of the filing of the *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 *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, UPSI is hereby required to post on its bulletin boards, the scanned copies of the jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Mayors, Provincial Governor and Local Legislative Bodies and to submit proof of posting thereof.

UPSI 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 initial 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.

UPSI 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 UPSI 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.

UPSI 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. UPSI 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.

UPSI 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.

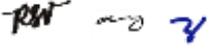
Finally, UPSI, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform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

SO ORDERED.

Pasig City, 04 June 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES YST DEVANADERA
Chairperson and CEO


LS: RSPV/ARG/MCCG



ERC CASE NO. 2021-018 MC
ORDER/04 June 2021
PAGE 16 of 16

Copy Furnished:

1. Universal Power Solutions, Inc. (UPSI)
Applicant
40 San Miguel Avenue, Mandaluyong City
jjuganas@smcgph.sanmiguel.com.ph; acmontanez@smcgph.sanmiguel.com.ph;
wbelvis@smcgph.sanmiguel.com.ph
2. Puyat Jacinto & Santos
Attys. Fidel T. Valeros, Jr., Nonalyn S. Superable and Ralph Ronald S. Catipay
Counsels for Applicant UPSI
10/F 8 Rockwell, Hidalgo corner Plaza Drive, Rockwell Center, Makati City
pjs@pjslaw.com; nssuperable@pjslaw.com; rreatipay@pjslaw.com
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
4. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
citizensdesk@coa.gov.ph
5. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
6. House Committee on Energy
Batasan Hills, Quezon City
committee.energy@house.gov.ph
7. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue
cor. Park Avenue, McKinley Town Center, Fort Bonifacio, Taguig City
pcci@philippinechamber.com; secretariat@philippinechamber.com
8. Office of the Mayor
Mandaluyong City
9. Office of the Local Government Unit (LGU) Legislative Body
Mandaluyong City
10. Office of the Mayor
Toledo City, Cebu
11. Office of the LGU Legislative Body
Toledo City, Cebu
12. Office of the Provincial Governor
Cebu
13. Office of the LGU Legislative Body
Cebu
14. Regulatory Operations Service
17th Floor, Pacific Center Building, San Miguel Avenue,
Ortigas Center 1600, Pasig City
ros@erc.ph