

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



**IN THE MATTER OF THE
APPLICATION FOR THE
AUTHORITY TO LEASE
REGULATORY ASSET
BASE (RAB) PROPERTIES
WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2010-073 MC

**PANGASINAN I
ELECTRIC COOPERATIVE,
INC. (PANELCO-I),
*Applicant.***

Promulgated:
June 29, 2021

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ORDER

On 30 November 2010, Pangasinan I Electric Cooperative, Inc. (PANELCO I) filed an *Application* dated 22 November 2010 (Application), seeking the Commission's approval of its authority to lease its Regulatory Asset Base (RAB) properties with prayer for provisional authority.

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

1. The Applicant, PANGASINAN I ELECTRIC COOPERATIVE, INC. (PANELCO-I) is a rural cooperative organized and existing under Philippine laws, with principal office address at Brgy. San Jose, Bani, Pangasinan, represented by its General Manager, Dionisio O. Opolento, Jr. through Board Resolution No. 10-98 and 10-110 dated October 21, 2010 and November 4, 2010, respectively, copy of which are hereto attached as Annexes "A" and "B" and made an integral part hereof;
2. On July 19, 2010, the Honorable Commission passed Resolution No. 18, Series of 2010 adopting the Rules to Govern the Submission, Evaluation and Approval of Lease of Property by Distribution Utilities.
3. The objectives of the abovementioned rules are: (a) To provide the Distribution Utilities (DUs) with a uniform

system of filing application for approval of lease of its properties, (b) To enable the DUs to maximize the utilization of their assets by allowing them to lease available spaces/properties, (c) To protect public interest as it is affected by rates and services of DUs and other providers of electric power, (d) To ensure economic, orderly and efficient development of DUs resources that concern public interest, and € To ensure that the lease of equipment, materials and properties of DUs are transparent and compliant with applicable laws and accepted industry practices and standards.

4. Resolution No. 18 is applicable to: (1) electric cooperatives, (2) privately-owned distribution utilities, (3) local government unit (LGU) owned-and-operated distribution systems, and (4) qualified third parties (QTPs) operating in waived areas of franchised DU.
5. Distribution Utilities are required by the Honorable Commission an application for authority to lease its Regulated Asset Base (RAB) Properties classified according to the following: (1) Pole space rental/pole attachment; (2) Lease of lots/space; and/or (3) Lease of other facilities/equipments/materials;
6. In compliance with the requirements, the applicant submits the following documents, to wit:
 - a. Standard Lease Contract that will govern the transactions between the DU, as lessor, and the prospective lessee specifying the standards of the DU which the lessee must comply. Copy of pro-forma lease contracts are hereto attached as Annexes “C” and “D” and made an integral part hereof;
 - b. Description of the properties to be leased is hereto attached as Annex “E”; and
 - c. Secretary’s Certificate approving the lease and the filing of the application attached hereto as Annexes “F” and “G” and made an integral part hereof;
 - d. All copies of Contract of Lease on RAB Properties of the Applicant executed prior to the effectivity of Resolution No. 18, Series of 2010.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission that:

1. Upon filing of the instant application, an Authority to be issued, authorizing the Applicant to lease its Regulated Asset Base (RAB) Properties.
2. After due notice and hearing, the instant Application be approved accordingly.

Other relief/s, just and equitable in the premises are likewise prayed for.

On 30 June 2011, the Commission issued an *Order* dated 21 June 2011, wherein it ruled that the *Application* is compliant with the Commission-issued Resolution No. 18, Series of 2010 and Resolution No. 25, Series of 2010.

On 03 November 2020, the Commission issued another *Order* dated 06 October 2020 wherein it directed the Applicant to submit a status update of the instant *Application*, within ten (10) days upon receipt of the said *Order*.

Consequently, on 10 December 2020, Applicant filed an electronic copy of its *Manifestation* dated 09 December 2020.

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 2020¹ dated 24 September 2020:

Date and Time	Platform	Activity
04 August 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation
11 August 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

RELATIVE THERETO, PANELCO I is hereby directed to:

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

- 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, 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 City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within PANELCO I's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within PANELCO I's franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, 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 hearing; 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, if any, and reimbursement of reasonable photocopying costs.³

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

³ For the e-mail address of the applicant, please see page 8.

- 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 PANELCO I to inform the consumers within the affected area of the filing of the *Application*, its 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, the 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, except those covered by any motion for confidential treatment of information, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, PANELCO I is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Mayors, or Provincial Governor and Local Legislative Bodies, and to submit proof of its posting thereof.

PANELCO I and all interested parties are also required to submit 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; and

- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

PANELCO I 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 PANELCO I 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.

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

PANELCO I is further 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. PANELCO I 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.

PANELCO I is further 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, PANELCO I, 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 hearing.

SO ORDERED.

Pasig City, 22 June 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: BJVG/MCCG



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Copy Furnished:

1. Atty. Alfred Felix E. de Castro
Counsel for PANELCO I
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Suki Market, F. Reinoso St.,
Palali, Alaminos City, Pangasinan
2. Pangasinan I Electric Cooperative, Inc. (PANELCO I)
Applicant
Brgy. San Jose, Bani, Pangasinan
panelco_one@yahoo.com
3. Office of the Provincial Governor
Province of Pangasinan
4. Office of the LGU legislative body
Province of Pangasinan
5. Office of the Mayor
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6. Office of the LGU legislative body
Alaminos City, Pangasinan
7. Office of the Mayor
Agno, Pangasinan
8. Office of the LGU legislative body
Agno, Pangasinan
9. Office of the Mayor
Anda, Pangasinan
10. Office of the LGU legislative body
Anda, Pangasinan
11. Office of the Mayor
Bani, Pangasinan
12. Office of the LGU legislative body
Bani, Pangasinan
13. Office of the Mayor
Bolinao, Pangasina
14. Office of the LGU legislative body
Bolinao, Pangasinan
15. Office of the Mayor
Burgos, Pangasinan
16. Office of the LGU legislative body
Burgos, Pangasinan
17. Office of the Mayor
Dasol, Pangasinan
18. Office of the LGU legislative body
Dasol, Pangasinan
19. Office of the Mayor
Infanta, Pangasinan
20. Office of the LGU legislative body
Infanta, Pangasinan

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21. Office of the Mayor
Mabini, Pangasinan
22. Office of the LGU legislative body
Mabini, Pangasinan
23. Office of the Solicitor General
Amorsolo Street, Legaspi Village
Makati City, Metro Manila
24. Commission on Audit
Commonwealth Avenue
Quezon City, Metro Manila
25. Senate Committee on Energy
GSIS Building, Roxas Boulevard
Pasay City, Metro Manila
26. House Committee on Energy
Batasan Hills
Quezon City, Metro Manila
27. Regulatory Operations Service (ROS)
Energy Regulatory Commission
17th Floor Pacific Center Building
San Miguel Avenue, Pasig City