

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF LEASE
CONTRACTS PURSUANT TO
ERC RESOLUTION NO. 18,
SERIES OF 2010**

ERC CASE NO. 2010-074 MC

**LANAO DEL NORTE
ELECTRIC COOPERATIVE,
INC. (LANECO),**

Applicant.

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Promulgated:

June 29, 2021

O R D E R

On 30 November 2010, Lanao del Norte Electric Cooperative, Inc. (LANECO) filed an *Application* dated 22 November 2010 (Application), seeking the Commission's approval of its lease contracts pursuant to the Commission-issued Resolution No. 18, Series of 2010.

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

1. LANECO is an electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Sagadan, Tubod, Lanao del Norte, where it may be served with summons and other legal processes, represented in this instance by its General Manager, Engr. Resnol C. Torres, per Board Resolution hereto attached and made integral part hereof as Annex A;
2. Applicant is the exclusive franchise holder issued by the National Electrification Commission (NEC) to operate electric light and power distribution services in all the municipalities of the Province of Lanao del Norte, namely Bacolod, Baroy, Kapatagan, Kauswagan, Kolambugan, Lala, Linamon, Maigo, Magsaysay, Matungao, Munai, Salvador, Sapad, Tankal, Tubod and Sultan Naga Dimaporo;
3. On July 18, 2010, this Honorable Commission issued Resolution No. 18, Series of 2010, adopting the rules to govern

the submission, evaluation and approval of lease of property by distribution utilities. Likewise, pursuant thereto, the Honorable Commission adopted the corresponding Guidelines to Govern the Submission, Evaluation and Approval of Lease of Property by Distribution Utilities;

4. Article II (Applications and Requirements) of the abovementioned Guidelines requires DUs to file applications with the ERC for authority to lease Regulatory Asset Base (RAB) Properties, submitting therewith the 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 with, the description of the properties to be leased, and the corresponding Board Resolution/Secretary's Certificate approving the lease and the filing of the application;
5. On the other hand, Article III (Transitory Provisions) of the same Guidelines provides that all contracts of the lease on RAB and non-RAB properties executed prior to the effectivity of the guidelines which have not been covered by any application filed before the ERC shall be submitted to the ERC for approval within three (3) months from the effectivity of the guidelines.
6. As of present date, there is no new person or entity that has manifested intent to lease any of LANECO's RAB or non-RAB properties. However, LANECO has existing lease contracts with third parties involving its RAB properties, as follows:

RAB PROPERTY	LESSEE	TERM OF CONTRACT
All poles to be jointly used by the contracting parties	Joel G. Buhisan	One (1) year starting September 17, 2001 with automatic yearly renewal unless sooner terminated
All poles to be jointly used by the contracting parties	Sapad Cablevision, Inc.	One (1) year starting July 13, 1999 with automatic yearly renewal unless sooner terminated
All poles to be jointly used by the contracting parties	Phil. Science High School	One (1) year starting 2007 with automatic yearly renewal unless sooner terminated
All poles to be jointly used by the contracting parties	Telecommunication Management and Services, Inc.	One (1) year starting September 2, 1992 with automatic yearly renewal unless sooner terminated
All poles to be jointly used by the contracting parties	Green Valley Cable Vision, Inc.	One (1) year starting January 15, 1995 with automatic yearly renewal unless sooner terminated
All poles to be jointly used by the contracting parties	Maranao Telephone Company	One (1) year starting October 12, 1998 with automatic yearly renewal unless sooner terminated

Copies of the corresponding Joint Use of Poles Contracts and Contracts for Exclusive Use of Transformer covering the above are attached and made integral parts here of as Annexes B to G, respectively;

7. In compliance with the foregoing Resolution No. 18, Series of 2010, and the Guidelines to Govern the Submission, Evaluation and Approval of Lease of Property by Distribution Utilities, LANECO is hereby submitting the above Joint Pole Agreements and Lease Contracts for the approval of the Honorable Commission;
8. LANECO further undertakes to file similar applications in the future for approval of the corresponding standard lease contracts should any persons or entities offer to lease any of its RAB properties;
9. The terms and conditions of the subject lease agreements are legal, valid, just and reasonable, and would merit the approval of the Honorable Commission.

PRAYER

WHEREFORE, foregoing premises considered, it is most respectfully prayed of this Honorable Commission that the subject Joint Pole Agreements and Lease Contracts be approved accordingly.

Other reliefs, 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* was 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 15 November 2020, Applicant filed its *Manifestation (Re: Order dated 06 October 2020)* dated 13 November 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 two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation
11 August 2021 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

RELATIVE THERETO, LANECO 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, 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 LANECO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within LANECO'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

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

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 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, LANECO 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;
- 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 LANECO 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.

³ For the e-mail address of the applicant, please see page 9.

Moreover, LANECO 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.

LANECO 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.

LANECO 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 LANECO 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.

LANECO 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.

LANECO 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. LANEKO 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.

LANECO 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.

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Finally, LANEKO, 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, 02 June 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:



AGNES VST DEVANADERA
Chairperson and CEO



LS: BJV/MCCG



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Copy Furnished:

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Baloï, Lanao del Norte
4. Office of the LGU legislative body
Baloï, Lanao del Norte
5. Office of the Mayor
Linamon, Lanao del Norte
6. Office of the LGU legislative body
Linamon, Lanao del Norte
7. Office of the Mayor
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14. Office of the LGU legislative body
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15. Office of the Mayor
Maigo, Lanao de Norte
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17. Office of the Mayor
Munai. Lanao del Norte
18. Office of the LGU legislative body
Munai, Lanao del Norte
19. Office of the Mayor
Kolambugan, Lanao del Norte
20. Office of the LGU legislative body
Kolambugan, Lanao del Norte
21. Office of the Mayor
Magsaysay, Lanao del Norte
22. Office of the LGU legislative body
Magsaysay, Lanao del Norte

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23. Office of the Mayor
Tubod, Lanao del Norte
24. Office of the LGU legislative body
Tubod, Lanao de Norte
25. Office of the Mayor
Tangkal, Lanao de Norte
26. Office of the LGU legislative body
Tangkal, Lanao del Norte
27. Office of the Mayor
Baroy, Lanao del Norte
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Baroy, Lanao del Norte
29. Office of the Mayor
Salvador, Lanao de Norte
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Lala, Lanao del Norte
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Sapad, Lanao del Norte
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35. Office of the Mayor
Kapatagan, Lanao de Norte
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Kapatagan, Lanao del Norte
37. Office of the Mayor
Sultan Naga Dimaporo, Lanao del Norte
38. Office of the LGU legislative body
Sultan Naga Dimaporo, Lanao del Norte
39. Office of the Governor
Province of Lanao del Norte
40. Office of the LGU legislative body
Province of Lanao de Norte
41. Office of the Solicitor General
Amorsolo Street, Legaspi Village
Makati City, Metro Manila
42. Commission on Audit
Commonwealth Avenue
Quezon City, Metro Manila
43. Senate Committee on Energy
GSIS Building, Roxas Boulevard
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44. House Committee on Energy
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45. Regulatory Operations Service (ROS)
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