

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 ±60MW CONCEPCION BATTERY ENERGY STORAGE SYSTEM TO THE LUZON GRID VIA THE CONCEPCION 69KV SUBSTATION OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES, WITH PRAYER FOR PROVISIONAL AUTHORITY AND/OR INTERIM RELIEF AND CONFIDENTIAL TREATMENT OF INFORMATION

ERC CASE NO. 2021-026 MC

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

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Promulgated:
September 28, 2021

ORDER

On 14 September 2021, Universal Power Solutions, Inc. (UPSI) filed an *Application* dated 02 September 2021, seeking the Commission's approval to develop, own and/or operate dedicated point-to-point limited transmission facilities to connect its ±60MW Concepcion Battery Energy Storage System (BESS) to the Luzon Grid via the Concepcion 69kV Substation of the National Grid Corporation of the Philippines (NGCP), with prayer for provisional authority and/or interim relief and confidential treatment of information.

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

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 for its consideration and approval of

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 transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC.

UPSI's proposed development, ownership, and operation of interconnection facilities which shall connect the ±60MW Concepcion Battery Energy Storage System ("Concepcion BESS") to the Luzon Grid via direct connection to the Concepcion 69kV Substation of the National Grid Corporation of the Philippines ("NGCP") (the "Dedicated Facility Project"). UPSI intends to develop the Concepcion BESS in two (2) phases.

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 Concepcion BESS, which is targeted to commence commercial operation by 2021 and is intended to provide ancillary services to NGCP as a Regulating Reserve for the Luzon Grid.

Copies of UPSI's letter dated 22 June 2020 addressed to the Department of Energy requesting for confirmation that the Concepcion BESS is consistent with the Power Development Plan, Project Brief of the Concepcion R-Hub BESS, Project Rationale, summary of relevant dates indicating the start and completion dates for the construction of both phases 1 and 2 of the Concepcion BESS, the Dedicated Facility Project, including the dates for testing and commissioning, and commercial operations of the Concepcion BESS and Dedicated Facility Project, the Environmental Compliance Certificate for the Concepcion BESS and the Dedicated Facility Project issued by the Department of Environment and Natural Resources, as well as the Certificate of Non-Coverage for the Dedicated Facility Project, are attached hereto and made integral parts hereof as Annexes "G," "H," "H-1," "I," "J," and "J-1," respectively.

6. On 23 June 2020, UPSI submitted a letter to the DOE requesting for the processing of the Certificate of Endorsement 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 be 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 the generating plant's construction is completed 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 (*sic*) of the Concepcion BESS is completed and it receives the certification from the NGCP that the Concepcion BESS is capable of providing Ancillary Services.

A copy of the DOE Letter 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 Concepcion BESS, UPSI shall develop and construct a dedicated point-to-point facility which will connect the Concepcion BESS to the Concepcion 69kV Substation of NGCP.

- 7.1. The Concepcion BESS shall connect to the Luzon Grid through a direct connection to the Concepcion 69kV Substation via an approximately 470 meters connection line and will utilize underground 800 mm² XLPE 69 kV line.

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

- 7.2. The estimated cost of the construction of the Dedicated Facility Project is PHP 93,810,073.00 with the following major cost components:

<p>A. Supply of materials, labor, equipment, supervision for complete installation, testing and commissioning of the NGCP Concepcion Substation and BESS Substation with the following sub-components:</p> <ol style="list-style-type: none"> 1. Substation Equipment and Materials; 2. Protection, Control & Communication Equipment; 3. Civil Works; and 4. Substation Protection System; 	<p>75,766,805.00</p>
<p>B. Supply of materials, labor, equipment supervision for complete installation,</p>	<p>18,043,268.00</p>

testing and commissioning of the Transmission Line	
TOTAL COST	PHP <u>93,810,073.00</u>

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.”

- 7.3. 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 Concepcion BESS in view of its proximity to the Concepcion 69kV Substation. In the System Impact Study (“SIS”), NGCP recommended that the Concepcion BESS shall connect to the Concepcion 69kV Substation via an approximately 470 meters connection line and will utilize underground 800 mm² XLPE 69 kV line. The Dedicated Facility Project is the most cost-effective and viable option for the immediate connection of the Concepcion BESS.
 - 8.1. The construction of the Dedicated Facility Project, including civil and electromechanical works, may be completed in approximately eight (8) months.

Copies of the Conceptual Engineering Design and Drawing for the ±60MW Concepcion BESS, 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 Energy & Building Applications Technologies Corporation (“EBATECH CORP.”) as the contractor of UPSI.

A copy of the Company Profile of EBATECH CORP., and matrix of its ongoing and completed projects is attached hereto and made an integral part hereof as Annex “P.”

10. In September 2019, the NGCP performed a SIS to determine the impact of connecting Phase 1 of the Concepcion BESS, with a capacity of ±20MW, to the Luzon Grid and evaluate the technical feasibility of the Dedicated Facility Project. The connection of the Concepcion BESS to the Luzon Grid was found to be technically feasible through the Dedicated Facility Project. In March 2021, the NGCP performed a SIS to determine the impact of connecting Phase 2 of the Concepcion BESS, with a capacity of ±40MW, to the Luzon Grid.

Copies of the SIS dated September 2019, SIS dated March 2021, NGCP’s SIS Final Review Report dated 21 October 2019, and NGCP’s SIS Final Review Report dated 12 April 2021, respectively, are attached hereto and made integral parts hereof as Annexes “Q,” “Q-1,” “Q-2,” and “Q-3” respectively.

10.1. The NGCP also prepared a Regulatory Impact Assessment on the connection of the additional ± 40 MW capacity of the Concepcion BESS. A copy of the NGCP Regulatory Impact Assessment is attached hereto and made an integral part hereof as Annex "Q-4."

10.2. UPSI also engaged Power System Research and Consultancy Group 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.

10.3. In connection with the additional ± 40 MW capacity of the Concepcion BESS as reflected in its Facilities Study, NGCP issued its report on the additional ± 40 MW capacity of the Concepcion BESS on 29 June 2021.

Copies of the Facilities Study for the ± 20 MW Concepcion BESS, the Facilities Study for the ± 60 MW Concepcion BESS dated May 2020, NGCP's Facilities Study Report on the ± 20 MW Facilities Study dated 17 January 2020, NGCP's Facilities Study Report on the Additional ± 40 MW Concepcion BESS dated 29 June 2021 are attached hereto and made integral parts hereof as Annexes "R", "R-1," "R-2," and "R-3," respectively.

11. The Concepcion BESS has been considered in NGCP's Transmission Development Plan. In a Certification dated 2 July 2020, NGCP has confirmed the inclusion of the ± 20 MW Concepcion BESS in the formulation of the 2020-2040 Transmission Development Plan.

A copy of the Certification from NGCP dated 2 July 2020 showing the inclusion of the Concepcion BESS as a prospective power plant is attached hereto and made an integral part hereof as Annex "S".

12. NGCP and UPSI are currently in the process of finalizing the terms of their Connection Agreement and other service agreements, for the interconnection of the ± 20 MW Concepcion BESS to the Luzon Grid through the Dedicated Facility Project.

A copy of NGCP Certification dated 2 July 2020 attesting to the fact that NGCP and UPSI are in the process of negotiating and finalizing the terms of the Connection Agreement, and a copy of the NGCP Certification dated 8 March 2021 relative to the status of the service agreements (*sic*) for the Concepcion BESS, are hereto attached and made an integral part hereof as Annexes "T," and "U," respectively.

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

A copy of the NGCP Certification dated 22 December 2020 stating that NGCP is capable of providing the necessary and specific technical services for the Dedicated Facility Project is hereto attached and made an integral part hereof as Annex “V.”

14. In the Certifications that UPSI has secured from the NGCP, the capacity reflected for the Concepcion BESS is only ± 20 MW. In a Certification dated 24 May 2021, NGCP confirmed that the SIS for the additional capacity of the UPSI BESS has been approved in April 2021 and that it will be included in the formulation of the TDP 2022 – 2040 for submission to the DOE. The NGCP also confirmed that it is capable of providing the necessary and specific technical services for the Dedicated Facility Project of the ± 60 MW Concepcion BESS.

A copy of the NGCP Certification dated 24 May 2021 is hereto attached and made an integral part hereof as Annex “W.”

15. 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 7 September 2020, 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 “X.”

16. 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 Concepcion BESS to the Luzon Grid.

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

17. In order to provide ancillary services as a regulating reserve to the Luzon 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 pre-requisite for the testing and commissioning, and ultimately, the commercial operations of the Concepcion BESS. A provisional authority is thus urgently needed to enable UPSI to achieve the target commercial operations date of the Concepcion BESS by November 2021 and provide ancillary services to the Grid.

A copy of the Affidavit dated 7 September 2020 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 “Y.”

18. 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 Concepcion BESS to the Luzon

Grid, pending the Honorable Commission's issuance of a final decision on the instant Application.

ALLEGATIONS IN SUPPORT OF
CONFIDENTIAL TREATMENT OF INFORMATION

19. UPSI respectfully manifests that Annexes "H," "H-1," "I," "L," "M," "N," "O," "O-1," "Q," "Q-1," "Q-2," "Q-3," "Q-4," "R," "R-1," "R-2," and "R-3" 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," "Q-2," "Q-3," "Q-4," "R," "R-1," "R-2," and "R-3" fall within the bounds of proprietary "trade secrets" which are confidential in nature and entitled to protection from disclosure under the Constitution, statues, and rules and regulations of this Honorable Commission.
20. Rule 4 of the Revised ERC Rules of Practice and Procedure states that the Honorable Commission may, upon motion 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," "Q-2," "Q-3," "Q-4," "R," "R-1," "R-2," and "R-3" of this Application as confidential information, as the Applicant intends to present them as evidence in the instant Application.
21. 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 Revised ERC 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," "Q-2," "Q-3," "Q-4," "R," "R-1," "R-2," and "R-3" in a sealed envelope, with the envelope and each page of the documents stamped with the word "Confidential".
22. The data contained in Annexes "H," "H-1," "I," "L," "M," "N," "O," "O-1," "Q," "Q-1," "Q-2," "Q-3," "Q-4," "R," "R-1," "R-2," and "R-3" 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.)

23. 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:

⁴ G.R. No. 172835, 13 December 2007.

“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 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.)

24. 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 Revised ERC 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,” “Q-2,” “Q-3,” “Q-4,” “R,” “R-1,” “R-2,” and “R-3” of this Application should therefore be entitled to the protection of confidential information provided under Rule 4 of the Revised ERC Rules of Practice and Procedure.
25. In view of all the foregoing, Applicant respectfully submits the instant Application for the Honorable Commission’s urgent and utmost consideration.

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 Concepcion BESS to the Luzon Grid;
 - b. treating Annexes “H,” “H-1,” “I,” “L,” “M,” “N,” “O,” “O-1,” “Q,” “Q-1,” “Q-2,” “Q-3,” “Q-4,” “R,” “R-1,” “R-2,” and “R-3” 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 2020⁵ dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)⁶:

Date	Platform	Activity
21 October 2021 (Thursday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and Expository Presentation

⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

28 October 2021 (Thursday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams	Pre-trial Conference and Presentation of Evidence
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RELATIVE THERETO, UPSI is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, the date of the publication to be made not later than ten (10) days before 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 of the areas affected by the project for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected areas 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 prayer for confidential treatment of information, and reimbursement of reasonable photocopying costs.⁷

Within five (5) calendar days prior to the date of the virtual hearing, UPSI 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 its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

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

- 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 Governors, 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 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, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

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

UPSI 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, 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 hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

UPSI 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.

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 hearing.

SO ORDERED.

Pasig City, 21 September 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: KJP/LSP/MCCG

ERC
Office of the Chairperson

AVSTD-2021-09-510-0054

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11. Office of the Mayor
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