

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



**IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE CONTRACT FOR THE SUPPLY OF ELECTRIC ENERGY (CSEE) AND THE SUBSEQUENT EXECUTION OF THE LETTER OF AGREEMENT WITH PAMPANGA II ELECTRIC COOPERATIVE, INC. (PELCO II), IN THE LUZON GRID WITH PRAYER FOR ISSUANCE OF PROVISIONAL AUTHORITY (PA),**

**ERC CASE NO. 2021-080 RC**

**POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM),  
*Applicant.***

**Promulgated:**  
November 26, 2021

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**ORDER**

On 30 September 2021, Power Sector Assets and Liabilities Management Corporation (PSALM) filed an *Application* dated 01 July 2021 (Application), seeking the Commission's approval of its Contract for the Supply of Electric Energy (CSEE) in the Luzon grid with Pampanga II Electric Cooperative, Inc. (PELCO II), with prayer for issuance of provisional authority.

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

1. This is an Application for the Approval of the terms and conditions of the Contract for the Supply of Electric Energy ("CSEE") in the Luzon Grid entered into by and between

Applicant PSALM with Pampanga II Electric Cooperative, Inc. (PELCO II) and the subsequent Letter of Agreement (LOA) executed between the parties extending the contract period. The filing of the instant application is being made pursuant to Section 67 of Republic Act No. 9136, otherwise known as the “*Electric Power Industry Reform Act (EPIRA) of 2001*”.

2. Applicant PSALM is a government-owned and controlled corporation created by virtue of the EPIRA, with principal office address at 24th Floor Vertis North Corporate Center 1, Astra corner Lux Drives, North Avenue, Quezon City.
3. Pursuant to Section 49 of the EPIRA and the consequent assignment on 11 May 2009 (the Letter of Agreement is hereto attached as **Annex “A”**) of all National Power Corporation (“NPC”) power supply contracts to PSALM, NPC assigned and transferred to PSALM all its rights and obligations in, to, and under its CSEEs and other similarly or substantially equivalent power supply contracts with NPC power customers (collectively referred to as “Power Supply Contracts”).
4. On and from 11 May 2009, the Power Supply Contracts were deemed amended as follows: (i) all references to NPC therein shall be treated as references to PSALM; (ii) PSALM shall be deemed the SUPPLIER under said Power Supply Contracts; and (iii) the rights and obligations of the Parties shall be governed by and construed in accordance with said Power Supply Contracts, as amended by the 11 May 2009 Letter Agreement. Thus, this instant application by PSALM.
5. The subject CSEEs were executed based on the ERC-approved template under ERC Resolution No. 08, Series of 2005 issued on 07 July 2005. On 09 August 2005, said template was later on amended by this Honorable Commission in its Resolution No. 15, Series of 2005.
6. In ERC Resolution No. 33, Series of 2006, “Resolution Clarifying the Purpose of the Adoption of the TSC Template,” the ERC clarified that the TSC Template should merely serve as a guide for the Distribution Utilities (“DUs”) and NPC and should not be construed as the contract contemplated under Section 67 of the EPIRA.
7. PSALM then entered into CSEE with CAMARINES SUR IV ELECTRIC COOPERATIVE, INC. (CASURECO IV), in the Luzon Grid from 26 November 2019 to 25 June 2021. On 20 July 2020, PSALM filed an application for the approval of the said CSEE with prayer for issuance of provisional authority (PA) under ERC Case No. 2020-015 RC. The same is now for resolution of this Honorable Commission.
8. On 20 February 2020, the PSALM Board approved the execution of the CSEE with PELCO II for the period effective 26 May 2020 to 25 December 2020.

9. Pursuant to Section 5, Article III of the ERC's Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rate, PSALM is filing the instant Application for the approval of the CSEE duly negotiated with PELCO II, hereto attached as Annex "B".
10. The foregoing CSEE was executed based on the template approved by this Honorable Commission under Resolution No. 8, Series of 2005 as amended by Resolution No. 15, Series of 2005.
11. The CSEE subject of this Application has the following salient provisions, to wit:

**(i) SERVICE SPECIFICATIONS**

**CONTRACT ENERGY**

4.1 Contract Energy and Equivalent Demand as indicated in Annex I may be changed by PSALM due to a change in the projected available capacity of PSALM's power plants and at any time during the duration of the Contract due to the privatization of any of the assets of PSALM pursuant to the EPIRA.

4.1.1 PELCO II shall nominate month-ahead its hourly and daily energy quantity requirements three (3) days before the start of the next billing period based on its Daily Load Profile as reflected in Annex 1a. On a day to day transaction, PELCO II shall confirm the schedule of hourly energy requirements to PSALM on the day ahead. PSALM shall declare to WESM the schedule of hourly energy requirements delivered to customers immediately on the day after.

**AVAILABILITY OF SUPPLY**

4.2 PSALM shall supply the Contract Energy in accordance with good utility practice and in compliance with appropriate rules and regulations such as the Philippine Grid Code, and Open Access Transmission Service (OATS). Supply of energy shall be available except for interruption or reduction due to: a) causes beyond the control of PSALM despite the exercise of due care, including but not limited to the conditions stated in Section 4.1 of this Contract; b) transmission failure; c) maintenance to ensure system stability and safety reasons as may be provided by laws, rules or regulation. In case of shortage in the generation capacity of PSALM, PELCO II shall be informed of the

deficiency and allocation of the available supply of electricity to PELCO II shall be proportionate to the contracted energy and equivalent demand as provided for in this Contract.

#### **CONSUMPTION IN EXCESS OF CONTRACT ENERGY**

- 4.3 Whenever available, in accordance with good utility practice, PSALM may, but shall not be obliged to provide electricity to PELCO II in excess of Contract Energy provided that PELCO II shall pay the appropriate charges as provided for in Section 6.1 of this Contract.

#### **ASSIGNABILITY**

- 4.8 PSALM may assign or transfer part or all of its rights and obligations in the supply of Contract Energy herein stated, to any such entity, provided that prior written notice is given to PELCO II thirty (30) days before the actual transfer. This Contract shall remain binding to Parties, their successors and assignees. PSALM warrants that any sale, assignments, transfer, or subcontracting of the Contract shall not affect or impair PELCO II's rights and obligations with respect to quantity and price of electricity, Contract effectivity, incentives, discounts and other terms and conditions of this Contract. The assignee shall, by written instrument, assume the rights and obligations of PSALM to PELCO II. When PELCO II has been assigned by PSALM to a Successor Generating Company (SGC) by virtue of the privatization of the PSALM Generating Plant pursuant to the EPIRA, the SGC has the option to renegotiate this Contract with PELCO II within six (6) months from the actual transfer of PELCO II to the SGC. If PELCO II and the SGC fail to reach an agreement, either Party shall have the right to terminate this Contract.
- 4.9 PELCO II may assign, sell or transfer a part or all of its Contract Energy and/or Equivalent Demand either permanently or for a certain number of billing periods, subject to the written consent of PSALM under the following conditions, and which consent shall not be unreasonably withheld:
- a. PELCO II has obtained certification from NGCP, that the transmission, sub-transmission, substation and other facilities can accommodate the increase in the power requirements of the assignee/transferee.
  - b. PELCO II has submitted necessary proof that the buyer, assignee or transferee has no outstanding obligation to PSALM, and

undertakes to assume the obligations of PELCO II and to pay for the additional expenses necessary or incidental to the transfer.

- c. Assignment of PELCO II to assignee shall comply with the forms provided under Annex F-1 and Annex F-2 of this Contract.

(ii) **SECURITY DEPOSIT**

**AMOUNT**

- 5.1 The Security Deposit shall be equivalent to 100% of the estimated average monthly power bill for the duration of this Contract.

**FORM AND TIME OF POSTING**

- 5.2 The Security Deposit is required to be posted upon privatization of the generating asset/s to which this Contract is allocated or assigned as provided for in Section 4.8 hereof if the prospective buyer, assignee, transferee or successor-in-interest so requires. It shall be in the form of cash, cash bond, manager's or cashier's check, bank certified check, irrevocable stand-by letter of credit, performance bond or bank guarantee "callable on demand" issued by a financial institution, or any other forms of security such as but not limited to escrow account to be administered by a bank acceptable to PSALM. In the event the Security Deposit of PELCO II becomes nil, PSALM reserves the right to refuse or discontinue supply of electric energy. In cases of partial depletion of the Security Deposit, PELCO II shall replace the Security Deposit not later than thirty (30) days thereafter. PSALM reserves the right to continue supply of electric energy to the extent of Security Deposit of PELCO II".

**RELEASE OF SECURITY DEPOSIT**

- 5.3 The Security Deposit (for the portion that should be settled within the WESM) shall be returned to PELCO II within thirty (30) days upon presentation of proof of compliance with the prudential requirements of the WESM. PSALM shall return or release the Security Deposits to PELCO II including interest earned, subject to deductions for any amounts owed by PELCO II to PSALM. Security Deposits, except those in the form of letter of credit or performance bond, shall earn interest based on prevailing savings deposit rate of the Land Bank of the Philippines (LBP).

(iii) **BASIC ENERGY CHARGE**

- 6.1 The Basic Energy Charge (BEC) applied to PELCO II's hourly energy consumption shall be the ERC-approved NPC/PSALM's Time of Use (TOU) generation rates, which is attached as Annex G, plus adjustments in the tariff such as, but not limited to Deferred Accounting Adjustments (DAAs) and the Incremental Currency Exchange Rate Adjustments (ICERA), the RA 9136 Mandatory Rate Reduction Adjustments. The basic energy charge to be applied to the contracted energy shall be in accordance with Section 8.1 of this Contract.

Energy consumption higher than the contracted level shall be sourced by the Customer from the Wholesale Electricity Spot Market at the Wholesale Electricity Spot Market rate and paid directly to the Philippine Electricity Market Corporation (PEMC).

- 6.1.1 The BEC shall be applied to PELCO II's hourly energy consumption based on the hourly nominated energy quantity mentioned in Section 4.1.1.

**MINIMUM CHARGES**

- 6.2 PELCO II shall pay the minimum charge based on the Contract Energy per billing period as indicated in Section 4.1 of this Contract using the basic energy charge if PELCO II has not fully taken or failed to consume the Contract Energy, subject to deductions and adjustments as expressly provided for in this Contract.

**SERVICE INTERRUPTION ADJUSTMENT**

- 6.3 Should the supply of electricity be interrupted or curtailed to a level below the Contract Energy due to the fault or lack of generation capacity of PSALM, even if PELCO II was at that time unable to take or consume electricity, the Contract Energy shall be adjusted taking into account the ratio of the number of hours that electric service was interrupted to the total number of hours in the billing period. The adjusted Contract Energy shall be used in the calculation of Minimum Charge. (This Section shall only apply if there are no Time-Of-Use rates).
- 6.4 Should the supply of electricity be interrupted or curtailed to a level below the Contract Energy due to the fault or lack of generation capacity of PSALM, even if PELCO II was at that time unable to take or consume electricity, the Contract Energy shall be adjusted to actual off-take below contract level for all hours when

service was curtailed or interrupted based on declaration of power curtailment issued by the NGCP. (This Section shall only apply if there are Time-Of-Use rates).

- 6.5 Contract Energy not taken due to PELCO II's fault or negligence or other causes affecting PELCO II's ability to take or consume electricity shall not entitle PELCO II to interruption adjustment.

#### **MAINTENANCE SERVICE ADJUSTMENT**

- 6.6 PELCO II may avail of the service adjustment during the **scheduled maintenance** of its facilities, not to exceed two (2) billing periods in one year. The minimum charge on the energy consumption shall be fifty percent (50%) of the Contract Energy. To be able to avail of this adjustment, PELCO II must inform PSALM in writing thirty (30) days prior to the commencement of the scheduled maintenance.

#### **FORM OF PAYMENT**

- 6.7 Payment may be in the form of cash, demand drafts, checks or other cash equivalents. Bank charges shall be borne by PELCO II.

#### **PROMPT PAYMENT DISCOUNT**

- 6.10 Subject to ERC's approval, the Prompt Payment Discount (PPD) shall be in accordance with PSALM's credit and collection policies duly approved by the PSALM Board.

#### **DISPUTED BILLS**

- 6.11 Disputed bills shall be questioned in writing by PELCO II within sixty (60) days from the date of its receipt and PSALM shall act on such disputed bills on a best effort basis and commit to resolve the claim within sixty (60) days from the date of filing of the claim. Failure by PELCO II to question the power bills on time shall constitute a waiver by PELCO II of any claim on such bills.
- 6.12 Disputed bills shall be paid by PELCO II without deductions or offsets and PSALM shall evaluate the claim and adjust the billings in accordance with its findings. Disputed billing shall not be an excuse or ground for PELCO II to delay payment of succeeding billings or to unilaterally deduct any amount there from.
- 6.13 PELCO II and PSALM shall seek to resolve disputed billings. If the dispute cannot be resolved by the

Parties, the matter shall be resolved as provided in Sections 9.9 and 9.10 provisions of this Contract.

- 6.14 PELCO II shall be entitled to a refund of any overpayment plus interest equivalent to the 91-day T-Bill rate from the date that the payment was made, if such demand is later found to be meritorious.

#### **OVERDUE ACCOUNT**

- 6.15 In the event that a power bill remains unpaid within five (5) days after its due date, PSALM has the option to call on or draw against the Security Deposit as provided for under Section 5 (Security Deposit) of this Contract.

- 6.16 Any power bill or account of PELCO II not paid on due date shall bear a floating rate of interest computed from the first day after it becomes due and payable, based on the non-prime lending rate for each quarter of the Land Bank of the Philippines or the Philippine National Bank, whichever is higher. Interest on overdue accounts shall be computed based on a 360-day year.

- 6.17 If the account of PELCO II is overdue for more than six (6) months, PELCO II shall pay an additional penalty of one percent (1%) per month for every additional month of delay beyond six (6) months. Moreover, a restructuring agreement of the overdue account shall be executed by PELCO II, with the following salient terms and conditions:

6.17.1 The restructured account shall be subject to interest as prescribed under the current credit and collection policies of PSALM.

6.17.2 PELCO II cannot avail of the Prompt Payment Discount during the restructuring period.

6.17.3 Automatic power service disconnection without need of notice, for failure to pay the monthly amortization, current bill and other charges.

6.17.4 Non-renewal of contract for failure to pay the monthly amortization, current bill and other charges.

6.17.5 PELCO II shall grant PSALM auditorial rights.

- 6.17.6 Restructured account shall rank *pari-passu* with other creditors.
- 6.17.7 Execution of real estate/chattel mortgage by PELCO II over eligible properties or assets as security on the restructured account.
- 6.17.8 PELCO II's reduction of systems loss by at least 20% if such loss is above the industry standard.
- 6.17.9 PELCO II's reduction of Average Days Outstanding (ADO) in receivables to sixty (60) days within one year.
- 6.17.10 No cash dividends shall be issued without prior approval of PSALM during the restructuring period.
- 6.18 To evaluate PELCO II's restructuring proposal, PELCO II shall be required to submit its audited financial statements for last two (2) years stamped received by the Bureau of Internal Revenue (BIR), the latest interim statements and current tax clearance certificate. The projected cash flows covering the restructuring period shall likewise be submitted together with the assumptions made for such projections. The proposed measures to be adopted to improve the PELCO II's payment performance shall also be indicated. Cash flows shall show that funds would be sufficient to cover the monthly amortization due.

**ADJUSTMENT DUE TO INACCURATE METERS AND ERRONEOUS BILLINGS WITHIN A BILLING PERIOD.**

- 6.19 In the event that a billing is found erroneous due to wrong reading, incorrect use of kWh meter multiplier, arithmetical mistakes, omissions or typographical error, PSALM shall send PELCO II a debit or credit memo to correct the error.

**BILLING PROCEDURE FOR A RATE REVISION WITHIN A BILLING PERIOD**

- 6.20 Should the effective date of a new and duly approved rate schedule fall within a billing period, two computation sheets shall be prepared. The first sheet shall be calculated by applying the old rate schedule to PELCO II's Billing Energy (as if the old rate schedule was in effect for the entire billing period), and then multiplying the resulting charges including any Billing Adjustments by the ratio of the number of days that the

old rate schedule was effective during the billing period to the total number of days in the billing period. The second sheet, on the other hand, shall be calculated by applying the new rate schedule to PELCO II's Billing Energy (as if the new rate schedule was in effect for the entire billing period), and then multiplying the resulting charges including any Billing Adjustments by the ratio of the number of days that the new rate schedule was effective during the billing period to the total number of days in the billing period. These shall be consolidated into a single power bill.

#### **DISCONNECTION OF POWER SERVICE**

- 6.21 In addition to the above-stated penalty interest charges and without prejudice to its right under Section 9.11 of this Contract, PSALM shall have the right, subject to not less than seven (7) days advance written notice to PELCO II, to discontinue supplying electric services and to refuse to resume electric service for failure of PELCO II to post the required Security Deposit, for non-payment of bills, or if any amount including any accrued interest and other charges not necessarily limited to the foregoing, remains unpaid. Notwithstanding such discontinuance of electric service, PELCO II shall pay at least the Minimum charge based on the Contract Energy, and failure by PELCO II to make full payment within a period of six (6) months shall entitle PSALM to terminate the Contract without prejudice to the right of PSALM to recover unpaid bills and other penalties from PELCO II.

#### **(IV) MISCELLANEOUS PROVISIONS**

##### **LIABILITIES**

- 9.1 Except as expressly provided, PSALM shall not be liable for any damage suffered by PELCO II due to the failure of PSALM to supply electric energy to PELCO II in accordance with prescribed standards, except when such failure is caused by PSALM's bad faith, gross negligence or malicious intent. This provision, however, shall not affect the rights of PELCO II to applicable deduction in its electricity charges provided in this Contract.

##### **FORCE MAJEURE**

- 9.2 Force majeure is an extraordinary event which cannot be foreseen or which though foreseen, cannot be avoided. The event must render it impossible for a party to fulfill its obligation in a normal manner despite

the exercise of due care. Force majeure shall not excuse either party from exercising due care to prevent it or minimize its effects. Force majeure includes a storm, typhoon, lightning, flood, earthquake, tsunami, fire, war, rebellion, insurrection, riot, naval or other blockade, labor disturbance, civil unrest, and other events, which are entirely beyond the control of either or both parties. A party shall not be excused from its failure to perform its obligations under this Contract even if the same is caused by force majeure except as provided in this Section and Sections 9.6 to 9.8.

- 9.3 Insolvency or business losses shall not be considered as an event of force majeure.
- 9.4 The affected party shall notify the other in writing of a force majeure situation. The other party shall have sixty (60) days to verify or deny in writing that such situation exists.
- 9.5 A verified event of force majeure, which prevents a party from supplying or taking electricity for at least six (6) months, or agreed upon by both parties to prevent the supply or taking of electricity for a continuous period of at least six (6) months shall entitle either party to terminate this Contract. Buy-out shall not apply to such termination.

#### **DEDUCTION DUE TO FORCE MAJEURE**

- 9.6 PSALM shall have a maximum of seventy-two (72) hours from the time a force majeure event prevented it from supplying electricity and perform its other obligations under the Contract to resume supply. PELCO II shall not be entitled to interruption adjustment for such period, unless interruptions exceed seventy-two (72) hours and PELCO II failed to fully take or consume its Contract Energy.
- 9.7 Likewise, PELCO II shall have a maximum of seventy-two (72) hours from the time a force majeure event prevented it from fully taking its Contract Energy to resume taking electricity. PELCO II shall be entitled to interruption adjustment based on the actual number of hours that it was unable to receive electricity, should its consumption be curtailed below the levels of Contract Energy. The number of hours that PELCO II can claim for interruption adjustments is limited to a maximum of 72 hours per force majeure event. However, if both PSALM and PELCO II were simultaneously unable to supply and consume electricity by reason of Force Majeure, PELCO II shall be entitled to interruption adjustment.

- 9.8 The number of hours of interruptions or of failure to receive electricity caused by one force majeure event shall be cumulated.

#### **SETTLEMENT OF DISPUTES**

- 9.9 The Parties shall exert reasonable efforts to amicably settle all disputes arising in connection with this Contract, as a condition precedent to dispute resolution, which will be filed by either party with the ERC.
- 9.10 Any dispute arising in connection with this Contract and to which exclusive jurisdiction has not been vested in the ERC or any appropriate government agency the dispute may be submitted for arbitration in accordance with Republic Act (RA) 9285. The exclusive venue for the Arbitration shall be the principal office of PSALM. No court action shall be initiated except as provided under the Philippine Arbitration Law.

#### **CONTRACT TERMINATION**

- 9.11 Either party will have the right to terminate this Contract upon failure of the other to perform its obligation under this Contract, provided that the party at fault will have to pay all its outstanding account and reimburse the costs incurred by the other party as a result of the termination.

#### **VALIDITY AND BINDING EFFECT**

- 9.15 This Contract shall bind the Parties, their respective assigns, buyers, transferees, or successors-in-interest. If for any reason, competent courts must declare any provision of this Contract invalid during its effectivity, the other provisions hereof which are not affected thereby shall continue to be in full force and effect.
12. Subsequently, upon PELCO II's request a Letter of Agreement (LOA) dated 21 December 2020 was executed between PELCO II and PSALM.
13. The only revision introduced in the LOA is the extension of the period of the contract from 26 December 2020 until 25 April 2021. A copy of the LOA is attached hereto as Annex "C".
14. It is further understood that this LOA shall be an integral part of the CSEE and the terms and conditions not otherwise affected by the above-mentioned amendment shall remain valid and effective.
15. Further, in compliance with Section 2, Rule 6 (Pre-Filing Requirements) of this Honorable Commission's Resolution

No. 01, Series of 2021,11 and in support of the instant Application for the CSEE and LOA's approval, a copy of the instant Application (including Annexes) was furnished to the offices of the City Mayor and the Sangguniang Panlungsod of Quezon City (Annexes "D" and series). The Application (excluding Annexes) was also published in a newspaper of general circulation (Annex "E").

**ALLEGATIONS IN SUPPORT FOR THE ISSUANCE OF PROVISIONAL AUTHORITY**

16. PSALM acknowledges that the continued operation of the Distribution Utilities is indispensable to the economic efficiency of the franchise area they service, not to mention the ripple effect of that efficiency to the economic growth of the entire country. In order for these Distribution Utilities to continue lawfully drawing electricity from the grid, it is imperative that they enter into agreement/s with PSALM as Supplier for the supply of electricity, through a contract of sale for electricity, hence the respective CSEE.
17. A grant of provisional authority to execute the CSEE effective 26 May 2020 to 25 December 2020 will benefit PELCO II and will ultimately redound to the benefit of end consumers.
18. Attached as Annex "F" is the Judicial Affidavit of Eng. James Marvin Mamaradlo, Corporate Staff Officer B of the Electricity Trading Department (ETD) under the Office of the Vice President – Privatization and Asset Management Group attesting to the truth of the above matters.
19. Pursuant to ERC rules of practice and procedure, this Honorable Commission may exercise its discretion by granting provisional authority or interim relief prior to a final decision.
20. It is understood that the interim relief sought by Applicant PSALM that may be granted by this Honorable Commission, shall be subject to adjustments and other conditions that this Honorable Commission may impose after its hearing and final determination.

**PRAYER**

**WHEREFORE**, Applicant PSALM most respectfully prays that this Honorable Commission **APPROVES** the duly negotiated CSEE with PELCO II, covering the period of 26 May 2020 to 25 December 2020 and the LOA subsequently entered into by the parties covering the period 26 December 2020 until 25 April 2021. It is likewise prayed that a Provisional Authority (PA) be issued authorizing PSALM to implement the subject CSEE and LOA with PELCO II in the Luzon Grid.

Other reliefs just and equitable under the premises 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<sup>1</sup> dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):<sup>2</sup>

<b>Date and Time</b>	<b>Platform</b>	<b>Activity</b>
<b>05 January 2022 (Wednesday)</b> at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation
<b>12 January 2022 (Wednesday)</b> at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

**RELATIVE THERETO**, PSALM is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial virtual hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* Offices of the Provincial Governor, the Municipal Mayors, and their respective Local Government Unit (LGU) legislative bodies within the affected franchise

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

<sup>2</sup> Entitled: *Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.*

area for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within the affected franchise area of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearings 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, if any, and reimbursement of reasonable photocopying costs.<sup>3</sup>

Within five (5) calendar days prior to the date of the virtual hearing, PSALM must submit to the Commission via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), the scanned copies of its 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 newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues 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, City and Municipal Mayors, and their respective LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by PSALM to inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon;

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<sup>3</sup> For the e-mail address of the applicant, please see page 19.

- 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, PSALM 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 Governor, City and Municipal Mayors and their Local Legislative Bodies, and to submit proof of its posting thereof.

PSALM and all interested parties are also required to submit via e-mail at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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 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.

PSALM 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 PSALM 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.

PSALM 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.

PSALM is further directed to file a copy of its Expository Presentation via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days prior to the scheduled virtual hearing. PSALM 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](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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.

PSALM 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, PSALM, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto: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 November 2021.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**AGNES YST DEVANADERA**  
*Chairperson and CEO*



  
LS: MSIA/CLB/MCCG

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