

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE POWER
SUPPLY AGREEMENT
(PSA) BETWEEN
BATANGAS II ELECTRIC
COOPERATIVE, INC.
(BATELEC II) AND AP
RENEWABLES, INC. (APRI),
WITH MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2020-007 RC

**BATANGAS II ELECTRIC
COOPERATIVE, INC.
(BATELEC II) AND AP
RENEWABLES, INC. (APRI),
*Applicants.***

Promulgated:
October 30, 2020

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ORDER

On 26 February 2020, the Batangas II Electric Cooperative, Inc. (BATELEC II) and AP Renewables, Inc. (APRI) filed a *Joint Application* dated 26 January 2020 (Joint Application), seeking the Commission's approval of their Power Supply Agreement, with motion for confidential treatment of information and prayer for provisional authority.

In the *Order* dated 03 July 2020, the Commission has set the instant *Joint Application* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on 08 October 2020 at BATELEC II's principal office.

However, due to the continuous threat to public health and safety brought about by the coronavirus disease 2019 (COVID-19), the Commission deemed it necessary to conduct all previously scheduled physical hearings through virtual hearings.

The Commission, through an *Order* dated 03 September 2020, has then set the instant *Joint Application* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on 08 October 2020 through a virtual hearing.

On 21 September 2020, the Applicants BATELEC II and APRI filed their *Joint Urgent Motion to Reset and Conduct Virtual Hearing* dated 18 September 2020, with prayer to set the virtual hearing from 08 October 2020 to 10 November 2020. The resetting was due to the limited time remaining before the scheduled hearing and with the restriction imposed by the Local Government of Batangas concerning the COVID-19 pandemic which adversely affects the Applicants' compliance with the posting requirement.

On 23 September 2020, a *Joint Manifestation with Motion to Reset Virtual Hearing* of even date was filed by the Applicants, reiterating their prayer to reset the virtual hearing from 08 October 2020 to 10 November 2020, for lack of material time to comply with the jurisdictional requirements as set forth in the *Order*.

On 06 October 2020, the Commission issued an *Order* dated 29 September 2020, granting the *Joint Manifestation with Motion to Reset Virtual Hearing* filed by the Applicants and setting the instant case for virtual hearing on 10 November 2020.

However, on 16 October 2020, BATELEC II filed another *Motion to Reset Virtual Hearing* of even date. It has alleged that several key personnel of BATELEC II involved in the instant *Joint Application* as well as a substantial number of employees of the cooperative have tested positive with COVID-19. The employees concerned have been quarantined and are unable to perform the necessary preparations for the upcoming hearing without the risk of exposing others to the virus.

IN VIEW OF THE FOREGOING, the *Motion to Reset Virtual Hearing* filed by BATELEC II is hereby granted and the virtual hearing scheduled on 10 November is cancelled.

ACCORDINGLY, the Commission hereby sets anew the instant *Joint Application* for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on **04 December 2020 (Friday), at two o'clock in the afternoon (02:00 PM)**, through a virtual hearing using the **Microsoft Teams Application** as the online platform for the conduct thereof.

BATELEC II and APRI are hereby directed to host the virtual hearing at **BATELEC II's Principal Office in Antipolo Del Norte, Lipa City, Batangas**, as the designated venue, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, BATELEC II and APRI shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, BATELEC II and APRI are 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 their 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 hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within BATELEC II's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within BATELEC II's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, their reasons therefor, and of the scheduled virtual hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives and attend the scheduled hearing; and

- 5) Furnish with copies of the *Joint Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearing, BATELEC II and APRI must submit to the Commission via electronic mail (e-mail) at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, 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 affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* were published, and the complete issues of the said newspapers;
- 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 BATELEC II and APRI to inform the consumers affected of the filing of the *Joint Application*, their 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, COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, BATELEC II and APRI are hereby required to post on their 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

Governor and Local Legislative Bodies, and to submit proof of the posting thereof.

BATELEC II and APRI and all interested parties are also required to submit via e-mail at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, 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.

BATELEC II and APRI 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 BATELEC II and APRI 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.

BATELEC II and APRI must also be prepared to make an expository presentation of the instant *Joint Application*, aided by whatever communication medium that they 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 *Joint Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

BATELEC II and APRI are hereby directed to file a copy of their Expository Presentation via e-mail at records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, at least five (5) calendar days prior to the scheduled virtual hearing. BATELEC II and APRI shall also be required, upon the request of any stakeholder, to provide an advance copy of their 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 records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com. 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.

BATELEC II and APRI are 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 their 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, BATELEC II and APRI, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com, with their respective e-mail address upon receipt of this *Order*. The access link/s to the aforementioned hearing platform will be sent by the Commission within five (5) working days prior to the scheduled hearing.

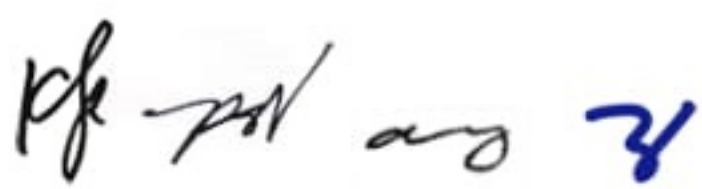
SO ORDERED.

Pasig City, 21 October 2020.

FOR AND BY AUTHORITY
OF THE COMMISSION:




AGNES YST DEVANADERA
Chairperson and CEO


LS: KMS/RSPV/ARG/MCCG

Copy Furnished:

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26. Office of the LGU Legislative Body
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