

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE POWER
SUPPLY AGREEMENT
BETWEEN IBAAN
ELECTRIC CORPORATION
(IEC) AND THERMA
LUZON, INC. (TLI), WITH
MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
PRAYER FOR
PROVISIONAL AUTHORITY
OR INTERIM RELIEF**

ERC CASE NO. 2023-035 RC

**IBAAN ELECTRIC
CORPORATION (IEC) AND
THERMA LUZON, INC.
(TLI),**

Applicants.

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Promulgated:
June 13, 2023

ORDER

On 27 April 2023, Ibaan Electric Corporation (IEC) and Therma Luzon, Inc. (TLI) filed a *Joint Application* dated 01 April 2023, seeking the Commission's approval of their Power Supply Agreement (PSA), with motion for confidential treatment of information and prayer for provisional authority or interim relief.

In an *Order* and a *Notice of Virtual Hearing*, both dated 09 May 2023, the Commission set the instant *Joint Application* for hearing on the following dates: (1) 13 June 2023 for the determination of compliance with jurisdictional requirements and expository presentation; and (2) 20 June 2023 for the Pre-trial Conference and presentation of evidence.

Thereafter, on 24 May 2023, TLI filed a *Manifestation with Urgent Motion to Revise Order and Notice of Virtual Hearing* (Manifestation with Urgent Motion), noting that there are missing rows in Schedule 3.1.1 – Delivery Schedule shown in page 4 of the *Notice of Virtual Hearing* dated 09 May 2023. Thus, TLI prayed that the Commission make the necessary revisions in the *Order and Notice of Virtual Hearing* dated 09 May 2023.

In an *Order and Notice of Virtual Hearing*, both dated 29 May 2023, the Commission granted TLI's *Manifestation with Urgent Motion* and set anew the instant *Joint Application* for hearing on the following dates: (1) 20 June 2023 for the determination of compliance with jurisdictional requirements and expository presentation; and (2) 27 June 2023 for the Pre-trial Conference and presentation of evidence.

However, on 06 June 2023, TLI filed a *Manifestation with Urgent Motion to Reset Hearing* (Second Manifestation with Urgent Motion), praying that the hearings be reset considering that the Applicants had insufficient time to comply with the publication requirements pursuant to the *Order* dated 29 May 2023.

Having found TLI's *Second Manifestation with Urgent Motion* in order, the Commission **GRANTS** the same. In view thereof, the hearings set on 20 June 2023 and 27 June 2023, pursuant to the *Order* dated 29 May 2023 are hereby cancelled.

ACCORDINGLY, the Commission sets anew the hearings for the instant *Joint Application* 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 and Resolution No. 01, Series of 2021² (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
24 July 2023 (Monday) at two o'clock in the afternoon (2:00 P.M.)	MS Teams or Zoom Application	Determination of compliance with the jurisdictional requirements, and Expository Presentation

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

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date and Time	Platform	Activity
31 July 2023 (Monday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and presentation of evidence

Accordingly, IEC and TLI are hereby directed to host the virtual hearings at **IEC's principal office located at Metro-Rei Business Park, Palindan, Ibaan, Batangas**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, IEC and TLI shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, IEC and TLI 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 City and Municipal Mayors and the respective Local Government Unit (LGU) legislative bodies within the IEC's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within IEC's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, their reasons therefor, and of the scheduled 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, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial hearing, IEC and TLI must submit to the Commission via electronic mail (e-mail) at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance with the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of the affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was 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 IEC to inform the consumers within its franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearings 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 *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, IEC and TLI are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Offices of the Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

Joint Applicants IEC and TLI and all interested parties are also required to submit via e-mail at doCKET@erc.ph, and 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 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.

Joint Applicants IEC and TLI 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 hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of IEC and TLI 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.

Joint Applicants IEC and TLI 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*. Relevant information and pertinent details substantiating the reasons and justifications for the *Joint Application* must be cited in support thereof.

Joint Applicants IEC and TLI are hereby directed to file a copy of their Expository Presentation via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. IEC and TLI 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.


Joint Applicants IEC and TLI are hereby directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **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.

Finally, IEC and TLI, including their authorized representatives and witnesses, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, 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 virtual hearing.

SO ORDERED.

Pasig City, 13 June 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD2023-004563


LS: MVM / LSP / MCCG

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Copy Furnished:

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