

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE LEVEL
OF MARKET FEES FOR THE
CALENDAR YEAR 2021 FOR
THE PHILIPPINE
WHOLESALE ELECTRICITY
SPOT MARKET (WESM)

ERC CASE NO. 2024-006 RC

INDEPENDENT
ELECTRICITY MARKET
OPERATOR OF THE
PHILIPPINES, INC.,
Applicant.

Promulgated:
January 22, 2024

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ORDER

On 10 January 2024, Independent Electricity Market Operator of the Philippines, Inc. (IEMOP) filed the instant *Application* dated 04 August 2020, seeking the Commission’s approval of the level of Market Fees for Calendar Year (CY) 2021 for the Philippine Wholesale Electricity Spot Market (WESM), with motion for issuance of provisional authority.

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

1. IEMOP is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at the 19th Floor Robinsons-Equitable Tower, ADB Avenue corner Poveda Street, Ortigas Center, Pasig City. Applicant is represented herein by its President and CEO, Atty. Richard J. Nethercott, who is duly authorized by the IEMOP Board of Directors as evidenced by the Secretary’s Certificate dated 9 July 2020 and attached as Annex “A” and made an integral part of this Application;
2. IEMOP is filing this Application as the Market Operator of the Philippine Wholesale Electricity Spot Market (WESM), pursuant to Section 30 of Republic Act No. 9136, also known

as the "Electric Power Industry Reform Act of 2001" or "EPIRA" which reads, in part, as follows:

"The cost of administering and operating the wholesale electricity spot market shall be recovered by the market operator through a charge imposed on all members: Provided, That such charge shall be filed with and approved by the ERC."¹

BACKGROUND

*Transition to the Independent
Market Operator (IMO)*

3. The establishment of the WESM was mandated of the Department of Energy (DOE) by Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA). Section 30 of the EPIRA expressly directs DOE to establish the WESM composed of the wholesale electricity spot market participants, and, jointly with electric power industry participants, promulgate the detailed rules for the WESM (WESM Rules);
4. The EPIRA and the EPIRA IRR mandate that the WESM shall be implemented by a Market Operator, which shall initially be an autonomous group market operator (AGMO) and, thereafter, the Independent Market Operator (IMO). The AGMO is to be composed of an equitable representation of the electric power industry participants, shall be responsible for the preparations for and initial operations of the WESM and shall be under the administrative supervision of the National Transmission Corporation (TRANSCO). The transition to the Independent Market Operator (the "IMO") is mandated by Section 30 of the EPIRA to occur one year after the commercial operations of the Philippine Wholesale Electricity Spot Market (the "WESM"). It is mandated that an independent entity shall be formed, which shall assume the functions, assets and liabilities of the market operator from the AGMO upon joint endorsement of the DOE and the electric power industry participants and the administrative supervision of the TRANSCO shall then cease;²
5. The EPIRA and the EPIRA IRR also mandate that the Wholesale Electricity Spot Market Rules (WESM Rules) shall include the procedures for the formation of a WESM governing body. In this regard, the WESM Rules provided for the creation of the Philippine Electricity Market Board ("PEM Board"), which, among other functions, shall oversee and monitor the activities of the Market Operator to ensure that the latter shall fulfil its responsibilities under the WESM Rules. The WESM Rules also provided for the creation of various governance committees and organic units within the Philippine Electricity Market Corporation ("PEMC") to

¹ See also Rule 9 (a) of the Implementing Rules and Regulations of the EPIRA ("EPIRA-IRR").
² In this Order, the Commission retained the paragraph 4 as alleged in IEMOP's Application published 10 August 2020, The Philippine Star Vol. XXXV No. 13.

perform governance functions, including among other things, market assessment, monitoring and surveillance, enforcement and compliance, rules change and review, market audit, dispute resolution and technical assistance;

6. PEMC was incorporated as a non-stock, non-profit corporation and became the AGMO as well as the governance arm of the WESM. Its Board of Directors is the PEM Board.
7. Pursuant with the mandate of Section 30 of the EPIRA to transition to the IMO, the DOE endorsed the transition to the Independent Market Operator through its Department Circular No. 2018-01-0002 dated 18 January 2018 and entitled "Adopting Policies for the Effective and Efficient Transition to the Independent Market Operator for the Wholesale Electricity Spot Market"³;
8. The industry participants likewise endorsed the transition through approval by the PEM Board and ratification by the members of PEMC during its membership meeting held on 06 February 2018 of the "Plan for Transition to the Independent Market Operator of the Philippine Wholesale Electricity Spot Market" (IMO Transition Plan)⁴;
9. Both the above-mentioned DOE Circular and IMO Transition Plan called for the formation of an independent entity that is separate from PEMC to become the IMO, and directed that the IMO be incorporated as a private, non-stock, non-profit corporation;
10. IEMOP was thereafter organized as a non-stock, non-profit private corporation that is separate from PEMC. IEMOP was incorporated to become the IMO and as such, shall assume and perform all functions of the Market Operator as set out in the EPIRA, the EPIRA IRR and the WESM Rules, market manuals, and other rules, regulations and issuances;
11. On 19 September 2018, PEMC and IEMOP executed an Operating Agreement⁵ by virtue of which, PEMC acknowledged and confirmed that IEMOP is the corporation duly incorporated in the Philippines to act as the Independent Market Operator of the WESM pursuant to the IMO Transition Plan and DOE Department Circular No. 2018-01-0002;
12. The time and date of the actual transfer and assumption by IEMOP of the market operator functions and other services defined in the Operating Agreement was on 00:00H, 26 September 2018 ("Commencement Date"). Correspondingly, the related personnel, assets, and liabilities were transferred from PEMC to IEMOP as of Commencement Date;

³ A copy of which is hereto attached as Annex "B".

⁴ A copy of which is hereto attached as Annex "C".

⁵ A copy of which is hereto attached as Annex "D".

13. In accordance with the DOE Circular and the IMO Transition Plan, PEMC remains to be the governing body of the WESM and, as such, will continue to perform the WESM governance functions, including, among other things, the supervision and monitoring of the operations of the Market Operator in accordance with the WESM Rules. For this purpose, the Articles of Incorporation and By-Laws of PEMC were amended to, among other things, amend its Primary Purpose to emphasize its function as the WESM governing body;
14. Having assumed the functions, assets and liabilities of the market operator on the Commencement Date, IEMOP is now responsible for performing the following functions:
 - (a) Market registration;
 - (b) Pricing and scheduling, including short term load forecasting and the provision of the dispatch schedule to the System Operator;
 - (c) Billing, settlements, management of prudential requirements, meter data management and warehousing; and
 - (d) Monitoring of trading activities in the market, management of market data and provision of market data and reports.
15. Additionally, IEMOP renders Other Services as provided in Article V and Schedule 2 of the Operating Agreement for the performance of the following functions:
 - (a) as the Central Registration Body for the retail market;
 - (b) as the Metered Quantity (MQ) Reconciliation Agent under the Interim Mindanao Dispatch Protocol (IMDP);
 - (c) facilitate collection and payment of unpaid Interim Mindanao Electricity Market (IMEM) settlement transactions, pursuant to DOE Circular DOE DC2017-05-0009⁶ and other relevant issuances of the DOE on the IMEM;
 - (d) training of Market Participants, PEMC, DOE, ERC, PCC and other stakeholders; and
 - (e) participant or customer support services to WESM participants aimed at facilitating their transactions in the WESM, including the (a) conduct of regular market participants update meetings, and (b) operation and maintenance of help desk facility to facilitate actions on participant queries and requests.
16. In DOE Circular No. DC2019-07-0011 dated 29 July 2019, the DOE affirmed the designation of the IMO as the CRB and affirmed the designation of the IMO as the CRB;

⁶ Section 1.2 and Section 2.8, Annex B, DOE Circular No. DC2017-05-0009 (04 May 2017).

*Authority to File Application
for Approval of Market Fees*

17. Sections 5.5 and 7.7 of DOE Circular No. 2018-01-0002, providing for guidelines for the transition to the IMO, direct the IMO to file with the Honorable Commission the application for approval of the market fees, which shall cover the budget and revenue requirements of PEMC and the IMO for the operation and administration of the WESM.
18. Clause 2.10.2.3 of the WESM Rules, meanwhile, provides that the proposed structure and level of market fees shall be developed by the Market Operator, subject to approval by the PEM Board prior to filing with the Honorable Commission for final approval;
19. Consistent with the WESM Rules, Section 10.02 of the Operating Agreement and the approved IMO Transition Plan, the approval by the PEM Board of the budgets of both PEMC and IEMOP is required prior to IEMOP's filing of the application for approval of the market fees with the Honorable Commission, which shall clearly indicate the market fees that respectively pertain to PEMC and IEMOP;
20. Section 10.05 of the Operating Agreement likewise provides that IEMOP shall be responsible for collecting the market fees through the WESM settlement process upon approval thereof by the Honorable Commission. It is also provided that PEMC and IEMOP shall agree on the manner and schedule of remittance of the market fees pertaining to PEMC considering that these are being collected by IEMOP only on behalf of PEMC;
21. Pursuant to the foregoing WESM Rules clause 2.10.2.3 and the agreements between PEMC and the IEMOP in their Operating Agreement, the PEM Board approved the budgets of IEMOP and PEMC for CY 2021. The PEM Board likewise approved the filing by IEMOP of the application before this Honorable Commission. Prior to approval by the PEM Board, the IEMOP Board of Directors likewise approved IEMOP's budgetary requirements and authorized the filing of the application. These approvals are evidenced by the Secretary's Certificate attached hereto as Annexes "E", "E-1" and "E-2" and made integral parts of this Application;

TIMELINESS OF FILING THE APPLICATION

22. In the Decision dated 30 January 2008 in the CY 2007 Market Fees (MF) Application⁷ of PEMC, the Honorable Commission directed the filing of the market fee application "not later than the first working day of July of the current year. xxx";

⁷ ERC Case No. 2007-124 RC.

- 23. On 10 July 2020, IEMOP filed its Motion for Additional Time requesting for an additional period of thirty (30) days from 1 July 2020, or until 31 July 2020, within which to file the Application;
- 24. On 29 July 2020, IEMOP filed its Second Motion for Additional Time requesting for an additional period of thirty (30) days from 31 July 2020, or until 30 August 2020, within which to file the Application;
- 25. This Application is thus filed within the reglementary period requested;

PROPOSED MARKET FEES

- 26. The factual allegations set forth above are re-pleaded in support of this application;
- 27. Section 9 Rule 9 (c) of the Implementing Rules and Regulations of the EPIRA provides that “the cost of administering and operating the WESM shall be recovered by the IMO through a charge imposed on all WESM participants or WESM transactions, provided such charge shall be filed with and approved by the ERC, consistent with the WESM Rules”;
- 28. PEMC, as then the Autonomous Group Market Operator (AGMO), first filed its Application⁸ for approval of the structure and level of the market fees in WESM in 2005 and proposed a dual structure market fees comprised of the following categories-
 - (a) Market Registration Fee to cover the expenses for registering WESM members; and
 - (b) Market Transaction Fees to cover the budgetary requirements of PEMC in operating and governing the market.
- 29. The Honorable Commission approved the foregoing structure of the market fees in its Decision dated 22 June 2006, further ruling that the total amount of Market Transaction Fees shall be apportioned among the generators according to the volume traded by each using the following formula:

$$\begin{aligned} \text{Rate} &= \frac{\text{Total Annual Market Transaction Fees (Php)} / 12}{\text{Total Generation Metered Quantity for the Month (kWh)}} \\ &= \text{P/kWh} \end{aligned}$$

- 30. Following the above-mentioned market fee structure, the instant Application seeks for approval of the Market Transaction Fee for CY 2021 to cover the cost of PEMC and IEMOP in governing and operating the WESM, respectively. The Applicant no longer seeks for approval of a Market Registration Fee. The projected total budgetary requirement

⁸ ERC Case No. 2005-048 RC.

of both PEMC and IEMOP as approved by the PEM Board is NINE HUNDRED EIGHTY FIVE MILLION SIX HUNDRED TEN THOUSAND PESOS (PhP985,610,000.00), broken down as follows:

Budget Component	PEMC, PhPM	IEMOP, PhPM	Total, PhPM
Personnel Services (PS)	152.18	265.63	417.81
Maintenance and Other Operating Expenses (MOOE)	204.74	282.12	486.86
Capital Expenditures (CAPEX)	21.75	59.19	80.94
TOTAL	378.67	606.94	985.61
Projected Generation, GWH	102,543		
Fixed Market Fee Charge, PhP/kWh	0.0037	0.0059	0.0096

31. As shown in the foregoing table, the projected budgetary requirements cover the following budget components:
- (a) Personnel Services (PS) pertain to the salaries and benefits of the employees of PEMC and IEMOP;
 - (b) Maintenance and Other Operating Expenses (MOOE) include, among other things, honorarium, rent, utilities, repairs and maintenance, contracted services, conference, insurance, advertising and promotion, taxes and dues, training, travel and transportation, materials and supplies and subscriptions, as well as, for PEMC, the cost for market operations audit and metering review;
 - (c) Capital Expenditures (CAPEX) consist of purchase, enhancements and upgrades to the market governance systems, corporate infrastructure, and purchase of service vehicles;
32. The foregoing amounts are net of applicable taxes, such as corporate income and value added taxes. These also do not cover possible changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors;
33. A discussion of the specific budgetary allocations falling within the foregoing cost components and their justifications are provided in the judicial affidavits of witnesses that are attached and made integral parts of this Application;
34. Applicant respectfully submits that the budgetary requirements for CY 2021 is sufficiently indicative of the requirements of PEMC and IEMOP for the medium term, as these already consider the following:
- (a) Cost of administering and operating the WESM with two separate organizations performing market governance and market operations functions;
 - (b) Organizational structures or tables of organization of the two organizations designed in accordance with their respective functions as envisioned by the two organizations, and not merely to accommodate the then existing manpower complement of PEMC. No

significant changes in manpower complement is expected over the medium term;

- (c) Operation of the enhancements to the market design, as embodied in the revised Price Determination Methodology currently being applied for approval with the Honorable Commission in a separate application, and corresponding of operation of the New Market Management System and other new or enhanced market systems;
- (d) The aggregate PEMC and IEMOP budgetary requirements upon which the proposed Fixed Market Fee Charge and Market Fees are based does not include the pre-establishment expenses for the operations of WESM in the Mindanao grid. This is consistent with the Honorable Commission's directive in its Order dated 11 July 2017 in ERC Case No. 2015-160RC, thus:

"XXX XXX XXX

As the above discussed expenses are to be incurred in the upcoming establishment of the WESM in Mindanao, the Commission recognizes that the pre-operating expenses should not be charged to Luzon & Visayas customers. The separate apportionment of expenses between Luzon-Visayas WESM and Mindanao WESM is significant considering that in the absence of interconnection by the Mindanao grid, the WESM Mindanao will be a market separate from the Luzon and Visayas WESM.

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Furthermore, considering that the total amount sourced from the collected fines and penalties are from Luzon's and Visayas' customers, the same shall be recovered from Mindanao WESM customers upon the establishment of the commercial operations of WESM in Mindanao. Following the launch and establishment of the WESM in Mindanao, PEMC shall subsequently file its budgetary requirements for the continuous administration and operation of WESM Mindanao including the cost recovery mechanism for the pre operations of WESM Mindanao.

35. The amounts proposed by the Applicant are net of applicable taxes, such as corporate income and value added taxes. These also do not cover possible changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors;
36. Based on initial indicative figures, the estimated market fee charge is PhPP0.0096/kWh based on the Luzon and Visayas energy forecast of 102,543GWh. The energy forecast is attached as Annex "F" and is made an integral part of this Application;

37. The market fee charge shall be recovered from Luzon and Visayas generators pending the commencement of commercial operations of WESM in Mindanao. This is consistent with the pronouncement of the Honorable Commission in its Order dated 11 July 2017 in ERC Case No. 2015-160RC, thus:

xxx xxx xxx

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Imposition on Generation
Company-Trading Participants

38. Pursuant to the previous approvals of the Honorable Commission, the market fee charge/rate shall be collected from the generation companies registered in the WESM and shall be assessed based on their actual generation. Thus, the amount of market fees that will be collected monthly shall be calculated by multiplying the market fee charge/rate by the actual metered generation metered quantities, in kWh, for the month, as follows:

$$\text{Market Fee Rate (PhP/kWh)} = \frac{\text{Total Annual Market Fee}/12}{\text{Total Generation Metered Quantity}}$$

As previously mentioned, the market fee charge shall be recovered from Luzon and Visayas generators pending the commencement of commercial operations of WESM in Mindanao.

39. Should it be necessary, Applicant shall file for adjustment of the market fee charge prior to the commencement of the following:
- (a) Commercial operations of the WESM in the Mindanao grid, which adjustment shall consider the additional

budgetary requirements for the operation and administration of the WESM and the projected increase in generation volumes arising due to the integration of Mindanao grid. This is consistent with the pronouncement of the Honorable Commission in its Order dated 11 July 2017 in ERC Case No. 2015-160RC; and

- (b) Commercial operations of the trading of reserves in the WESM, which adjustment shall consider the inclusion of scheduled reserves in determining the Fixed Market Fee Charge as well as the additional budgetary requirements for IEMOP and PEMC, if any, in operating and governing the trading of reserves.

**Compliance with Reporting
and Policy Requirements**

- 40. PEMC and IEMOP, consistent with their obligations under the WESM Rules, shall submit to the Honorable Commission their annual financial reports, which shall include, among other matters, information on the utilization of the market fees;
- 41. Moreover, the general policies in the collection and utilization of the market fees laid down by the Honorable Commission in ERC Case No. 2007-124 RC, as may be applicable, have been and will continue to be complied with, foremost of which is that expenses will never exceed the total approved budget;
- 42. Additionally, PEMC and IEMOP shall comply with the policies laid down in DOE Department Circular No. 2018-01-0002 which prescribes the conditions for the effective and efficient transition to the IMO, as follows:
 - (i) Section 4.3 mandates that the IMO shall operate on a non-profit basis;
 - (ii) Section 5.4 provides that the IMO shall have fiscal autonomy from PEMC;
 - (iii) Section 5.5 requires that the IMO apply for the approval of the market fees to the Honorable Commission and that the same shall have minimal impact to the consumers;
 - (iv) Section 7.6 provides that the performance standards to be enforced upon the Independent Market Operator by the PEM Board shall include financial performance standards which shall provide for an executive compensation policy that outlines the process and procedures that will be applied in reviewing and approving the total compensation paid to senior executives and key employees of PEMC and the Independent Market Operator; and
 - (v) Section 7.7 directs the IMO to file the application for market fees, which shall cover the budget and revenue requirements of PEMC and the IMO for the operation

and administration of the WESM, with the Honorable Commission.

Motion for Issuance of Provisional Authority

43. The factual allegations set forth above are re-pleaded in support of the Motion for Issuance of Provisional Authority;
44. In the Order dated 9 February 2016 in ERC Case No. 2014-092 RC, the Honorable Commission granted authority to the Philippine Electricity Market Corporation (PEMC), as the then Market Operator, to continue imposing the approved Market Transaction Fee (MTF) of CY 2014, as embodied in the Decision dated 15 October 2014 in ERC Case No. 2013-137 RC, on the market participants in the Luzon and Visayas WESM pending the resolution of the market fees application for calendar year 2015;
45. It is respectfully submitted that such authority, in place since 2015, continues to apply up to the present considering that the finality of the Decisions of the Honorable Commission approving the market fees application for calendar years 2015 to 2017 remains pending as of date, while the application for approval of market fees for CY 2018 to 2020 likewise remains pending;
46. Given the highly dynamic nature of the electricity market, the Market Operator must be sufficiently capable of coping with a highly dynamic and progressive electricity market. When its resources are limited, such capability is significantly compromised. In particular, and given the impending implementation of major projects in the WESM such as the New WESM Design and Operations following the issuance by the Department of Energy (DOE) of Department Circular No. DC2015-10-0015 which shall commence upon the launch of the New Market Management System (NMMS), full operation of WESM in Mindanao, establishment of the Renewable Energy Market (REM), and integration of the trading of reserves in the WESM, among others, it is imperative that the necessary funding be available to IEMOP, as the Market Operator, to ensure the successful implementation of these initiatives. Such limitation in resources may also unduly hamper its efforts to bring to completion the projects which are vital to the performance of its mandate, particularly, its market operator function. Specifically in relation to its CAPEX requirements, it is also important that IEMOP be able to implement its Information Systems Strategic Plan ("ISSP") as scheduled.
47. On the part of PEMC, the grant of Provisional Authority is necessary for the implementation of its urgent and vital projects for the WESM for CY2021. The immediate availability of sufficient budgetary requirements is needed in order to ensure the continuous and effective performance of its market governance function which is integral to an independent and efficient electricity market. In line with its

mandate as the administration and governance of the WESM and to keep up with the recent developments in the WESM, like the impending implementation of the Enhanced WESM Design in Luzon, Visayas and Mindanao, PEMC has lined up projects aimed at continuously improving and enhancing its business processes and systems. These projects include new systems and enhancement of existing system through digital transformation to take advantage of the latest available Information Technology (IT) systems to ensure highly available, more efficient and reliable, and secured operationalization of its business processes and make them responsive to the needs of the PEMC's stakeholders, customers and the general public. The project lineup include, among other things, the following: 1) Enhancement of the Compliance Post Evaluation Monitoring System (CPEMS), 2) Development of an automated Meter Service Provider Performance Monitoring System (MSPPMS), 3) Development of an automated Audit Recording and Monitoring System (ARMS) and 4) Improvement of PEMC Data Center on the part of PEMC, the availability of sufficient budgetary requirements shall ensure the continuous and effective performance of its market governance function which is integral to an independent and efficient electricity market;

48. In the Decision dated 20 May 2020⁹ in the Market Fees Application docketed as ERC Case No. 2014-092 RC, the Honorable Commission approved the same with modification, authorizing PEMC to impose the market transaction fee for calendar year 2015 in the amount of PhP447,470,026.06 on WESM participants in the Luzon and Visayas grids. The Honorable Commission likewise issued its Decision dated 22 June 2020 in the Market Fees Application docketed as ERC Case No. 2015-160 RC, authorizing PEMC to impose the market transaction fee for calendar year 2016 in the amount of PhP486,248,467.71 and for calendar year 2017 in the amount of PhP486,441,602.85, on WESM participants in the Luzon and Visayas grids. Notably, these levels, when applied to calendar year 2021, would be grossly insufficient to support the efficient operations and governance of the WESM thus posing a threat to the continuing viability of the WESM operations. A motion for reconsideration¹⁰ has since been filed on the Decision dated 20 May 2020 in ERC Case No. 2014-092 RC and another motion for reconsideration dated 22 June 2020 in ERC Case No. 2015-160 RC;
49. Thus, the Applicant respectfully prays for the issuance of a provisional authority to impose the proposed market fee charge of PhP0.0096/kWh to all generation companies registered in the WESM based on their actual generation, in kWh, to support the operations of both PEMC and IEMOP pending resolution of the instant Application;

⁹ A copy of which was received by PEMC on 1 July 2020.

¹⁰ Omnibus Motion dated 16 July 2020.

50. In support of this Application and the motion for issuance of provisional authority, Applicant herein submits the following documents, copies of which are hereto attached and made integral parts thereof:

Annex	Document
G	Judicial Affidavit of Ms. Mary Anne T. Santiago, Controllershship Manager of the Corporate Services Department of IEMOP, dated 4 August 2020
G-1	IEMOP Proposed Budgetary Requirements and Detailed Descriptions dated July 2020
H	Judicial Affidavit of Mr. Salvador D. Subaran, Chief Information Systems and Technology Officer of IEMOP Affidavit of Service, dated 4 August 2020
I	Judicial Affidavit of Mr. Herbie C. Ngirngir, Finance Assistant Manager of PEMC, dated 30 July 2020
I-1	Detailed Description of PEMC Budget Components – PS and MOOE for CY2021
J	Judicial Affidavit of Mr. Patrick S. Fernandez, Head of the Information Systems and Technology Department of PEMC, dated 30 July 2020
J-1	Detailed Description of PEMC Budget Component – CAPEX for CY2021

Compliance with Pre-Filing Requirements

51. In compliance with the pre-filing requirements for the instant Application and Motion, pursuant to Rule 6 of the ERC Rules of Practice and Procedure, Applicant herein submits the following documents, which are made integral parts hereof:

Annex	Document
K	Acknowledgment of City Council Secretary, Sangguniang Panlungsod of Pasig City
L	Affidavit of Service
M	Affidavit of Publication
N	Complete copy of newspaper
O	Certification of City Council Secretary, Sangguniang Panlungsod of Pasig City
P	Affidavit of Service

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission:

- (i) grant Applicant’s prayer for the issuance of a provisional authority authorizing IEMOP to impose a MARKET FEE CHARGE of PhPo.0096/kWh to all generation companies registered in the WESM based on their actual

generation, in kWh, pending resolution of the instant Application; and

- (ii) after due notice and hearing, render judgment APPROVING the proposed market fees for CY 2021 for IEMOP and PEMC in the total amount of NINE HUNDRED EIGHTY FIVE MILLION SIX HUNDRED TEN THOUSAND PESOS (PhP985,610,000.00).

IEMOP prays for such other reliefs just and equitable under the premises.

Finding the said *Application* to be sufficient in form and 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 venue, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹¹ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure):¹²

Date	Platform	Activity
26 March 2024 (Tuesday) at nine o'clock in the morning (09:00 A.M)	Energy Regulatory Commission, Hearing Room 11th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City	Determination of compliance with jurisdictional requirements and Expository presentation for Luzon stakeholders
02 April 2024 (Tuesday) at nine o'clock in the morning (09:00 A.M)	Energy Regulatory Commission, Visayas Area Operations Divisions (VAOD), 7th Floor, Kepwealth Building, Samar Loop, Cebu Business Park	Expository presentation for Visayas stakeholders
10 April 202410 April 2024 (Wednesday) at nine o'clock in the	Energy Regulatory Commission, Mindanao Area Operations	Expository presentation for Mindanao stakeholders

¹¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

¹² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date	Platform	Activity
morning (09:00 A.M)	Division (MAOD), 6th Floor, BIZ Bldg., c/o BORMAHECO, Inc., 209 J.P. Laurel Avenue, Bajada, Davao City	
17 April 2024 (Wednesday) at nine o'clock in the morning (09:00 A.M)	Microsoft Teams Application	Presentation of Evidence
24 April 2024 (Wednesday) at nine o'clock in the morning (09:00 A.M)		Presentation of Evidence

Applicant IEMOP is directed to attend the said hearings at the designated venues.

RELATIVE THERETO, IEMOP is hereby directed to:

- 1) Cause the publication of the attached *Notice of Public/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 Public/Virtual Hearing* the Office of the Mayor of Pasig City and the Local Government Unit (LGU) of Pasig City for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearings thereon;

- 4) Furnish with copies of this *Order* and the attached *Notice of Public/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, 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 virtual hearing, IEMOP 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 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 Public/Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspaper 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 Public/Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned City Mayor and its LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by IEMOP to inform the consumers within the affected area of the filing of the *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 Public/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, 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, IEMOP 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 Offices City Mayor and its Local Legislative Bodies, and to submit proof of posting thereof.

Applicant IEMOP, 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, its respective Pre-Trial Brief 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.

Applicant IEMOP 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 IEMOP to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from the said date of cancellation.

Applicant IEMOP 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*. Relevant information and pertinent details substantiating the reasons and justifications for the *Application* must be cited in support thereof.

Applicant IEMOP is hereby directed to file a copy of its 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. IEMOP 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.


Applicant IEMOP is 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 its 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, IEMOP, including its authorized representatives and witnesses, are hereby directed to provide the Commission, through 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 hearing.

SO ORDERED.

Pasig City, 22 January 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: AVL / MYM / LSP



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Copy Furnished:

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