

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF CAPITAL
EXPENDITURE PROJECTS
FOR REGULATORY YEARS
2020, 2022, and 2024 WITH
MOTION FOR PROVISIONAL
AUTHORITY**

ERC Case No. 2020-009 RC

**MACTAN ELECTRIC
COMPANY, INC. (MECO),**
Applicant.

Promulgated:
August 11, 2020

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ORDER

On 28 February 2020, the Mactan Electric Company, Inc. (MECO) filed an *Application* dated 28 January 2020 (Application), seeking the Commission's approval of its Capital Expenditure (CAPEX) projects for regulatory years 2020, 2022 and 2024, with prayer for provisional authority.

In the *Order* dated 06 March 2020, the Commission has set the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 18 June 2020 at the ERC Visayas Area Operations Division.

However, pursuant to the Civil Service Commission Memorandum Circular No. 10 Series of 2020¹, where adoption by the government agencies of alternative work arrangements is mandated during the period of state of national emergency due to the COVID-19 pandemic, the Commission, in the interim, deemed it necessary to cancel all out-of-town hearings.

¹ Revised Interim Guidelines for Alternative Work Arrangements and Support Mechanisms for Workers in the Government During the Period of State of National Emergency Due to COVID-19 Pandemic.

In its *Order* dated 03 July 2020, the Commission has set the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 02 September 2020 (Thursday), at nine o'clock in the morning (9:00 A.M.), at MECO's Principal Office, Sangi Road, Lapu-Lapu City, Cebu.

Considering, however, that Cebu City remains to be the epicenter of the coronavirus disease 2019 (COVID-19) outbreak in Central Visayas, the conduct of physical hearing in Lapu-Lapu City, Cebu would highly compromise the health and safety of the attendees.

ACCORDINGLY, the Commission hereby sets the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on **02 September 2020 (Thursday), at nine o'clock in the morning (9:00 A.M.)**, through a virtual hearing using the **Zoom Application** as the online platform for the conduct thereof.

MECO is hereby directed to host **at MECO's Principal Office, Sangi Road, Lapu-Lapu City, Cebu**, as the designated venue of the virtual hearing, and ensure that the same is open to the public and that the community quarantine guidelines are observed at all times. Moreover, MECO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, MECO 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 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 MECO's franchise area for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within MECO's franchise area, by any other means available and appropriate, of the filing of the *Application*, its 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 virtual hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) days prior to the date of the virtual hearing, MECO 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 MECO to inform the consumers affected 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 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 *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, MECO is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication/s and certifications issued by the concerned Office of the Mayors, or Provincial Governor and Local Legislative Bodies, and to submit proof of its posting thereof.

MECO 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.

MECO 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 MECO 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.

MECO 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.

MECO is hereby directed to file a copy of its 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. MECO 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 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.

MECO is hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available mode of service.

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Finally, Applicant, including its authorized representative/s and witness/es, is hereby directed to provide the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com, with its respective e-mail addresses upon receipt of this *Order*. The access link/s to the aforementioned hearing platform shall be sent by ERC within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 10 August 2020.

FOR AND BY AUTHORITY
OF THE COMMISSION:



AGNES VST DEVANADERA
Chairperson and CEO

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ORDER/10 AUGUST 2020
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Copy Furnished:

1. Mactan Electric Company, Inc. (MECO)
Applicant
MECO Building, Sangi Road, Pajo, Lapu-Lapu City
Email Addresses: meco_genlist@mecomactan.com; mecomactan@ymail.com
2. Atty. Mishelle Anne R. Rubio-Aguinaldo
Counsel for Applicant MECO
Unit 5B Unioil Center Building, Acacia Avenue
Madrigal Business Park, Ayala Alabang, Muntinlupa City
3. Office of the City Mayor
City of Lapu-Lapu
4. Office of the Local Government Unit (LGU) Legislative Body
City of Lapu-Lapu
5. Office the Governor
Province of Cebu
6. Office of the LGU Legislative Body
Province of Cebu
7. Office of the Municipal Mayor
Municipality of Cordova
8. Office of the LGU Legislative Body
Municipality of Cordova
9. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
10. Commission on Audit
Commonwealth Avenue, Quezon City
11. Senate Committee on Energy
GSIS Bldg., Roxas Boulevard, Pasay City
12. House Committee on Energy
Batasan Hills, Quezon City
13. Office of the President of PCCI
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
14. Regulatory Operations Service
17th Floor, Pacific Center Building, San Miguel Avenue,
Ortigas Center 1600, Pasig City