

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL AND
AUTHORITY TO IMPLEMENT
CAPITAL EXPENDITURE
PROJECTS FOR
REGULATORY YEARS 2024,
2025, 2026, 2027, 2028, 2029,
AND 2030**

ERC CASE NO. 2024-040 RC

**MACTAN ELECTRIC
COMPANY, INC.,**

Applicant.

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Promulgated:
May 24, 2024

ORDER

On 18 March 2024, Mactan Electric Company, Inc. (MECO) filed an *Application*, dated 13 December 2023, seeking the Commission's approval and authority to implement its Capital Expenditure (CAPEX) Projects for Regulatory Years (RYs) 2024 to 2030.

On 20 March 2024, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both of even date, setting the instant *Application* for hearing on the following dates: (1) 24 May 2024 for the determination of compliance with jurisdictional requirements and expository presentation; and (2) 31 May 2024 for the Pre-trial Conference and presentation of evidence.

On 17 May 2024, MECO filed a *Motion to Defer May 24, 2024 Hearing* of even date (*Motion to Defer Hearing*), praying for the deferment of the scheduled hearings in the instant case for its failure to comply with the requirement on the publication of the *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation, pursuant to the *Order* dated 20 March 2024.

On 24 May 2024, MECO filed a *Manifestation* of even date, stating that it inadvertently filed its *Motion to Defer Hearing* under ERC Case No. 2024-004 RC, instead of ERC Case No. 2024-040 RC.

The Commission finds the foregoing *Motion to Defer Hearing* and *Manifestation* filed by MECO in order. Hence, MECO's *Motion* is hereby **GRANTED**. In view thereof, the hearings set on 24 May 2024 and 31 May 2024, pursuant to the *Order* dated 20 March 2024 are cancelled.

ACCORDINGLY, the Commission sets anew the hearings for the instant *Application* for the determination of compliance with 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	Platform	Activity
26 July 2024 (Friday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
02 August 2024 (Friday) at nine o'clock in the morning (9:00 A.M.)		Pre-Trial Conference and Presentation of Evidence

Furthermore, Applicant MECO is hereby directed to host the virtual hearings at **MECO's principal office located at MECO Building, Sangi Road, Lapu-Lapu City, Cebu**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, Applicant MECO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, Applicant 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 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

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.

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* the Offices of the Provincial Governor, the Mayors, and their respective 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 hearings 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 at the scheduled hearings; 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, Applicant MECO 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 to 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 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 body or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by MECO to inform the consumers within MECO's franchise 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 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, by all those making requests therefor; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, Applicant MECO is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

Applicant MECO, and all interested parties are also required to submit to the Commission 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 initial 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.

Applicant 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 Applicant MECO to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings.

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

Applicant MECO 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. 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.

Applicant MECO is further directed to submit, either 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.


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Finally, Applicant MECO, including its authorized representatives and witnesses, is 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 hearings.

SO ORDERED.

Pasig City, 24 May 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: VMA/LSP/KTB

ERC

Office of the Chairperson and CEO



MCD2024-017496

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Copy Furnished:

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5. Senate Committee on Energy
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6. House Committee on Energy
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8. Office of the Governor
Province of Cebu
9. Office of the Local Government Unit (LGU) Legislative Body
Province of Cebu
10. Office of the Mayor
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11. Office of the Local Government Unit (LGU) Legislative Body
Lapu-Lapu City, Cebu
12. Office of the Mayor
Cordova, Cebu
13. Office of the Local Government Unit (LGU) Legislative Body
Cordova, Cebu