

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
AUTHORITY TO LEASE RAB  
PROPERTIES PURSUANT  
TO ERC RESOLUTION NO.  
18, SERIES OF 2010**

**ERC CASE NO. 2011-005 MC**

**NUEVA ECIJA II - AREA 1  
ELECTRIC COOPERATIVE,  
INC. (NEECO II - Area 1),  
*Applicant.***

**Promulgated:**  
August 16, 2021

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**NOTICE OF VIRTUAL HEARING**

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 13 January 2011, Nueva Ecija II-Area 1 Electric Cooperative Inc. (NEECO II-Area 1) filed an *Application* dated 17 December 2010 (Application), seeking the Commission's approval of its authority to lease its Regulatory Asset Base (RAB) properties, pursuant to the Commission-issued Resolution No. 18, series of 2010.

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

1. That applicant is an electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with the principal office at Calipahan, Talavera, Nueva Ecija where it may be served with summons and other legal processes, represented in this instance by its General Manager, Eulalia M. Castro of legal age, Filipino, married and with office address also at Calipahan, Talavera, Nueva Ecija;
2. Herein applicant is the exclusive franchise holder issued by the National Electrification Administration (NEA) to operate an electric light and power services in the (10) municipalities, namely the municipalities of Aliaga,

Carranglan, Guimba, Licab, Lupao, Muñoz, Quezon, Sto. Domingo, Talavera, Talugtog, all in the province of Nueva Ecija;

3. That pursuant to Section 26 of the EPIRA and Rule 7, Section 5(e) of its IRR provide that a DU may directly or indirectly, engage in any related business undertaking which maximizes the utilization of its assets; Provided that a portion of the net income derived from such undertaking which utilizes assets that are part of the rate base shall be used to reduce its distribution wheeling charges as determined by the ERC, and that quality of service shall not deteriorate pursuant to the standards in the Distribution Code and Rule 10 of the IRR of the EPIRA on Structural and Functional Unbundling of Electric Power Industry Participants;
4. That pursuant to the said mandate NEECO II AREA I hereby applies for the approval of the following Leased Properties, to wit:

**A- Regulatory Asset Base (RAB) Properties- Pole space rental/pole attachment:**

- a. Contract for Joint Use of Poles between NEECO II AREA I and PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, INC. (LOOP O PROJECT);
- b. Contract for Joint Use of Poles between NEECO II AREA I and ATHOLL BROS. TV NETWORK;
- c. Contract for Joint Use of Poles between NEECO II AREA I and INNOVE COMMUNICATION INC.;
- d. Contract for Joint Use of Poles between NEECO II AREA I and FIRST GUIMBA CABLENET INC.;
- e. Contract for Joint Use of Poles between NEECO II AREA I and MUÑOZ SATELITE TV SYSTEM, INC.

**B.- Non-Regulatory Asset Base Property – NONE for NEECO II AREA I:**

5. That in connection with this application herein Applicant hereby undertakes to observe the following conditions embodied in the Guidelines issued by this Hon. Commission:
  - a. Applicant herein shall use a portion of the net annual income derived from such undertaking which utilizes assets that are part of the rate base to reduce its Distribution Wheeling Charges; Provided that such portion shall not exceed fifty percent (50%) of the net income derived from such undertaking;
  - b. Applicant shall maintain a separate account for each business undertaking to ensure that the distribution business shall neither subsidize in any

way such business undertaking nor encumber its distribution assets in any way to support such business as provided for in the Business Separation Guidelines (BSG);

6. That in support of this application herein Applicant hereby submits the Board of Director's Resolution No. 12-01-10 approving the filing of the said application and Soft copy of the documents containing the leased properties;
7. Applicant reserves the right to submit other documents as may be required later by this Hon. Commission to further support this application;

#### **PRAYER**

**WHEREFORE**, premises considered, it is respectfully prayed of this Honorable Commission that pending hearing, the herein submitted application for approval of the Contracts for Joint Use of Poles executed between NEECO II AREA I and other entities for the use of its Regulated Asset Base Properties.

Other relief/s just and equitable in the premises are likewise prayed for.

On 30 June 2011, the Commission issued an *Order* dated 21 June 2011, wherein it ruled that the *Application* was compliant with the Commission-issued Resolution No. 18, Series of 2010 and Resolution No. 25, Series of 2010.

On 15 June 2012, the Commission issued another *Order* dated 14 June 2012 wherein it directed the Applicant to submit a summary of its annual income from the submitted Lease Contracts for the years 2008 to 2011, within fifteen (15) days upon receipt of the said *Order*.

On 21 January 2013, another *Order* dated 17 January 2013 was issued by the Commission wherein it directed Applicant to submit a written explanation regarding the discrepancy of the figures between its submitted Summary of Annual Income from Lease Contracts of its properties vis-à-vis the Statement of Income found in its Annual Report, particularly, on the declared income from rent on property, within fifteen (15) days from receipt thereof.

On 18 February 2013, NEECO II-Area 1 submitted a *Letter* of even date, requesting for a ten (10) day extension to comply with the *Order* of the Commission dated 17 January 2013.

On 03 November 2020, the Commission issued an *Order* dated 05 October 2020 wherein it directed the Applicant to submit a status update of the instant *Application*, within ten (10) days upon receipt of the said *Order*.

On 18 November 2020, Applicant filed an electronic copy of a *Motion for Extension to Submit Compliance* dated 12 November 2020. On the said *Motion*, Applicant prayed for an additional period of thirty (30) days to comply with the directives of the Commission.

On 13 January 2021, Applicant filed another Additional Motion for Extension to Submit Compliance dated 17 December 2020.

On 27 January 2021, Applicant filed an electronic copy of its Compliance dated 13 January 2021

The Commission, in its *Order* dated 27 May 2021 granted Applicant a non-extendible period of five (5) days from receipt of the *Order* to submit its Compliance/Reply.

Consequently, on 16 June 2021, Applicant filed an electronic copy of a *Letter* dated 15 June 2021 with attachments, as compliance to the *Order* of the Commission dated 05 October 2020.

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 online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>1</sup> dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):<sup>2</sup>

<b>Date and Time</b>	<b>Platform</b>	<b>Activity</b>
<b>15 September 2021 (Wednesday)</b> at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation

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<sup>1</sup> Entitled: *A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.*

<sup>2</sup> *A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.*

<b>Date and Time</b>	<b>Platform</b>	<b>Activity</b>
<b>22 September 2021 (Wednesday)</b> at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference, and presentation of evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (e-mail) at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph). 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.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may likewise file through e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

**WITNESS**, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 11<sup>th</sup> day of August 2021 in Pasig City.

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS: BJV/MCCG

