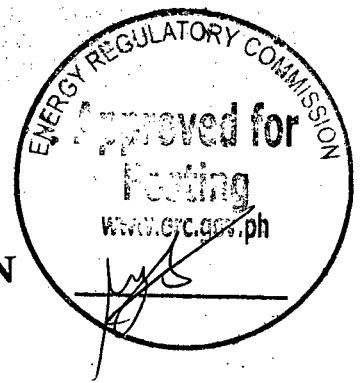


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**BUKIDNON SECOND
ELECTRIC COOPERATIVE,
INC. (BUSECO),
Petitioner,**

-versus-

ERC CASE NO. 2016-004 DR

**BUKIDNON SUB-
TRANSMISSION
CORPORATION (BSTC),
Respondent.**

X-----X

DOCKETED
Date: **SEP 14 2016**
By: _____

ORDER

On 09 September 2016, Bukidnon Second Electric Cooperative, Inc. (BUSECO) filed a *Petition* with even date against Bukidnon Subtransmission Corporation (BSTC) pursuant to Section 43 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).

In the said *Petition*, Petitioner BUSECO alleged the following:

PARTIES

1. That petitioner is an Electric Cooperative created under P.D 269 with main office address at Tankulan, Manolo Fortich, Bukidnon;
2. That respondent BUKIDNON SUB-TRANSMISSION CORPORATION (BSTC) has office address at Dacuyan Compound, Hagkol, Valencia City, Bukidnon where summons and other processes of this Honorable Commission may be served;
3. That BSTC is a consortium of First Bukidnon Electric Cooperative (FIBECO) and petitioner Bukidnon Second Electric Cooperative Inc. (BUSECO) for the purpose of acquiring the 69kV line sold or disposed by the TRANSCO/NAPOCOR;

NATURE OF THE PETITION

4. That BSTC, by virtue of a Sub-transmission Connection Agreement which was executed last July 2015, imposed connection charges to BUSECO, as follows:

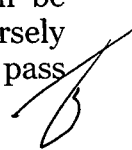
ARTICLE XII. CONNECTION CHARGES

The charges to be included in the billing shall be the following with their corresponding amount:

- a. Connection charge – Two Hundred Twenty Three Thousand Five Hundred Eighteen Pesos and Fifty-Six Centavos (Php 223,518.56),
- b. Residual Sub-Transmission Charge – Seven Hundred Twenty Nine Thousand One Hundred Forty Eight Pesos and Thirty-Two Centavos (Php 729,148.32),

Provided, that within 6 months BSTC must apply for new RSTC rate with ERC. Provided, further, that the new approved RSTC rate shall be applied for the subsequent Agreement;

5. That the 6-month period for the authority to charge CC-RSTC has expired on January 26, 2016 without the new CC-RSTC rates having been approved by the Commission;
6. That there being no legal basis for the CC-RSTC, petitioner stopped payment to respondent ;
7. That likewise, aside from the lack of authority from the Commission, petitioner also questions validity of the inclusion of the Value Added Tax (VAT);
8. That while there is still a pending dispute resolution between the parties before the ERC, respondent threatened petitioner with Disconnection scheduled on 15 September 2016 at 12:00 noon, copy of the notice is herein attached as ANNEX "B;"
9. That the Notice was furnished to the local government units, copies of which are attached hereto as Annex "C", to the general public and through the social media, particularly Facebook, Annex "D";
10. That the disconnection of petitioner will cause massive and irreparable damage and injury to the member consumers of petitioner including the (19) hospitals in its service area , dislocate trade and businesses, aside from great inconvenience that will be suffered by the residential consumers;
11. That not only the local franchise area of petitioner will be affected, but even national interest will be adversely compromised, prompting Senator Miguel Zubiri to pass



Senate Resolution No. 133 calling for an investigation in aid of legislation of the impending disconnection of petitioner, copy of which is hereto attached as Annex "E;"

12. That this is pure harassment on the part of respondent because petitioner, after all is willing to pay, provided there will an order from the ERC imposing the CC-RSTC and will put this payment in escrow to show good faith on the part of petitioner;
13. That respondent further misled the public that petitioner has already connected the CC-RSTC from its members consumers but refuses to pay this to BSTC, which is farthest from the truth, because considering the lack of authority from the ERC, petitioner did not include this in its billing statements to its members-consumers and neither was this passed on;

RELIEFS SOUGHT

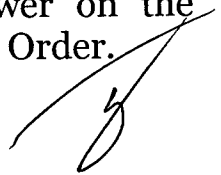
WHEREFORE, foregoing premises considered, it is most respectfully prayed of this Commission to issue a Cease and Desist Order, directing respondent BSTC not to disconnect petitioner on 15 September 2016 and on any other dates until the ERC makes a ruling on the validity of the rate application of BSTC.

Such other reliefs, just and equitable under the premises, are likewise prayed for.

Finding the said *Petition* to be sufficient in form and substance, with the required fees having been paid, pursuant to Section 4, Rule 13 of the Commission's 2006 Rules of Practice and Procedure (2006 RPP), the same is hereby set for expository presentation, Pre-trial Conference, and presentation of evidence on **03 October 2016 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Petitioner BUSECO is hereby directed to cause the publication of the attached Notice of Public Hearing at its own expense, once in a newspaper of general circulation in the locality or localities where Petitioner operates its business, if there be any such local newspaper, or in a newspaper of nationwide circulation, at least ten (10) days before the scheduled hearing.

Moreover, pursuant to Section 6, Rule 5 of the 2006 RPP, Respondent BSTC is likewise directed to file its Answer on the *Petition* within fifteen (15) days from receipt of the instant Order.



On the date of the initial hearing, Petitioner BUSECO must submit to the Commission its written Compliance with the foregoing requirements attaching therewith the affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published together with the complete issue of the said newspaper.

Petitioner BUSECO and Respondent BSTC and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and Pre-trial Conference, their respective Pre-trial Briefs containing, among others:

- a. A summary of admitted facts and proposed stipulation of facts;
- b. The issues to be tried or resolved;
- c. The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- d. The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of BUSECO to submit the required Pre-trial Brief and Judicial Affidavits of their witnesses 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 said date of cancellation.

As part of the Pre-trial Conference, Petitioner BUSECO must also be prepared to make an expository presentation of the instant *Petition*, aided by whatever communication medium 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, what the *Petition* is all about and the reasons and justifications being cited in support thereof.

Let this Order be served expeditiously through such modes as may be permitted under the rules, including through facsimile or electronic mail.

SO ORDERED.

Pasig City, 13 September 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO




LS: ARB/ACG/CVB/APV

Copy Furnished:

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Counsel for Petitioner BUSECO
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Cagayan de Oro City
 2. Bukidnon Second Electric Cooperative, Inc. (BUSECO)
Petitioner
Manolo Fortich, Bukidnon
 3. Romeo Y. Pacanan
President and CEO
Bukidnon Sub-transmission Corporation (BSTC)
Dacuyan Compound, Hagkol, Valencia City
 4. Bukidnon Sub-transmission Corporation (BSTC)
Respondent
Dacuyan Compound, Hagkol, Valencia City
 5. First Bukidnon Electric Cooperative (FIBECO)
Maramag, Bukidnon
 6. National Grid Corporation of the Philippines (NGCP)
BIR Road corner Quezon Avenue
Quezon City
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