

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



**SPC ISLAND POWER
CORPORATION AND SPC
POWER CORPORATION,
Complainants,**

-versus-

ERC CASE NO. 2020-001 DR

Promulgated:
September 1, 2020

**PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC) AND INDEPENDENT
ELECTRICITY MARKET
OPERATOR OF THE
PHILIPPINES (IEMOP),
Respondents.**

x ----- x

ORDER

On 20 January 2020, SPC Island Power Corporation, and SPC Power Corporation (Complainants) filed a *Complaint* dated 06 December 2019 against Philippine Electricity Market Corporation (PEMC), and Independent Electricity Market Operator of the Philippines (IEMOP).

In the *Order* dated 27 February 2020, the Commission has set the instant case for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 02 April 2020 at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.

However, due to the declaration of the entire Luzon as covered by the Community Quarantine where a strict work from home arrangement is being implemented in the Executive Branch¹, all hearings during the said period have been cancelled.

¹ Memorandum from the Executive Secretary dated 16 March 2020 (Community Quarantine Over the Entire Luzon).

In view of the foregoing, the Commission cancelled the hearing scheduled on 02 April 2020 pursuant to the *Order* dated 27 February 2020.

On 18 May 2020, SIPC and SPC submitted *via* electronic mail their *Manifestation and Motion for Resetting of Hearing* of the scheduled hearing praying for the issuance of a new *Notice of Public Hearing*.

On 25 June 2020, SIPC and SPC filed their *Manifestation and Motion (to Rule on the Manifestation and Motion for Resetting for Hearing dated 18 May 2020)*.

RELATIVE THERETO, the Commission, in its *Order* dated 03 July 2020, has set the instant *Complaint* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 10 September 2020 at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.

However, due to the continuous threat to public health and safety brought about by the coronavirus disease 2019 (COVID-19), the Commission deemed it necessary to conduct all previously scheduled physical hearings through virtual hearings.

IN VIEW OF THE FOREGOING, the Commission shall convene the virtual hearing through video conferencing, subject to certain limitations as set forth herein.

ACCORDINGLY, the Commission hereby sets the instant *Complaint* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on **10 September 2020 (Thursday) at ten thirty in the morning (10:30 A.M.)**, through a virtual hearing using the **Microsoft Teams** application as the online platform for the conduct thereof.

RELATIVE THERETO, Complainants are hereby directed to:
(1) Cause the publication of the attached *Notice of Virtual Hearing* at their own expense, once in a newspaper of nationwide circulation, at least ten (10) days before the scheduled hearing; and (2) 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 at the scheduled hearings.

Moreover, pursuant to Section 6, Rule 5 of the ERC Rules of Practice and Procedure, PEMC and IEMOP are hereby directed to file their respective *Answer/Comment* on the *Complaint* within fifteen (15) days from receipt of this *Order*. Notwithstanding the same, the Commission reserves its authority to determine the *locus standi* of IEMOP.

Within five (5) calendar days prior to the date of the virtual hearing, Complainants 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 foregoing jurisdictional requirements attaching therewith the following: (1) the affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual Hearing* was published, together with the complete issue of the said newspaper; and (2) 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.

Complainants, PEMC, and IEMOP as well as 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.

Complainants 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 Complainants 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.

As part of the *Pre-trial Conference*, Complainants must also be prepared to make an expository presentation of the instant *Complaint*, aided by whatever communication medium they may deem appropriate, for the purpose, in order to put in plain words and explain, for the benefit of the other concerned parties, the nature of the *Complaint*, with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

Complainants are hereby directed to file a copy of their 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. Complainants 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.

Complainants are 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 their 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, Respondents are directed to submit the hard/printed copy of their *Answer/Comment* within the same period through any of the

available modes of service. Lastly, all interested parties who filed their Petition for Intervention or Opposition are likewise required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, Complainants, and the Respondents, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com, with 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, 17 August 2020.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO

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