

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



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO SECURE
LONG TERM LOANS WITH
ANY BANKING/ FINANCIAL
INSTITUTION AND
MORTGAGE ITS
PROPERTIES**

ERC CASE NO. 2020-002 MC

**OLONGAPO ELECTRICITY
DISTRIBUTION COMPANY,
INC. (OEDC),**

Applicant.

X ----- X

Promulgated:
September 1, 2020

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 05 February 2020, the Olongapo Electricity Distribution Company (OEDC) filed an *Application* dated 23 January 2020 (Application), seeking the Commission's approval of its authority to secure long term loans with any banking/ financial institution and to mortgage its properties.

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

1. Applicant is a corporation duly organized and existing under Philippine law, with principal office address at 1170 Rizal Avenue East Tapinac Olongapo City, and is franchised under Republic Act No. 10373 to construct, own, operate and maintain an electric distribution system in the City of Olongapo and its suburbs;
2. Prior to this filing, OEDC's Application for the Approval of Capital Expenditure Projects docketed as ERC Case No. 2017-030 RC included a provision for the acquisition of lot and building for office. Since OEDC started its operation in June 2013, it has only been renting premises for its employees' office and collection office. Hence, after a careful search of the suitable property and conduct of due diligence, OEDC decided to purchase its own lot. Property

acquired has an existing building which was improved and at the moment housed the members of its Engineering Services Division and Customer Services Division. Future plan is to construct a new building appropriate to house all including the other employees still holding office in another rented building;

3. Alongside with the provision for the acquisition of lot and building, OEDC also included in its CAPEX Application in 2017 (ERC Case No. 2017-030 RC), the development of a new 15MVA Kale Substation and switchyard. Over the next ten years, OEDC expects the total peak demand in its franchise area to increase from the present peak demand of about 32.9 MW to 43.5 MW at the rate of annual growth of 1.56% using Energy Utilization Index (EUI) forecasting method. Because of this expected load growth, it is imperative for OEDC to upgrade its substation transformer and distribution system;
4. Both capital expenditure projects, the acquisition of lot and building for office and upgrading of a 10MVA to a 15MVA Kale substation and switchyard necessarily require funding;
5. While OEDC has internally generated funds at its disposal, said funds also answer for other payments and operating obligations of OEDC and will not be adequate to finance the company's activities in full. Thus, OEDC has initially negotiated for long-term loans from banks in the amount of Php40 Million. An additional Php82 Million is still under negotiation with other financial institutions;
6. Moreover, with a view to serve the forecasted load growth, OEDC will have to undergo other capital expenditure projects. These capital expenditure projects are intended to improve OEDC's system capacity, reliability, efficiency; to comply with safety requirements; and to meet the growing demand of the electricity consumers in Olongapo City. Thus, OEDC would still coordinate with other banks and financial institutions to match the financial needs for the implementation of these other capital expenditure projects;
7. For the following reasons, OEDC deems it prudent to seek authority from the Commission to obtain long-term loans from any banking and/or financial institution;
8. Section 20 of Commonwealth Act No. 146 or otherwise known as the Public Service Act, states that:

“Section 20. Acts requiring the approval of the Commission. - Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had –

(e) Hereafter to issue .. xxx .. issue any bonds or other evidence of indebtedness payable in

more than one year from the issuance thereof
.. xxx;

(g) To sell, alienate, mortgage, encumber or lease its property, franchises, certificates, privileges, or rights or any part thereof; or merge or consolidate its property, franchises privileges or rights, or any part thereof, with those of any other public service.” (Emphasis supplied);

9. In accordance with the above provision, OEDC hereby seeks continuing authority from the Commission to secure loans from banking and/or financial institutions for the purpose of continuously financing its operations in order for OEDC to ensure efficient, quality, secure and reliable service to its customers;
10. In one of the long-term loans, the creditor bank required security to cover the amount already drawn. For the security, OEDC entered into a Real Estate Mortgage, wherein OEDC secures to this bank creditor the fulfillment of a principal obligation, by substituting to such security a real property which obligation shall be satisfied with the proceeds of sale of said real property or rights in case the said obligation is not complied within the time stipulated;
11. OEDC is mindful that the encumbrances should not adversely affect or be detrimental to the provision of electric service to the customers of OEDC. Furthermore, these long-term loans will not affect the rates imposed by OEDC to its customers;
12. To support this Application, OEDC attaches the following:

Annex	Document
A	Audited Financial Statement for 2016
A-1	Audited Financial Statement for 2017
A-2	Audited Financial Statement for 2018
B	Letter of Approval from Robinsons Bank dated 1 October 2018 from where one of the loans is to be secured
C	Certification dated 5 November 2019 certifying that Olongapo Electricity Distribution Company, Inc. has existing commercial loan account in Robinsons Bank
D	Real Estate Mortgage between Robinsons Bank and OEDC dated 15 January 2019
E	Amortization Schedule for the loan secured from Robinsons Bank
F	Actual amount of drawdown released by Robinsons Bank, the dates the applicant received said amounts, and exchange rate at the time of the receipt of the same
G	Sales Invoice of the lot and building purchased to which the proceeds of the loan will be utilized
H	Details, specifications and estimated cost of the building renovation
I	List of fixed assets acquired and the expenses incidental to said acquisition derived from the proceeds of loan, indicating the cost of each type of fixed asset and its date

ERC CASE NO. 2020-002 MC
NOTICE OF VIRTUAL HEARING/19 AUGUST 2020
PAGE 4 OF 7

	of acquisition
J	Details, specifications and estimated cost of the Kale Substation project to which the proceeds of the loan will be utilized
K	Computation of impact to rates
L	Computation of financial ratios
M	Justification, study, computation and benefits resulting from securing loans
N	Application for CAPEX Projects of Olongapo Electricity Distribution Company, Inc. docketed as ERC Case No. 2017-030 RC

13. Applicant manifests that it has complied with the pre-filing requirements in accordance with the Implementing Rules and Regulations of the EPIRA and Rule 6 of ERC Rules of Practice and Procedure. Below are the documents as proof of the compliance:

Annex	Document
O	Secretary's Certificate
P	Certification from the Legislative Body of Olongapo City
Q	Affidavit of Publication by the Newspaper Editor
R	Copy of newspaper where copy of the Application was Published

14. The approval of this application will enable OEDC to finance the acquisition of lot and building for office, development of a new 15MVA Kale Substation and switchyard and other capital expenditure projects that will ultimately promote public interest and convenience because it will facilitate OEDC to provide adequate and reliable electric service to support the fast growing socio-economic development of its franchise area.

PRAYER

WHEREFORE, it is most respectfully prayed that the Honorable Commission grants OEDC the authority to incur the loans and enter into the loan agreement and mortgage its properties to the creditors as security for said loans.

Other relief as may be deemed just and equitable are also prayed for.

In the *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 23 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 cancelled the physical hearing scheduled on 23 September 2020 and shall convene the virtual hearing through video conferencing, subject to certain limitations as set forth herein.

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 **23 September 2020 (Wednesday) at nine o'clock in the morning (09:00 A.M.)** through a virtual hearing using the **Zoom Application** as the online platform for the conduct thereof.

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 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.

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 records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, 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 2006 ERC 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 records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com, 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 2006 ERC 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.

All such persons who wish to have a copy of the *Application* may request from Applicant that they be furnished with the same prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, through any of the available modes of service, upon their agreement, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours. In the alternative, those persons who wish to have an electronic copy of the *Application* may request the Commission for the e-mail addresses of the Applicant by sending an e-mail to records@erc.gov.ph and records.erc.gov.ph@gmail.com, copy furnish the Legal Service through legal.erc.gov.ph@gmail.com. Nonetheless, any person may also access the *Application* as posted by the Commission in its official website at www.erc.gov.ph.

(This space is intentionally left blank)

ERC CASE NO. 2020-002 MC
NOTICE OF VIRTUAL HEARING/19 AUGUST 2020
PAGE 7 OF 7

Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru legal.virtualhearings.erc.gov.ph@gmail.com, 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 19th day of August 2020 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO