

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE LEASE
AGREEMENTS (JOINT
POLE RENTAL
AGREEMENTS) BETWEEN
THE AGUSAN DEL NORTE
ELECTRIC COOPERATIVE,
INC. (ANECO) AND
VARIOUS PARTIES AND
FOR GRANT OF
AUTHORITY TO LEASE
REGULATORY ASSET BASE
(RAB) PROPERTIES
PURSUANT TO
RESOLUTION NO. 18,
SERIES OF 2010 OF THE
ENERGY REGULATORY
COMMISSION**

ERC CASE NO. 2010-065 MC

**AGUSAN DEL NORTE
ELECTRIC COOPERATIVE,
INC. (ANECO),**

Applicant.

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Promulgated:
June 11, 2021

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 11 October 2010, Agusan del Norte Electric Cooperative, Inc. (ANECO) filed an *Application* of even date (Application), seeking the Commission's approval its authority to lease its Regulatory Asset Base (RAB) property and the Joint Pole Rental Agreements it entered with various parties pursuant to the Commission-issued Resolution No. 18, Series of 2010.

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

I.

Applicant ANECO is an electric Cooperative duly organized and existing under and by virtue of the laws of the Philippines (Presidential Decree No. 269, otherwise known as the National Electrification Administration Decree), with principal office located at Km. 2, J.C. Aquino Avenue, Butuan City, at which address the applicant may be served with notices and other legal processes of this Honorable Commission in connection with the instant application.

For purposes of this application, the applicant ANECO is represented herein by its incumbent General Manager, HORACIO T. SANTOS, of legal age, Filipino, married and with office address likewise located at Km. 2, J.C. Aquino Avenue, Butuan City, pursuant to Resolution No. 018 (Series of 2005) adopted by the Board of Directors of ANECO on February 19, 2005, with photocopy of the EXCERPTS of the minutes pertinent thereto hereto attached and made integral part of this application.

II.

Applicant ANECO is the holder of an exclusive franchise issued by the National Electrification Commission to operate an electric light and power service(s) and distribution system in Butuan City and in the Municipalities of the Province of Agusan del Norte

III.

The Honorable Commission has lately adopted **RESOLUTION NO. 18, Series of 2010**, with date of effectivity thereof on July 19, 2010, directing Distribution Utilities, such as herein applicant Agusan del Norte Electric Cooperative, Inc. (ANECO), to file the necessary applications with the Energy Regulatory Commission for authority to lease Regulatory Asset Base (RAB) properties as provided under **Article II (2.1)** thereof.

In relation to the foregoing, Article III (Transitory Provisions) of said Resolution No. 18, Series of 2010 further provides that all contracts of lease on RAB properties ***“executed prior to the effectivity of these guidelines which have not been covered by any application filed before the ERC shall be submitted to the ERC for approval”***.

IV.

Pursuant to and in compliance with the foregoing directive, applicant ANECO hereby filed the instant application and submits for the approval of this Honorable Commission copies of the lease agreements (joint pole rental agreements) entered into by ANECO with various entities or parties hereunder enumerated and correspondingly marked as ANNEXES hereof, to wit:

1) CARMEN HOME CABLE

-ANNEX “A”

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| 2) COMMISSION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY- TELECOMMUNICATION OFFICE (ITALTEL) | -ANNEX "B" |
| 3) COMMISSION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY- TELECOMMUNICATIONS OFFICE (MTPO) | -ANNEX "C" |
| 4) ZENERGY CABLE TV NETWORK INC. | -ANNEX "D" |
| 5) FIL-PRODUCTS SERVICE TV BUTUAN, INC. | -ANNEX "E" |
| 6) GLOBE/INNOVE COMMUNICATIONS, INC. | -ANNEX "F" |
| 7) PRIME STAR CABLE TV COMMUNITY NETWORK | -ANNEX "G" |
| 8) BAYAN TELECOMMUNICATIONS INC. (BAYANTEL) | -ANNEX "H" |
| 9) PHILIPPINE LONG DISTANCE TELEPHONE CO. (PLDT) | -ANNEX "I" |
| 10) LTCOM CABLE TV | -ANNEX "J" |
| 11) SMART BROADBAND, INC. | -ANNEX "K" |

The foregoing lease agreements (joint pole rental agreements) affect Regulatory Asset Base (RAB) properties, more specifically electric poles of ANECO, which lease agreements have not yet been submitted to or approved by this Honorable Commission.

V.

Apart from the foregoing, ANECO hereby applies for the grant of authority from this Honorable Commission to lease, aside from electric poles thereof, other RAB properties of the cooperative, in connection with which and in compliance with Article II (2.1) of Resolution No. 18-Series of 2010, the herein applicant does hereby submit three (3) hard copies and three (3) electronic copies of the following:

1. Standard Lease Contract (affecting electric poles) governing the transaction(s) between the Distribution Utility (ANECO), as lessor, and the prospective lessee of the cooperative, specifying the standards of the DU to be complied with by the lessee- marked ANNEX "L";
2. Description of the properties to be leased-marked ANNEX "M"; and

3. Secretary's Certificate and Board Resolution No. 081, Series of 2010 approving the lease-ANNEX "N" and ANNEX "N-1".

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Energy Regulatory Commission, after due hearing:

1. To approve the lease agreements (joint pole rental agreements), Annexes "A" to "K" hereof, entered into by applicant ANECO with various parties/entities that have not yet been submitted for approval by this Honorable Commission pursuant to its recently approved Resolution No. 18, Series of 2010.
2. To grant applicant ANECO the authority to lease its other Regulatory Asset Base (RAB) properties made subject of the instant petition and such other RAB properties of the applicant, subject to such applicable rules and regulations of this Commission pertinent thereto, under its aforestated Resolution.

Applicant ANECO further prays for such other reliefs and remedies as may be deemed just and equitable in the premises.

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 03 November 2020, the Commission issued another *Order* dated 06 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*.

Consequently, on 10 November 2020, Applicant filed an electronic copy of its *Manifestation (Re: Order dated 06 October 2020)* of even date.

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 2020¹ dated 24 September 2020:

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

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Date and Time	Platform	Activity
03 August 2021 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation
10 August 2021 (Tuesday) at nine o'clock in the morning (9:00 A.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, copy furnish the Legal Service through 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, copy furnish the Legal Service through 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, copy furnish the Legal Service through 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.

Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru 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 1st day of June 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO




LS: BTVG/MCCG