

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



RESOLUTION NO. 09, Series of 2020

**A RESOLUTION ADOPTING THE GUIDELINES GOVERNING
ELECTRONIC APPLICATIONS, FILINGS AND VIRTUAL
HEARINGS BEFORE THE ENERGY REGULATORY
COMMISSION**

WHEREAS, on 08 March 2020, President Rodrigo Roa Duterte signed Proclamation No. 922, Series of 2020¹ declaring a State of Public Health Emergency throughout the Philippines upon the recommendation of the Department of Health (DOH) following the confirmed local transmission of the Coronavirus Disease 2019 (COVID-19). The said State of Public Health Emergency shall remain in force and effect until lifted or withdrawn by the President²;

WHEREAS, due to the rapid increase of cases of infection in the country, the President, on 16 March 2020, signed Proclamation No. 929, Series of 2020³ declaring a State of Calamity throughout the Philippines for a period of six (6) months, unless lifted or extended as circumstances may warrant, and further providing for the imposition of Enhanced Community Quarantine (ECQ) over the entire Luzon⁴;

WHEREAS, the national government, in implementing the ECQ, seeks to slow down the transmission of the COVID-19 virus, and eventually put an end to its transmission;

WHEREAS, one mode of transmission is through physical interactions between individuals or groups of individuals;

¹Entitled, "DECLARING A STATE OF PUBLIC HEALTH EMERGENCY THROUGHOUT THE PHILIPPINES;

² Section 5 of Proclamation No. 922, Series of 2020;

³Entitled, "DECLARING A STATE OF CALAMITY THROUGHOUT THE PHILIPPINES DUE TO CORONA VIRUS DISEASE 2019;

⁴ Sections 1 and 2 of Proclamation No. 929, Series of 2020; underscoring supplied;

WHEREAS, prior to the implementation of the ECQ, most transactions by the public with government are done in person, thus requiring the physical presence of individuals in government offices;

WHEREAS, existing health protocols in response to the Public Health Emergency requires physical distancing, which, given the limited space in government offices, is difficult to observe;

WHEREAS, consistent with the commitment of the National Government to protect its citizens from COVID-19 while continuously providing efficient government service, the Energy Regulatory Commission deems it imperative to temporarily modify and/or supplement its existing procedures through electronic and various online platforms during this time of strict physical distancing and health protocols;

WHEREAS, aside from the on-going community quarantine and safety considerations, the Commission also recognizes the necessity and merits of eventually fully migrating into automated processes to promote efficiency and a wider reach of the Commission's services;

WHEREAS, in view of the aforementioned considerations, the Commission, on 28 May 2020, approved for posting in its official website (www.erc.gov.ph) the first draft of the proposed "Interim Guidelines Governing Electronic Application, Filings and Virtual Hearings before the Energy Regulatory Commission," (Draft Interim Guidelines) docketed as ERC Case No. 2020-001 RM;

WHEREAS, in its Notice dated 28 May 2020, the Commission directed all interested parties to submit their comments on the Proposed Interim Guidelines on or before 11 June 2020;

WHEREAS, on various dates from 10-15 June 2020, the Commission received various comments to the said Draft Interim Guidelines from the following: (1) SI Power Corporation; (2) Aboitiz Power Corporation; (3) AC Energy Philippines, Inc.; (4) Association of Mindanao Rural Electric Cooperatives, Inc.; (5) Dechavez Larios-Amboy and Evangelista Law Offices; (6) First Gen Corporation; (7) GNPowder Ltd. Co.; (8) Lachica and Associates; (9) Marinduque Electric Cooperative, Inc.; (10) Millennium Energy, Inc.; (11) Manila Electric Co. Inc.; (12)

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Misamis Oriental I Rural Electric Service Cooperative, Inc.; (13) MPower; (14) Olongapo Electricity Distribution Company, Inc.; (15) SMC Global Power Holdings; (16) Visayan Electric Company; (17) Vivant Energy Corporation; (18) Cebu II Electric Cooperative, Inc.; (19) National Grid Corporation of the Philippines; (20) Alsons Power Group; (21) Batangas II Electric Cooperative, Inc.; and (22) Cagayan Electric Power and Light Company, Inc.;

WHEREAS, on 6 August 2020, the Commission approved ERC Resolution No. 8, Series of 2020, entitled “*Guidelines Governing Electronic Application, Filings and Virtual Hearings Before the Energy Regulatory Commission*”;

WHEREAS, the said resolution was docketed and posted in ERC’s website on 16 September 2020;

WHEREAS, it was belatedly noticed that, on account of a software flaw, some paragraphs of Annex A of the said resolution disappeared in the final copy of the resolution, particularly Sections 3 and 4 of Rule 4 of the Guidelines, to wit:

Section 3. Returning Pre-Filer. – Within sixty (60) calendar days from receipt of a NISE, the Pre-Filer may continue the previously commenced pre-filing process through the submission, via e-mail, of the complete and compliant pre-filing requirements.

After the lapse of sixty (60)

The ICRR must comply with the following conditions:

- a. The e-mail subject of the request must indicate that it is an ICRR, the full name of the Applicant/Petitioner and, the type of CAPEX case being filed;

An example of the e-mail subject for an ICRR e-mail is as follows:

“Initial Capex Review Request / XYZ Company /
Application for Approval of Multi-year CAPEX
Projects”

- b. The e-mail request must be accompanied by copies of the Application, its annexes, other supporting documents, and

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pre-filing requirements, either as attached files, ZIP folders or through a cloud-based storage link.

The initial review of the applications shall be conducted either through teleconferencing or videoconferencing or through any other means, taking into account public safety and technical considerations, provided the same is conducted during working hours. An e-mail notification will be provided by the ERC for the scheduling of the conference.

CAPEX Applications, subject for initial review, may also be processed through e-mail. Corresponding review/comment from the ROS-SD, under this process, shall be provided to the Applicant.

The initial review is provided to guide the prospective applicants in coming up with a CAPEX Program that is compliant with the rules and guidelines of the ERC, and responsive to the needs of the consumers.

No Application for approval of CAPEX Projects shall be filed without the clearance from the ROS-SD.

WHEREAS, Sections 3 and 4 of Rule IV, as approved by the Commission on 6 August 2020, should have read as follows:

RULE IV
Pre-Filing Process

xxx

Section 3. Returning Pre-Filer. – Within sixty (60) calendar days from receipt of a NISE, the Pre-Filer may continue the previously commenced pre-filing process through the submission, via e-mail, of the complete and compliant pre-filing requirements.

After the lapse of sixty (60) calendar days from receipt of the NISE, the Pre-Filer can no longer continue the previously commenced pre-filing process. The documents it submitted with its Pre-Filing Request shall then be destroyed/deleted/discarded to preserve the documents' confidentiality. To conduct another pre-filing, the Pre-Filer must send a new pre-filing request.

The period prescribed in this section shall apply to applications for Meter Type Approval under Rule IX, Authority to Operate a Meter Shop under Rule X, Certificate of Compliance under Rule XI, and Retail Electricity Supplier License under Rules XII.

Section 4. Initial Review for Application for approval of Capital Expenditure (CAPEX) Projects. – For prospective applicants filing for Applications for the Approval of their CAPEX Projects, an initial review shall be conducted by the ERC, through its Regulatory Operations Service – Standards Division (ROS-SD), for verification of compliance with the CAPEX Guidelines.

Prospective CAPEX Applicants must send an Initial Capex Review Request (ICRR) to ros@erc.ph.

The ICRR must comply with the following conditions:

- a. The e-mail subject of the request must indicate that it is an ICRR, the full name of the Applicant/Petitioner and, the type of CAPEX case being filed;

An example of the e-mail subject for an ICRR e-mail is as follows:

“Initial Capex Review Request / XYZ Company / Application for Approval of Multi-year CAPEX Projects”

- b. The e-mail request must be accompanied by copies of the Application, its annexes, other supporting documents, and pre-filing requirements, either as attached files, ZIP folders or through a cloud-based storage link.

The initial review of the applications shall be conducted either through teleconferencing or videoconferencing or through any other means, taking into account public safety and technical considerations, provided the same is conducted during working hours. An e-mail notification will be provided by the ERC for the scheduling of the conference.

CAPEX Applications, subject for initial review, may also be processed through e-mail. Corresponding review/comment from the ROS-SD, under this process, shall be provided to the Applicant.

The initial review is provided to guide the prospective applicants in coming up with a CAPEX Program that is compliant with the rules and guidelines of the ERC, and responsive to the needs of the consumers.

No Application for approval of CAPEX Projects shall be filed without the clearance from the ROS-SD.

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(Emphasis supplied - the underlined paragraphs are the once that is missing in the signed and barcoded copy.)

WHEREAS, other minor provisions were likewise amended for consistency;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, that the Commission hereby **REPEALS ERC Resolution No. 8, Series of 2020** and **APPROVES** the amended **GUIDELINES GOVERNING ELECTRONIC APPLICATIONS, FILINGS AND VIRTUAL HEARINGS BEFORE THE ENERGY REGULATORY COMMISSION**, hereto attached as Annex "A" and made an integral part of this Resolution.

This Resolution shall take effect immediately following its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Let copies of this Resolution be furnished the University of the Philippines Law Center – Office of the National Administrative Register (UPLC-ONAR) and all industry stakeholders, as well as published in the ERC website and such other online platform available to the Commission under the current circumstances.

Pasig City, 24 September 2020.


AGNES VST DEVANADERA
Chairperson




ALEXIS M. LUMBATAN
Commissioner


CATHERINE P. MACEDA
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMEO L. FUENTES
Commissioner