

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE
STRUCTURE AND LEVEL
OF MARKET TRANSACTION
FEES FOR THE
RENEWABLE ENERGY
MARKET WITH PRAYER
FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2021-014 RC

**PHILIPPINE ELECTRICITY
MARKET CORPORATION
(PEMC),**

Promulgated:
April 22, 2021

Applicant.

X-----X

O R D E R

On 02 March 2021, Philippine Electricity Market Corporation (PEMC) filed an *Application*, seeking the Commission's approval of the structure and level of Market Transaction Fees (MTF) for the Renewable Energy Market with prayer for provisional authority.

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

1. The Applicant is a non-profit, non-stock corporation duly organized and existing in accordance with the laws of the Republic of the Philippines and has its principal office at 18th Floor Robinsons Equitable Tower, ADB Avenue, Ortigas Center, Pasig City. It is represented in this Application by its President, Oscar E. Ala, who has been authorized by the Board of Directors of the Applicant ("PEM Board"), as evidenced by the Secretary's Certificate dated 27 November 2020, which is hereto attached as Annex "A" and made an integral part of this Application.
2. This Application is being filed to secure the approval of the structure and level of the Transaction Fees for the Renewable Energy Market ("REM") pursuant to Section 8, Chapter III of

the Republic Act No. 9513¹ or “*The Renewable Energy Act of 2008*” (hereinafter referred to as the “RE Act”), Sections 10 and 11, Rule 3 of Department Circular No. DC2009-05-0008² or “*The Rules and Regulations Implementing Republic Act No. 9513*” (hereinafter referred to as the “RE Act-IRR”) promulgated by the Department of Energy (“DOE”) and the pertinent provisions of the DOE Department Circular No. DC2019-12-0016, “*Promulgating the Renewable Energy Market Rules*” or known as the “Renewable Energy Market Rules” or the “REM Rules” issued on 04 December 2019.

BACKGROUND

3. Section 8, Chapter III of the RE Act and Section 10, Rule 3 of the RE Act-IRR mandated the establishment of the DOE of a Renewable Energy Market (“REM”), which refers to a market where trading of the Renewable Energy Certificates (“RECs”) equivalent to an amount of power generated from Renewable Energy (“RE”) resources is made.³
4. The Applicant was likewise tasked under same provisions of the RE Act and the RE Act-IRR to implement changes to the Wholesale Electricity Market (“WESM”) Rules in order to incorporate the rules specific to the operation of the REM under the WESM.⁴
5. The establishment of the REM by the DOE is to facilitate compliance to the Renewable Portfolio Standards (“RPS”)⁵, a market-based policy that requires electricity suppliers to source an agreed portion of their energy supply from eligible RE resources⁶, consistent with and pursuant to the objectives set forth under Section 6, Rule 3 of the RE Act, where all stakeholders in the electric power industry are required to contribute to the RE industry of the country.
6. Section 4, Rule 2, Part II of the RE Act-IRR further provides that the RPS, as a policy mechanism, shall oblige electric power industry participants such as a Generation Companies (“GENCOs”), in so far as their directly connected customers are concerned, Distribution Utilities (“DUs”) for their Captive Market and Retail Electricity Suppliers (“RES”) for their Contestable Customers, to source or produce a fraction of their electricity requirements from Eligible RE resources.
7. Pursuant to Section 4, Rule 2, Part II of the RE Act-IRR, the DOE, upon recommendation of the National Renewable Energy Board (“NREB”), adopted and promulgated Department Circular Nos. DC2017-12-0015⁷ or the “*RPS On-*

¹ Approved on 16 December 2008.

² Approved on 25 May 2009.

³ Section 4 (qq), RE Act and Section 3 (vv), RE Act-IRR.

⁴ Section 8, RE Act and Section 10, RE Act IRR.

⁵ Section 8, Chapter III, RE Act.

⁶ Section 2 (ss), Chapter I, RE Act.

⁷ Published on 30 December 2017, <https://www.doe.gov.ph/laws-and-issuances/departmentcircular-no-dc2017-12-0015?ckattempt=1>.

Grid Rules” and DC2018-08-0024⁸ or the “*RPS Off-Grid Rules*”, which prescribe the rules and guidelines governing the establishment of the RPS for On-Grid Areas and Off-Grid Areas, respectively.

8. On 18 August 2020, the DOE issued an Advisory on the “*Recalibration of the Commercial Operations of the Renewable Energy Market (REM)*”, which provides that the Compliance Year 1 of the RPS On-Grid Rules shall remain in the Year 2020 while the Compliance Year 1 of the RPS Off-Grid Rules is suspended until further notice.
9. The above guidelines further specify that RECs shall be issued corresponding to the generation of eligible RE Facilities for the period starting calendar year (CY) 2018 and onwards. The RECs however shall be issued only upon commercial operation of the REM.
10. Importantly, this DOE Advisory recalibrated the commencement of the commercial operation of the REM June 2020 to June 2021⁹ due to the impact of the Corona Virus Disease 2019 (COVID-19) pandemic.
11. In keeping with Section 10 of the RE Act-IRR which requires the DOE to establish the framework that will govern the operation of the REM, the DOE issued, adopted and promulgated the REM Rules which took effect on 04 January 2020, fifteen (15) days after its publication on 20 December 2019¹⁰.

RESPONSIBILITIES OF THE APPLICANT UNDER THE RE ACT AND THE REM RULES

12. In accordance with the setting up of the REM by the DOE, the Applicant was directed under Section 8, Chapter III of the RE Act and Section 11, Rule 3 of the RE Act-IRR, to establish and operate the RE Registrar under the supervision of the DOE and to issue, keep and verify RECs corresponding to energy generated from the eligible RE facilities.

“Section 8. Renewable Energy Market (REM). –

“xxx

The PEMC shall, under the supervision of the DOE, establish a Renewable Energy Registrar within one (1) year from the effectivity of this Act and shall issue, keep and verify RE Certificates corresponding to energy generated from eligible RE facilities. xxx” (Underscoring ours).

⁸ Published on 14 September 2018, <https://www.doe.gov.ph/laws-and-issuances/departmentscircular-no-dc2018-08-0024>.

⁹<https://www.doe.gov.ph/announcements/advisory-recalibration-commercial-operationsrenewable-energy-market-rem?ckattempt=1>.

¹⁰<https://www.doe.gov.ph/laws-and-issuances/departmentscircular-no-dc-2019-120016?ckattempt=1>.

“Section 11. Establishment of the Renewable Energy Registrar

Under the supervision of the DOE, the PEMC shall, within one (1) year from the effectivity of this Act, establish and operate the Renewable Energy Registrar and shall issue, keep and verify RE Certificates corresponding to energy generated from the eligible RE facilities. xxx” (Underscoring ours)

13. In furtherance of the above RE Act, Chapter 10 of the REM Rules defined the RE Registrar as referring to the unit established in accordance with the RE Act to issue, keep and verify RECs corresponding to the energy generated from eligible RE Facilities.
14. Section 2, last paragraph, of the REM Rules also provides for the Applicant to perform the RE Registrar functions for the establishment of the REM and the development of the RE Registrar.
15. In addition to the above RE Registrar function and responsibility of the Applicant, the REM Rules further defined the REM as the market developed and implemented by the Applicant¹¹. More so, Clause 1.3.1.2 of the REM Rules categorically stated that the ultimate governance of the REM is the responsibility of the Applicant, through the PEM Board.

THE PHILIPPINE RENEWABLE ENERGY MARKET SYSTEM

16. Consistent with the objectives of the RE Act, the Development for Renewable Energy Applications Mainstreaming and Market Sustainability (“DREAMS”) Project was created. The DREAMS Project is a joint effort of the United Nations Development Programme (“UNDP”), DOE and Global Environment Facility (“GEF”) aimed at promoting and facilitating the commercialization of the REM through the removal of barriers to increase the investment in RE-based power generation projects¹².
17. The third component of the DREAMS Project is the ‘Capitalized’ REM Development. The Applicant was identified as the responsible party for the third component¹³ pursuant to Section 8, Chapter III of the RE Act which mandated PEMC to perform the functions of the RE Registrar.
18. The establishment of the REM does not only include the development and issuance of policy instruments that will define the protocols and procedures for the REM but also the development of an enterprise-grade system, that is the Philippine Renewable Energy Market Systems (“PREMS”) to

¹¹ Definition of Renewable Energy Market or REM, Chapter 10 – Glossary, REM Rules.

¹² Page 28, Request for Proposal (“RFP”) on the development of Software, Supply and Delivery of Hardware for the Implementation of the PREMS; <https://www.ungm.org/Public/Notice/71182>.

¹³ Ibid.

operationalize the function of the RE Registrar¹⁴ and will handle registration and contract management, REC transactions and allocations, RPS compliance and report management to operationalize the function of the RE Registrar¹⁵.

19. On 17 December 2019, the DOE launched the PREMS¹⁶ as an online trading platform for RE.

**COMMERCIAL OPERATION OF THE RENEWABLE ENERGY
MARKET**

20. Based on the 18 August 2020 Advisory¹⁷ of the DOE, the commercial operation of the REM is recalibrated to commence on June 2021. The Development of the REM, or the transition period prior to commencement of the Commercial Operation of the REM requires the performance and completion of preparatory works, acts and activities in keeping with its responsibilities under the REM Rules.
21. During the Development of the REM, the Applicant shall, among others, ensure, that:
- i. it has the appropriate procedures, tools and systems in place to implement its duties and responsibilities under the REM Rules¹⁸ by seeing to it that the required facilities, utilities, communications, services and documents are ready and in place for the REM, the PREMS and the RE Registrar pursuant to a readiness criteria developed¹⁹;
 - ii. the software and systems used to implement its obligations under the REM Rules shall be certified as correctly implementing the intent of the REM Rules and any relevant REM Manuals²⁰ which can be realized by conducting a Software Certification Audit on the PREMS, through a qualified and experienced independent third party auditor;
 - iii. the establishment of the Renewable Energy Market Governance Committee (“RGC”)²¹ by facilitating the election of its members through the PEM Board and the by-laws that will put in order its meetings, internal business process and required outputs such as REM

¹⁴ Page 46, Definition, RFP PREMS.

¹⁵ Page 28, RFP PREMS.

¹⁶ <https://www.ph.undp.org/content/philippines/en/home/presscenter/speeches/opening-remarksat-the-philippine-renewable-energy-market-system.html> ;

¹⁷ The “Recalibration of the Commercial Operations of the Renewable Energy Market (REM)”;

¹⁸ Section 5 (c), REM Rules; Clause 9.2.3.3, Chapter 9, REM Rules.

¹⁹ Second paragraph, Section (b), Guidelines on the Recalibration of the RE Market; <https://www.doe.gov.ph/announcements/advisory-recalibration-commercial-operationsrenewable-energy-market-rem?ckattempt=1>.

²⁰ Clause 9.2.3.4, REM Rules.

²¹ Clause 9.2.4, REM Rules.

Manuals proposals for timely endorsement to the DOE;
and

- iv. the development and implementation of a comprehensive Information and Education Campaign (“IEC”) to ensure complete understanding and public awareness of the REM and the REM Rules²² using prepared training modules, presentations and materials in the conduct of trainings and trial operations on targeted REM Trading Participants.
22. The successful completion of the Applicant of the foregoing preparatory acts, works or activities shall make the target commencement of the Commercial Operation of the REM on June 2021 achievable and doable, subject of course to the approval of this Application by the Honorable Commission.
23. Aside from its responsibilities on the Development of the REM, the Applicant have a continuing responsibility under the REM Rules to –
- i. carry out the governance²³, compliance functions²⁴ and rule and manual change process and/or approvals²⁵, through the RGC under the oversight the PEM Board;
 - ii. conduct compliance audit on the PREMS²⁶; RE Registrar²⁷, and Mandated Participants providing metering data for REC Issuance²⁸;
 - iii. carry out investigations of breaches to comply with provisions of the REM Rules, through the Enforcement and Compliance Office (“ECO”) of the Applicant²⁹;
 - iv. implement an alternative dispute resolution mechanism and facilitate the resolution of disputes through the Dispute Resolution Administrator (“DRA”) of the WESM³⁰;
 - v. maintain, operate, and administer the RE Registry in accordance with the REM Rules³¹;
 - vi. allocate resources to enable it to operate and administer the REM and the Registry on a non-profit basis³²; and

²² Section 13, REM Rules.

²³ Clause 1.3, REM Rules.

²⁴ Chapter 6, REM Rules.

²⁵ Chapter 7, REM Rules.

²⁶ Clause 6.2.2, REM Rules.

²⁷ Clause 6.2.3, REM Rules.

²⁸ Clause 6.2.4, REM Rules.

²⁹ Clause 6.1.4, REM Rules.

³⁰ Clause 6.3, REM Rules.

³¹ Clause 1.2.1.2 (b), REM Rules.

³² Clause 1.2.1.2 (c), REM Rules.

³³ Clause 1.2.1.2 (d), REM Rule.

- vii. carry out the development, improvement and maintenance of systems, processes, and procedures to be used in the operation of the REM and the Registry³³.
- 24. Clearly, the performance of Applicant of its responsibilities under the REM Rules is of utmost importance to realize the objectives of the RE Act, which makes the imposition of the Transaction Fee for the REM crucial in achieving and implementing the mandate of the RE Act and the REM Rules.
- 25. Any further delay on the commencement of the Commercial Operation of the REM would defeat the objectives of the RE Act of encouraging the stakeholders in the electric power industry to contribute to the growth of RE industry in the country³⁴ and the increase in the utilization of RE through the development of national and local capabilities in the use of RE Systems and promoting its efficient and cost-effective commercial application by providing fiscal and non-fiscal incentives³⁵.

**AUTHORITY TO FILE THE TRANSACTION FEE FOR THE
RENEWABLE ENERGY MARKET**

- 26. In the performance of its responsibilities under the RE Act and the REM Rules, the Applicant, being primarily responsible for the establishment and operation of the RE Registrar and the ultimate governance and implementation of the REM, is with authority, upon the endorsement of the PEM Board, to file before the Honorable Commission the approval of the Structure and Level of the Transaction Fee for the REM at such fee equal to the half of what the Applicant currently charges regular WESM players.

26.1 Section 8 of the RE Act states:

“xxx For this purpose, a transaction fee, equal to half of what PEMC currently charges regular WESM players, may be imposed by PEMC.” (Underscoring ours)

26.2 Section 11 of the RE Act IRR similarly provides:

“xxx. For this purpose, the PEMC may impose a transaction fee equal to half of what the PEMC currently charges regular WESM players.” (Underscoring ours)

- 27. Section 7 of the REM Rules, further supports the authority of the PEMC to file this instant Application, to wit:

³⁴ Section 6, RE Act.

³³ Clause 1.2.1.2 (d), REM Rules.

³⁴ Section 6, RE Act.

³⁵ Section 2 (b), Chapter 1, RE Act.

“The PEMC, with endorsement of the PEM Board is hereby authorized to file before the Energy Regulatory Commission (ERC), the structure and level of transaction fees that it may impose in accordance with Section 8 of the Re Act.”
(Underscoring ours)

28. The Applicant is filing this Application in its capacity as the governing body of the REM and as the RE Registrar, being the unit established in accordance with the RE Act to issue, keep and verify REC corresponding to energy regenerated from eligible RE facilities³⁶.
29. As required by the REM Rules, the PEM Board, at its regular board meeting held on 28 October 2020, approved the filing of this instant as evidenced by a Secretary's Certificate dated 27 November 2020, hereto attached as Annex “A”. Hence, the filing of this Application.

THE TRANSACTION FEES FOR THE RENEWABLE ENERGY MARKET

30. Under Clause 1.4.1 of the REM Rules the Transaction Fee for the REM must (i) be recovered through a charge imposed on REM Members and/or Transactions; (ii) where the structure, to the extent practicable, is transparent and (iv) non-discriminatory (v) covering the budgeted revenue requirement of the RE Registrar and the RGC (vi) which components considered all costs necessary for the RE Registrar to perform its functions considered.
31. In compliance with the above guiding principles of the REM Rules, the following methodologies were adopted to determine the REM Transaction Fee:
 - 31.1 Single-year. The REM Transaction Fees shall be set for a one-year period. For this filing, the period covered shall be the Development of the REM and the One-Year Commercial Operation.
 - 31.2 Input-based. The Applicant will propose and present its annual budgetary requirements in relation to budgeted revenue requirements of the REM and the RE Registrar taking into consideration all costs necessary for the latter to perform its functions under the REM Rules;
 - 31.3 Total Cost Recovery mechanism. The Level of REM Transaction Fees in a particular year is based on cost recovery and its projected revenue should equal its costs. Income is not to be retained as profit.
 - 31.4 Imposed on all REM Trading Participant in the REM. The REM Transaction Fees shall be imposed on all REM Trading Participants wherein it is to be charged

³⁶ Definition of Renewable Energy Registrar, Chapter 10 Glossary, REM Rules.

to the first recipient/ default owner of the RECs created/issued in the REM.

- 31.5 Annual Adjustment of Budgetary Requirements. The annual budgets include annual adjustments to take into account the escalation costs based on contracts or law as well as the projected or estimated costs of acquiring assets or implementing specific projects.
 - 31.6 REM Transaction Fee Allocation. The market transaction fees shall be allocated to the REM Trading Participants in proportion to the created/issued RECs issued to it as the default owners or the first recipient of the RECs, following the monthly and quarterly timeline.
32. Structure.³⁷ The Applicant proposes to adopt a single market fee structure as it would meet the principles laid down by the REM Rules.
- 32.1 Cost Component. The REM Transaction Fees would cover two (2) budget revenue requirements, the Operating Expenses (“OPEX”) and the Capital Expenses (“CAPEX”), which will take into consideration all costs necessary for the effective implementation and governance of the REM and the performance of the RE Registrar of its functions under the REM Rules.
 - i. The OPEX shall cover costs for (a) Personnel Services which includes costs of salaries and benefits of personnel to be hired as organic employees of the Applicant; (b) costs for the Maintenance and Other Operating Expenses (“MOOE”) which shall cover all operating expenses – (i) honoraria; (ii) contracted services; (c) audit requirements; (d) Supplies and Materials; (e) Subscriptions and Publication; (f) Travel and Transportation; (g) Conferences and Events; (h) Training and Education; (i) Insurance; (j) Utilities; (i) Communications; (k) Repairs and Maintenance; (l) Rentals; and (m) Taxes and Dues.
 - ii. The CAPEX is for the procurement, enhancement, improvement, modification or replacement of asset including back-up systems, disaster-recovery sites, corporate infrastructure, equipment, hardware and software requirements.
 - 32.2 Cost Exclusion. The proposed budget revenue requirements are net of applicable taxes such as

³⁷ Approved by the PEM Board as shown in the Secretary’s Certificate hereto attached as Annex “A”.

Corporate Income Tax. It also does not cover possible changes in law, rules or regulations, changes in market design, compliance with regulatory requirements, adjustments for inflation and other external factors.

33. REM Transaction Fee Rate.³⁸ The Applicant proposes the REM Transaction Fee to be the charge or Rate to be allocated among the REM Trading Participants based on the proportionate number of RECs to be created/issued and shall be equal to the quotient of the budgetary requirements and the total estimated RECs for RPS Eligible RE Generation:

$$\text{REM Transaction Fee rate} = \frac{\text{Total Budgetary Requirement}}{\text{Total Estimated Number of RECs for Eligible RE Generation}}$$

- 33.1 The total Budgetary Requirements is the total of the OPEX and CAPEX requirements of the Applicant for the governance, operation and administration of the REM and the RE Registrar for the applicable year.

- 33.2 The total Estimated Number of RECs serves as basis to compute the REM Transaction Fee Rate and is computed using the capacities of the List of Eligible RE Power Plants for RPS Compliance prepared or published by the DOE or alternatively, Eligible RE capacities registered with the RE Registrar.

34. A detailed discussion on the allocation and the computation of the REM Transaction Fee Rate is illustrated in Annex "B" of this Application.

RATE AND LEVEL OF THE REM TRANSACTION FEES UNDER THE APPLICATION

35. Rate. The Applicant seeks the approval of the REM Transaction Fee Rate of Php 1.76/REC or Php1.76/MWh with an equivalent rate of Php0.00176/kWh or 0.176 centavos/kWh³⁹ which is the quotient of the total budgetary requirement under this Application and the total estimated number of RECs for Eligible RE Generation Grid to be issued for CY2018-2021;
36. Level. The proposed level of REM Transaction Fees is the total budgetary requirements for the Development and One-Year Commercial Operation of the REM and which has been determined to be in the total amount of FIFTY TWO MILLION THREE HUNDRED NINETY THOUSAND PESOS (Php52,390,000.00) which consists of the budgetary requirements for the Development of the REM in the amount of NINETEEN MILLION AND NINETY THOUSAND PESOS (Php19,090,000.00) and for the One-Year Commercial

³⁸ Approved by the PEM Board as shown in the Secretary's Certificate hereto attached as Annex "A".

³⁹ Approved by the PEM Board as shown in the Secretary's Certificate hereto attached as Annex "A".

Operations in the amount of THIRTY THREE MILLION AND THREE HUNDRED THOUSAND PESOS (Php33,300,000.00), which is further broken down as follows:

Budgetary Requirements	Amount (Php)
<i>During Development of the REM</i>	
1. OPEX	17,330,000.00
2. CAPEX	1,760,000.00
Budgetary Requirement	19,090,000.00
<i>During One-Year Commercial Operation of the REM</i>	
1. OPEX	28,710,000.00
2. CAPEX	4,590,000.00
Budgetary Requirement	33,300,000.00
TOTAL BUDGETARY REQUIREMENT	52,390,000.00

37. The total proposed Budgetary Requirements of the Transaction Fees for the REM which details the budget revenue requirement for the OPEX and CAPEX components of the Transaction Fees is hereto attached and made an integral part hereof as Annex “C”.
38. The Development Cost of the REM shown in Annex “C” pertains to the expenses for the preparatory works, acts and activities that needs to be undertaken by the Applicant prior to and for Commencement Operation of the REM and also includes the assets and equipment required to perform the same while the One-Year Commercial Operation of the REM pertains to costs to be incurred for Commercial Operation of the REM and which includes all the governance and RE Registrar functions of the Applicant as well as the software modifications required for the PREMS. Both budgetary requirements are necessary in order for the Applicant to perform its governance functions on the REM and to establish and operate the RE Registrar in accordance with the REM Rules and more importantly to commence the Commercial Operation of the REM and its continuous implementation, administration and operation.
39. Detailed descriptions of the OPEX and CAPEX components of the REM Transaction Fees for the Development and the One-Year Commercial Operation of the REM are presented in Annexes “D” to “D-15” and “E” of this Application and are made integral parts hereof.
40. The relevant Board Resolution approving the Level of the REM Transaction Fees of the Application is shown in Annex “A” hereof.

ALLOCATION, UTILIZATION AND USE OF COLLECTED
FINANCIAL PENALTIES FROM THE WESM

41. While it is true that Section 8 of the RE Act, Section 11 of the RE Act IRR and Section 7 of the REM Rules “authorizes PEMC to file before the Honorable Commission a transaction fee, equal to half of what PEMC charges the regular WESM

players, provided with prior endorsement of the PEM Board”, however, pending the Honorable Commission’s approval of said transaction fees, Applicant remains to be charged with the obligation to perform preparatory work and initial operation of the REM, which necessarily require funds, resources and personnel.

42. As such, the PEM Board approved the utilization and use of Applicant of the collected Financial Penalty from the WESM for the period that the Applicant is undertaking preparatory/development work and does not collect market transaction fees or else it would render nugatory the responsibilities of the Applicant under the REM Rules and would otherwise result to the absurd situation whereby Applicant is mandated to implement and govern the REM and to establish and operate the RE Registrar but without recourse or means to achieve such purpose.
43. The use and utilization of the collected Financial Penalty corresponding to the budget requirement of the Development of the REM or the amount of NINETEEN MILLION AND NINETY THOUSAND PESOS (Php19,090,000.00) was confirmed and approved by the PEM Board, subject however to appropriate reimbursement mechanism to the WESM also for approval of the Honorable Commission as evidenced by the Secretary’s Certificate attached as Annex “A” hereof.

PRAYER FOR ISSUANCE OF PROVISIONAL AUTHORITY

44. It is most respectfully submitted that pending hearing of the instant application, the grant of provisional authority in favor of the Applicant be granted given the utmost necessity for Applicant to perform and/or conduct preparatory/development works or activities which are part of the readiness conditions for the timely commencement/operationalization of the REM on June 2021.
45. Any further delay in the commencement/ operationalization of the REM would only deter compliance with the RPS by REM Participants⁴⁰ and would defeat the objectives of the RE Act of encouraging the stakeholders in the electric power industry to contribute to the growth of RE industry in the country⁴¹.
46. In support of the instant Application and the prayer for provisional authority thereof, attached are the Judicial Affidavits of *Mr. Clares Loren C. Jalocon*, the Head of the Corporate Planning and Communications Department and *Mr. Patrick S. Fernandez*, Head of the Information Systems and Technology Department of Applicant as Annexes “F” and “G,” respectively and made integral parts hereof.

⁴⁰ Section 8, Re Act.

⁴¹ Section 6, RE Act.

PRAYER

WHEREFORE, it is respectfully prayed of this Honorable Commission that:

1. Pending hearing and final decision of the Application, a Provisional Authority be issued:
 - (a) Approving the proposed Renewable Energy Market (REM) Structure and Transaction Fees Rate computed using the following formula:
$$\text{REM Transaction Fee rate} = \frac{\text{Total Budgetary Requirement}}{\text{Total Estimated Number of RECs for Eligible RE Generation}}$$
 - (b) Approving the proposed REM Transactions Fee Rate of Php1.76 per Renewable Energy Certificate (REC) or Php1.76/MWh with an equivalent rate of Php 0.00176/kWh or 0.176 centavos/kWh for the instant Application to cover CY2018-2021.
 - (c) Approving the Level of the REM Transaction Fees in the amount of FIFTY-TWO MILLION THREE HUNDRED NINETY THOUSAND PESOS (Php52,390,000.00), which consists of the budgetary requirements for the Development of the REM in the amount of NINETEEN MILLION AND NINETY THOUSAND PESOS (Php19,090,000.00) and for the One-Year Commercial Operation in the amount of THIRTY-THREE MILLION AND THREE HUNDRED THOUSAND PESOS (Php 33, 300,000.00) and;
 - (d) Approving the allocation, utilization and use of the collected Financial Penalty of the Applicant from the Wholesale Electricity Spot Market (WESM), in the amount of NINETEEN MILLION AND NINETY THOUSAND PESOS (Php19,090,000.00) for the Development of the REM, subject to appropriate reimbursement mechanism to the WESM for approval of the Honorable Commission.
2. Other reliefs just and equitable under the circumstances are likewise prayed for.

Finding the said *Application* to be sufficient in form with the required fees having been paid, 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 2020⁴² dated 24 September 2020:

Date	Platform	Activity
01 June 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and expository presentation for Luzon Stakeholders
08 June 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Expository presentation for Visayas Stakeholders
15 June 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Expository presentation for Mindanao Stakeholders
06 July 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-Trial Conference and Presentation of Evidence
13 July 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Presentation of Evidence
20 July 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Presentation of Evidence

RELATIVE THERETO, PEMC is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the City Mayor and the

⁴² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission”.

Local Government Unit (LGU) legislative body of Pasig City for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearing thereon;
- 4) 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 and attend the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments, all those making requests therefor, subject to the resolution of the prayer for confidential treatment, if any, and reimbursement of reasonable photocopying costs.⁴³

Within five (5) calendar days prior to the date of the virtual hearings, PEMC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspaper;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned City Mayor and LGU legislative body of Pasig City or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by PEMC to inform the consumers within the affected area of the filing of the

⁴³ For the e-mail address of the applicant, please see page 19.

Application, its reasons therefor, and of the scheduled hearings thereon;

- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those covered by any motion for confidential treatment of information, by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, PEMC is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the City Mayor and Local Legislative Body of Pasig City, and to submit proof of its posting thereof.

PEMC and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, 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; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

PEMC 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 PEMC 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.

PEMC must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that 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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

PEMC is hereby directed to file a copy of its Expository Presentation via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. PEMC 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 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.

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

(This space is intentionally left blank.)

Finally, PEMC, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, 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, 19 April 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:



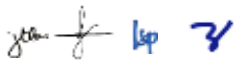
AGNES VST DEVANADERA
Chairperson and CEO

ERC

Office of the Chairperson



AVSTD-2021-04-510-0051



LS: JTB/MVM/ LSP/MCCG

ERC CASE NO. 2021-014 RC
ORDER/19 April 2021
PAGE 19 OF 19

Copy Furnished:

1. Atty. Marian Venussa S. Santiago-Dela Fuente, Atty. Monica M. Martin, Atty. Andrea S. Joson-Mendiola
Counsels for Petitioner PEMC
18th Floor, Robinsons Equitable Tower
ADB Avenue Ortigas Pasig City
Email: legal@wesm.ph
mvsdelafuente@wesm.ph
mmmartin@wesm.ph
ajmendiola@wesm.ph
2. Philippine Electricity Market Corporation (PEMC)
Applicant
18th Floor, Robinsons Equitable Tower
ADB Avenue Ortigas Pasig City
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
4. Commission on Audit
Commonwealth Avenue, Quezon City
5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
6. House Committee on Energy
Batasan Hills, Quezon City
7. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City
8. Office of the City Mayor
Pasig City
9. Office of the Legislative Government Unit (LGU) Legislative Body
Pasig City
10. MOS-RED
Energy Regulatory Commission
12/F Pacific Center, San Miguel Avenue
Ortigas Center, Pasig City