



RESOLUTION NO. 01, Series of 2021

**A RESOLUTION ADOPTING
THE REVISED RULES OF PRACTICE AND PROCEDURE
OF THE ENERGY REGULATORY COMMISSION**

WHEREAS, on 22 June 2006, the Energy Regulatory Commission (Commission) issued Resolution No. 38, Series of 2006 entitled, “*A Resolution Promulgating the Energy Regulatory Commission’s Rules of Practice and Procedure*”;

WHEREAS, there is a need to update, revise, and expand the existing Rules of Practice and Procedure (RPP) to align the same to the new rules and guidelines promulgated by the Commission and other pertinent laws and rules;

WHEREAS, on 12 November 2019, the Commission approved for posting on its official website www.erc.gov.ph, the first draft of the proposed “*Revisions to the 2006 Rules of Practice and Procedure of the Energy Regulatory Commission (ERC)*” [Revised RPP] docketed as ERC Case No. 2019-011 RM;

WHEREAS, on 15 November 2019, the Commission issued a *Notice* directing all interested parties to submit their comments on the Revised RPP on or before 22 November 2019, and setting the public consultations in Luzon, Visayas, and Mindanao on 10, 17, and 18 December 2019, respectively;

WHEREAS, on various dates and within the prescribed period, the Commission received comments on the first draft of the Revised RPP from the following: (1) Aboitiz Power Corporation (APC); (2) SMC Global Power; and (3) Cebu I Electric Cooperative, Inc. (CEBECO I);

WHEREAS, on 17 August 2020, the Commission issued Resolution No. 07, Series of 2020 dated 23 July 2020, entitled, “*A Resolution for the Transitory Implementation of Legal e-Processes Pending the Adoption of the Interim Guidelines Governing Applications, Filings and Virtual Hearings before the Energy Regulatory Commission*”;

WHEREAS, on 22 October 2020, the Commission issued Resolution No. 9, Series of 2020 dated 24 September 2020, entitled, “*A Resolution Adopting the Guidelines Governing Electronic Applications, Filing and Virtual Hearings before the Energy Regulatory Commission*”;

WHEREAS, on 26 November 2020, the Commission approved for posting on its official website the second draft of the Revised RPP;

WHEREAS, on 02 December 2020, the Commission issued a *Notice* directing all interested parties to submit their comments on the second draft of the Revised RPP on or before 07 December 2020;

WHEREAS, on various dates and within the prescribed period, the Commission received comments on the second draft of the Revised RPP from the following: (1) AC Energy Philippines, Inc. (ACEPH); and (2) APC;

WHEREAS, taking into consideration the comments timely submitted by the stakeholders, and those made during public consultations, the Commission on 17 December 2020, approved the Revised RPP;

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the Commission hereby adopts the Revised Rules of Practice and Procedure, hereto attached and made an integral part of this Resolution.

This Resolution shall take effect fifteen (15) days after its publication in a newspaper of general circulation or Official Gazette.

Resolution No. 01, Series of 2021

A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission

Page 3 of 3

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 Commission’s website and such other online platform available to the Commission under the circumstances.

Pasig City, 17 December 2020.




AGNES VST DEVANADERA
Chairperson and CEO

(On leave)
ALEXIS M. LUMBATAN
Commissioner

(On leave)
CATHERINE P. MACEDA
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMED L. FUENTES
Commissioner


LS: RSPV/ARG/LSP/MCCG

**Revised Rules of Practice and Procedure
of the Energy Regulatory Commission**

TABLE OF CONTENTS

Revised Rules of Practice and Procedure	Page
Rule 1 – General Provisions	1
Section 1. Purpose	1
Section 2. Application of Rules	1
Section 3. General Powers of the Commission under these Rules	1
Section 4. Construction of these Rules	1
Section 5. Application of the Rules of Court	1
Rule 2 - Definitions	2
Section 1. Definitions	2
Rule 3 – Formal Requirements	4
Section 1. Caption	4
Section 2. Form and Size	4
Section 3. Signature and Address	5
Section 4. Verification and Certification against Forum Shopping	5
Section 5. Construction	6
Section 6. Rejection of Pleadings and Documents	6
Section 7. Electronic Filing	6
Section 8. Confidential Information	6
Rule 4 – Confidential Information	6
Section 1. Motion for Confidential Treatment of Information	6
Section 2. Resolution on the Motion	7
Section 3. Disclosure of Confidential Information; Penalties	8
Section 4. Electronic Filing of Information with Motion for Confidential Treatment	9
Rule 5 - Pleadings	9
Section 1. In General	9
Section 2. Supporting Documents	9
Section 3. Application	9
Section 4. Petition	9
Section 5. Complaint	9
Section 6. Answer/Explanation	10
Section 7. Prohibited Pleadings	10

Rule 6 – Pre-Filing Requirements	10
Section 1. Pre-Filing Requirements	10
Section 2. Rate Applications and Petitions Affecting the Consumers	10
Section 3. Proof of Compliance with the Pre-Filing Requirements	11
Section 4. Compliance with Pre-Filing Requirements	11
Section 5. Filing Fees	12
Section 6. Electronic Pre-Filing and Payment of Fees	12
Rule 7 – Amendment of Pleadings and Supplemental Pleadings	12
Section 1. Amendment of Complaints, Petitions, and Applications	12
Section 2. Amendment of Pleadings and Supplemental Pleadings	12
Section 3. Formal Amendments	12
Section 4. Amendment to Conform to the Evidence	12
Section 5. Withdrawal	13
Rule 8 – Parties	13
Section 1. Classification of Parties	13
Section 2. Appearances	13
Section 3. Conduct Required	13
Section 4. Rights of Parties	14
Section 5. Transfer of Interest; Substitution	14
Section 6. Withdrawal of Representative	14
Rule 9 – Intervention, Opposition and Comment	14
Section 1. Intervention	14
Section 2. Filing of Petitions to Intervene and Comment thereon	14
Section 3. Grant of Leave to Intervene	15
Section 4. Limitation on Intervenors	15
Section 5. Opposition and Comment	15
Section 6. Effect of Filing of Opposition or Comment	16
Rule 10 – Service and Filing	16
Section 1. Service Upon Parties	16
Section 2. Manner of Service and Period to Respond	16
Section 3. Proof of Service	16
Section 4. Filing of Pleadings and Other Papers	17
Section 5. Electronic Filing	17
Rule 11 - Time	17
Section 1. Computation	17
Section 2. Extensions	17
Section 3. Continuance	17

Rule 12 - Motions	18
Section 1. Motions in General	18
Section 2. Objections/Comments	18
Section 3. Action on the Motion	18
Section 4. Delay of Proceeding	18
Rule 13 – Notice of Hearing	18
Section 1. Notice Required	18
Section 2. Form of Notice	18
Section 3. Contents of Notice	19
Section 4. Publication and Other Requirements	19
Section 5. Cancellation of Hearing Due to Force Majeure or Declaration of Suspension of Work in the Government	19
Section 6. Compliance with the Jurisdictional Requirements	20
Rule 14 – Provisional Authority or Interim Relief	20
Section 1. Provisional Authority or Interim Relief	20
Section 2. Allegations in the Motion and Supporting Documents	20
Section 3. Action on the Motion	20
Section 4. Effect of Final Determination	21
Rule 15 – Discovery Procedures	21
Section 1. Policy	21
Section 2. Modes of Discovery	21
Section 3. Depositions	21
Section 4. Data Requests	21
Section 5. Protective Orders	22
Section 6. Effect of Failure to Comply	22
Rule 16 – Pre-Trial Conference	22
Section 1. Policy	22
Section 2. Matters to be Taken Up During Pre-Trial Conference	23
Section 3. Pre-Trial Brief	23
Section 4. Appearance of Parties	24
Section 5. Pre-Trial Order	24
Rule 17 – Summary Proceedings	24
Section 1. Uncontested Proceedings	24
Section 2. Summary Procedure for Consumer Complaints	24
Section 3. Summary Decision	25
Rule 18 - Hearings	26
Section 1. Public Hearings	26
Section 2. Virtual Hearings	26

Section 3.	Postponements	26
Section 4.	Venue	27
Section 5.	Consolidation	27
Section 6.	Presiding Officer	27
Section 7.	Order of Presentation	27
Section 8.	Direct Testimony	28
Section 9.	Cross-examination	28
Section 10.	Exhibits	28
Section 11.	Offer of Evidence	28
Section 12.	Objections/Comments on Offer of Evidence	29
Section 13.	Number of Witnesses	29
Section 14.	Further Evidence	29
Section 15.	Memorandum	29
Section 16.	Recording of Hearings	29
Section 17.	Reopening of Proceedings	30
Rule 19 – Rules of Evidence		30
Section 1.	Rules of Evidence Not to be Strictly Applied	30
Section 2.	Official Notice	31
Section 3.	Motions for Official Notice and Opportunity to Respond	31
Section 4.	Data Requests Allowed by the Commission	31
Section 5.	Additional Documents Required by the Commission	31
Rule 20 – Procedures and Requirements in Particular Commission Proceedings		31
A.	Applications for a General Change in Rate Schedules or Revision of Rates	31
B.	Applications for Approval of Power Supply Contracts	32
B.1	Power Supply Contract between a Distribution Utility and a Power Producer	32
B.2	Power Supply Contract between a Distribution Utility and a New Power Producer	32
C.	Applications for Approval of Capital Expenditure (CAPEX) Projects	33
D.	Applications for Authorizations as Required by Section 20 (e) and (g) of the Commonwealth Act No. 146 (Public Service Act)	33
E.	Applications for Approval of Other Rate and Non-Rate Cases	34
F.	Consumer Complaints	34
G.	Commission-Initiated Investigation	37
H.	Compliance Filings with the Commission	38
Rule 21 – Rule-Making		39

Section 1.	Initiation of Rule-Making	39
Section 2.	Petition to Initiate Rule-Making	39
Section 3.	Notice of Proposed Rule-Making	39
Section 4.	Public Consultation	40
Section 5.	Resolution to Adopt a Rule	40
Section 6.	Issuance and Publication	41
Section 7.	Effectivity of Rules	41
Rule 22 – Final Orders, Resolutions, and Decisions		41
Section 1.	How Rendered	41
Section 2.	Form and Contents	41
Section 3.	Rendition of Decision/Issuance of Final Order	41
Section 4.	Correction of Clerical Errors	41
Section 5.	Finality and Implementation	41
Section 6.	Appeal	42
Section 7.	Compilation and Publication of Orders, Resolutions and Decisions	42
Rule 23 – Motion for Reconsideration		42
Section 1.	Filing of Motion for Reconsideration	42
Section 2.	Opposition/Comments on the Motion for Reconsideration	42
Section 3.	Effect of Filing of Motion for Reconsideration	42
Rule 24 – Miscellaneous Provisions		42
Section 1.	Repeal	42
Section 2.	Applicability of Existing Rules	43
Section 3.	Construction of Rules	43
Section 4.	Separability Clause	43
Section 5.	Effectivity	43

Revised Rules of Practice and Procedure of the Energy Regulatory Commission

Pursuant to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), the Executive Order No. 172, creating the Energy Regulatory Board, and other related laws, the Energy Regulatory Commission hereby promulgates the following rules of practice and procedure to govern the actions and proceedings before it.

RULE 1 – GENERAL PROVISIONS

Section 1. Purpose. - It is the purpose of these Rules to aid anyone who wishes to appear before the Energy Regulatory Commission and participate in any proceeding before it. It is the Commission's intention to be accessible and to make its Rules of Practice and Procedure clear and understandable for the parties, their Counsels-of-record, and the general public.

Section 2. Application of Rules. - Unless otherwise stated, these Rules apply to all proceedings before the Commission where it is required under prevailing laws, rules and guidelines to hold a hearing or to afford the parties to the proceeding before it an opportunity to be heard before making a decision.

Section 3. General Powers of the Commission under these Rules. - The Commission may issue general or specific procedural directions at any time, including before or during any proceeding.

The Commission may also exempt itself from these Rules in the broader interest of justice and apply such suitable procedure that shall secure the just and expeditious determination of the matters in issue.

Section 4. Construction of these Rules. – These Rules shall be liberally construed to secure the most expeditious and least expensive determination of every proceeding before the Commission on its merits, consistent, however, with the requirements of justice.

Section 5. Application of the Rules of Court. - In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court, the Rules on Electronic Evidence, including their amendments or revisions, and such other pertinent rules of procedure promulgated by the Supreme Court, may, in the interest of expeditious disposition of the cases pending before the Commission and whenever practicable and convenient, be applied suppletorily or by analogy.

RULE 2 – DEFINITIONS

Section 1. Definitions. - As used in these Rules, except as otherwise required by the context:

- (a) “**Applicant**” means, in proceedings involving filings for permission or authorization which the Commission may give under the statutory authority delegated to it, the party on whose behalf the filings are made.
- (b) “**Commission**” means the Energy Regulatory Commission, created under Section 38 of the EPIRA, composed of four (4) Commissioners and a Chairperson and Chief Executive Officer (CEO).
- (c) “**Commissioner**” means a member of the Commission while “**Chair**” means the Chairperson and CEO thereof.
- (d) “**Commission counsel**” means a lawyer-member of the Commission’s staff.
- (e) “**Commission-initiated investigation**” means a proceeding initiated by the Commission in the exercise of its investigative and quasi-judicial authority.
- (f) “**Complainant**” means a person who files a complaint intended to initiate a proceeding with the Commission regarding any act or omission by any person subject to the Commission’s jurisdiction.
- (g) “**Confidential information**” means such information that by reason of its nature or pursuant to the Commission’s decisions or policies, may not be disclosed without violating the proprietary rights of any party, person or entity, except as otherwise provided under Rule 4 of these Rules.
- (h) “**Counsel-of-record**” means the lawyer, or law firm, including all its partners and associates, which are duly authorized by the parties at the time of the filing of the application, petition, complaint, or intervention to represent said parties in any proceeding before the Commission; or the in-house counsel of the parties represented.
- (i) “**Docket**” means a file maintained by the Central Records Division of the Commission as the record for matters filed and proceedings heard by the Commission.
- (j) “**Energy Regulatory Commission**” or “**ERC**” means the Commission as defined herein.

- (k) “**EPIRA**” refers to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.
- (l) “**Filing**” means submission of pleadings, applications, comments, petitions, protests, motions, notices, compliance, and other similar papers before the Central Records Division as provided for under Sections 4 and 5, Rule 10 of these Rules, or in accordance with Resolution No. 09, Series of 2020, or such other pertinent rules and regulations promulgated by the Commission on electronic filing.
- (m) “**Hearing**” means any proceeding at which evidence is taken on the merits of the matters at issue or comments received with respect to any application, petition or complaint filed before the Commission.
- (n) “**Intervenor**” means a person who participates in a pending matter or proceeding as a party-of-record by statutory right or by order of the Commission on petition to intervene.
- (o) “**Matter**” means any subject of a docket initiated by filing or submittal, or of a notice or order issued by the Commission.
- (p) “**Motion**” means any request for relief other than by a pleading.
- (q) “**Party**” means any person classified under Rule 8 of these Rules based on the nature of the proceedings before the Commission.
- (r) “**Petitioner**” means a person other than a complainant or an applicant, seeking affirmative relief from the Commission.
- (s) “**Pleading**” means a written document submitted by a party or a person seeking to participate in a proceeding before the Commission, setting forth allegations of fact, claims, defenses, requests for relief, and/or other matters relevant to the issues raised and/or the relief sought in a proceeding and is used herein to refer to an application, petition, complaint, or answer as provided for in Rule 5.
- (t) “**Pre-trial conference**” means any conference or meeting of the parties, prior to the presentation of evidence on the merits, on record and presided over by the Commission or a presiding officer, for the purpose of formulating and simplifying the issues in the proceeding or addressing other matters that may expedite orderly conduct and disposition of the proceeding.

- (u) “**Presiding officer**” means the Chair or a Commissioner, or a Commission counsel authorized to conduct or preside over any hearing before the Commission.
- (v) “**Public Consultation**” means a proceeding at which comments are received with respect to any proposed rule for adoption by the Commission.
- (w) “**Resolution No. 09, Series of 2020**” refers to the Guidelines Governing Electronic Applications, Filings and Virtual Hearings before the Energy Regulatory Commission promulgated by the Commission.
- (x) “**Respondent**” means a person under the Commission’s jurisdiction against whom any complaint or petition is filed or directed or a person who is under formal investigation by the Commission.
- (y) “**Rule**” means each statement, advisory, order, guideline, or decision of general applicability issued by the Commission that implements, interprets and prescribes law or policy, or describes the organization, procedures, or practice requirements of the Commission.
- (z) “**Rule-Making**” means a proceeding to adopt, amend, or repeal a Commission rule.

RULE 3 – FORMAL REQUIREMENTS

Section 1. Caption. - All initial applications, petitions, complaints, pleadings, motions, and other similar papers filed with the Commission in any proceeding shall clearly show in the caption, the names of all persons in whose behalf the filing is made. If more than one person is involved, only a single name needs to be included in the title of subsequent papers filed. All subsequent filings shall show the docket number assigned by the Central Records Division.

The caption shall also clearly indicate the subject of the application or petition. In case of any discrepancy between the caption and the body containing the allegations, the latter shall prevail. In such case, the Commission *motu proprio*, or upon motion of the applicant or petitioner, may correct the caption, through an order, to avoid confusion.

Section 2. Form and Size. - All pleadings, motions, and other similar papers filed with the Commission shall be written in single space with one-and-a-half space between paragraphs, using an easily readable font style of the party’s choice, preferably Times New Roman or Georgia, of 14-font size, and on a 13-inch by 8.5-inch white bond paper.

There shall be a margin of not less than 1.5 inches in width at the left-hand side of each page, 1.2 inches in width at the top of the page, and not less than 1 inch in width at the bottom and right-hand side thereof.

Pleadings, motions, and other similar papers, together with the annexes thereto, shall be fastened. Unless otherwise provided under these Rules or directed by the Commission, an original and two (2) copies of the pleadings, motions, and other similar papers shall be filed. Reproductions may be made by any process provided that the copies must be clear and legible.

Section 3. Signature and Address. - The original copy of each pleading, motion, or any similar paper to be filed shall be signed by the party or its duly authorized representative, or by the party's Counsel-of-record.

The signature of the party, its duly authorized representative or Counsel-of-record, on any pleading, motion or any similar paper filed with the Commission constitutes a certification that the signatory has read the paper being subscribed and filed; knows the contents thereof that to the best of the signatory's personal knowledge, it is well grounded in fact and is warranted by existing laws; and it is not interposed for any improper purpose.

All pleadings, motions, and other similar papers to be filed must state the complete address of the party, its duly authorized representative, or Counsel-of-record, which should not be a post office box, as well as their respective registered electronic mail (e-mail) addresses. All parties and their representatives or Counsels-of-record should notify the Commission of any change in their addresses, otherwise, they shall be bound by any communication sent to their last known addresses.

Section 4. Verification and Certification against Forum Shopping. - All pleadings under Rule 5 of these Rules shall be verified. The verification shall contain a sworn statement that affiant has read the pleading and shall allege the following attestations:

- (a) the allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;
- (b) the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
- (c) the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

If such verification is executed by the duly authorized officer of the person or party filing the pleading, in cases where the person or party is a

juridical person, there shall be attached to the pleading the corresponding board resolution or secretary's certificate authorizing such officer to represent the person or party in the proceedings and to execute such verification on its behalf.

In addition, there shall be attached to all initiatory pleadings a sworn certification against forum shopping executed in accordance with the Rules of Court, including its amendments or revisions.

In no case should the notarizing authority be a signatory of the same instrument being notarized.

Section 5. Construction. - All pleadings, motions, and other similar papers shall be liberally construed and errors or defects therein, which do not mislead or affect the substantial rights of the parties involved or the public, may be disregarded.

Section 6. Rejection of Pleadings and Documents. - Acceptance of a pleading, motion, or any similar paper for filing is not a determination that it complies with all the requirements of the Commission and is not a waiver of such requirements.

The Commission shall have the power to reject, through an order, a pleading, motion, or any similar paper that does not substantially comply with these Rules, orders of the Commission, or applicable laws, without prejudice to comply within a specified period indicated in the order.

Section 7. Electronic Filing. - All pleadings, motions, and other similar papers may also be electronically filed pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic filing.

Section 8. Confidential Information. - Claims of confidentiality may be made pursuant to Rule 4 of these Rules.

RULE 4 – CONFIDENTIAL INFORMATION

Section 1. Motion for Confidential Treatment of Information. - A party to a proceeding before the Commission may move for information to be treated as confidential.

The motion shall:

- (a) Describe therein with particularity the information to be treated as confidential, stating the specific grounds thereof, and specifying the period during which the information must not be disclosed; and

- (b) Be accompanied with one (1) copy of the document that contains the information sought to be treated as confidential, placed in a sealed envelope, with the envelope and each page thereof stamped with the word “Confidential”. The sealed envelope shall be accompanied by an index enumerating the contents thereof with sufficient particularity.

The movant shall serve the other parties with the motion but not copies of the documents and/or information sought to be treated as confidential.

If the information for which confidentiality is requested is part of the attachments to an application, petition or other pleading, the same must comply with this Section by incorporating therein the motion.

The movant has the burden to establish that the information is entitled to such confidentiality.

Section 2. Resolution on the Motion. – For the purpose of determining whether or not to accord confidential treatment to information, the Commission may review the information claimed to be confidential.

The Commission may deny the motion on grounds such as, but not limited to, the following:

- (a) The movant has no actual, valuable proprietary interest to protect with respect to the information sought to be treated as confidential;
- (b) The information is, at the time of the filing of the motion, generally available to the public by means other than a breach of any confidentiality obligation with respect to such information;
- (c) The information is, at the time of the filing of the motion, available to or already in the possession of the Commission on a non-confidential basis from a source that, to the knowledge of the Commission, has lawfully acquired the same on a non-confidential basis; or
- (d) The information has been declared as non-confidential in nature in previous decisions or policies of the Commission.

If the Commission denies the motion, the information shall be treated as not confidential and may be subject to public disclosure, in accordance with the rules and guidelines issued by the Commission on the freedom of information in relation to the people’s right to information, unless restrained by an order of a court of competent jurisdiction.

If the Commission grants the motion, it:

- (a) shall issue an order to that effect; and
- (b) continue to protect the information from public disclosure, within the period specified in the order, by maintaining the confidential information separate and apart from the records of the case and ensuring that the same will not be divulged to unauthorized persons.

The order shall:

- (a) Describe generally the nature of the confidential information and the procedures to be utilized to protect the same;
- (b) Specify the period during which the disclosure of the information to the public will be withheld or otherwise limited;
- (c) Specify the procedures to be used by all the other parties during the pendency of the proceedings to ensure the confidentiality of the information;
- (d) Specify the procedures for handling or returning the confidential information, as may be appropriate, upon the close of the proceedings or at the end of the period provided in this Rule;
- (e) Prohibit the disclosure of the confidential information, except as:
 - 1) May be agreed upon by the parties pursuant to a protective agreement; or
 - 2) Otherwise directed by the Commission pursuant to a court order or law;
- (f) Specify the procedures to be used at the time of the presentation of evidence; and
- (g) Require such other actions as the Commission may deem appropriate under the circumstances.

Section 3. Disclosure of Confidential Information; Penalties. - Information which is the subject of an agreement or an order declaring it confidential shall be provided only to the Commission and the Commission's staff in charge of the case.

Any person who violates the order of the Commission to protect the information or fails to comply with the terms and conditions of a protective agreement shall be subject to the imposition of administrative fines and penalties, without prejudice to other remedies available to the party in whose favor the order was issued.

Section 4. Electronic Filing of Information with Motion for Confidential Treatment. – All information with motion for confidential treatment may also be electronically filed pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic filing.

RULE 5 – PLEADINGS

Section 1. In General. - Pleadings shall be written in English or Filipino, typewritten or printed, and filed with the Central Records Division, or via e-mail through the official e-mail addresses of the Central Records Division, pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic filing. The pleading shall state clearly and concisely the ultimate facts and legal authority relied upon for the grant of the authority or any other relief sought.

Section 2. Supporting Documents. - All pleadings shall be accompanied by such documents which substantially establish the truth of the factual allegations contained therein.

Section 3. Application. - By means of an application, the applicant seeks authorization or permission to undertake any matter or activity within the regulatory power of the Commission. The application shall contain a concise statement of the authorization applied for and the ultimate facts that would qualify or entitle the applicant to the grant of the authorization being sought.

When the application is predicated on a franchise, sale, lease, mortgage, or any other contract, such franchise or contract shall be referred to in the application by alleging in substance its salient and pertinent provisions, and appending to the application a copy of such franchise or contract.

Section 4. Petition. - By means of a petition, a person, other than an applicant or complainant, seeks an affirmative relief under any statute or other authority delegated to the Commission. The petition shall state clearly and concisely the petitioner's interest in the subject matter, the facts and the grounds relied upon, including the statutory provision or other authority, and the relief sought. If the relief sought affects the rights of other persons, the petition shall implead all such persons as respondents and state their complete names and addresses.

Section 5. Complaint. - A complaint is a concise statement of the ultimate facts of the matter complained of within the regulatory power of the Commission. The complaint shall specify the cause or causes of action as well as the principal relief sought, and shall state the complete names and addresses of the complainant and the respondent against whom it is directed.

Section 6. Answer/Explanation. - The respondent summoned to file an answer to a complaint or petition, or to whom an order is issued by the Commission to show cause, shall file a verified answer/explanation within fifteen (15) days from receipt of the Commission's order, unless a different period is provided in the order. The answer/explanation shall admit or deny the material allegations stated in the complaint, petition, or show cause order, and shall state the matters of fact and the laws relied upon, attaching therewith such documents supporting the allegations in the answer/explanation.

Section 7. Prohibited Pleadings. - The following pleadings, motions, and petitions shall not be allowed:

- (a) Motion to Dismiss, except on the grounds of lack of jurisdiction, *res judicata*, prescription, and *litis pendentia*;
- (b) Motion for Bill of Particulars;
- (c) Petition for Relief from Judgment; and
- (d) Such other pleadings, motions, and petitions of similar nature intended to circumvent this Section.

RULE 6 – PRE-FILING REQUIREMENTS

Section 1. Pre-Filing Requirements. - Unless otherwise provided, all applications and petitions shall comply with the pre-filing requirements, as provided in this Rule.

Section 2. Rate Applications and Petitions Affecting the Consumers. - Before the Commission accepts rate applications and petitions affecting the consumers for filing, the applicant or petitioner must comply with the following requirements:

- (a) Furnish a copy of the application or petition, and not a mere notice of the filing thereof, with all its annexes and accompanying documents, except those subject of a motion for confidential treatment of information under Rule 4, the following:
 - 1) Both the Office of the City or Municipal Mayor and the *Sangguniang Panlungsod* or *Bayan* of the city or municipality where the applicant or petitioner principally operates;
 - 2) Both the Office of the Provincial Governor and the *Sangguniang Panlalawigan*, except if the city where the

applicant or petitioner principally operates is not a component city of the province.

- (b) Cause the publication of the entire application or petition, and not a mere notice of the filing thereof, excluding its annexes but including the verification and certification against forum shopping, in a newspaper of general circulation within the franchise area of the applicant or petitioner or area where it principally operates. For this purpose, the applicant or petitioner may redact personally-identifiable data pursuant to applicable laws on data privacy.

Section 3. Proof of Compliance with the Pre-Filing Requirements. - To demonstrate compliance with the foregoing requirements, the applicant or petitioner shall attach to its application or petition, certifications issued by the Offices of the Governor, Mayor, and the Presiding Officer or Secretary of the *Sanggunian* concerned, or their duly authorized representatives, attesting to the fact that such Offices were served a copy of the application or petition, with all its annexes and accompanying documents, including the date of such service.

In the absence of such certifications, the applicant or petitioner shall prove compliance by attaching the affidavit of the person that served the application or petition on the aforementioned Offices, attesting to such fact and the date of such service. The affiant shall also attach to the affidavit a copy of the page of the application or petition bearing the stamp “received” or acknowledgement of receipt by the said Offices, in case the application or petition was served personally; or the copy of the registry or private courier receipt, in case the application or petition was served through registered mail or private courier.

The applicant or petitioner shall also attach to the application or petition, an affidavit of publication executed by the editor-in-chief or the duly authorized representative of the publisher of the newspaper of general circulation wherein the application or petition was published, together with a copy of the newspaper issue containing the published application or petition. The affidavit of publication shall also contain information on the area or areas where the newspaper is being circulated.

Section 4. Compliance with Pre-Filing Requirements. - Before accepting any application or petition for filing, the Central Records Division shall first refer the applicant or petitioner, or its duly authorized representative to the appropriate Service of the Commission for a pre-filing conference, to inquire into the compliance with the foregoing pre-filing requirements and the required supporting documents attached to the application or petition.

The burden to prove compliance with this Rule rests on the applicant or petitioner.

Section 5. Filing Fees. – Before the filing of any application or petition, the applicant or petitioner shall pay the required filing fees in accordance with the Schedule of ERC Fees and Charges, as amended.

Section 6. Electronic Pre-Filing and Payment of Fees. – Applications and petitions covered by this Rule may also be pre-filed, and the fees prescribed thereof be paid, in accordance with Rule IV of Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic pre-filing.

RULE 7 – AMENDMENT OF PLEADINGS AND SUPPLEMENTAL PLEADINGS

Section 1. Amendment of Complaints, Petitions, and Applications. – Complaints, petitions, and applications may be amended once as a matter of right before a responsive pleading thereto is filed or served, whichever comes first. After the filing or service of such responsive pleading, amendment of complaints, petitions, and applications may be made only upon leave of the Commission.

In case of uncontested application or petition, an amendment thereto may be undertaken as a matter of right prior to the presentation of evidence.

Section 2. Amendment of Pleadings and Supplemental Pleadings. - Before a pleading can be amended or supplemented, a motion for leave shall be filed, together with the amended or supplemental pleading. Except as provided under this Rule, such motion for leave may be granted or denied by the Commission as a matter of discretion.

If the amendment will substantially enlarge or modify an application or petition covered by Rule 6 of these Rules, the Commission, after granting leave, shall require the applicant or petitioner to comply with the requirements under the said Rule.

Thereafter, the Commission shall issue another notice of public hearing which the applicant or petitioner must publish following the provisions of Section 4, Rule 13 of these Rules.

Section 3. Formal Amendments. – A defect in the designation of the parties and other clerical or typographical errors may be summarily corrected by the Commission at any stage of the proceedings, *motu proprio* or upon motion of any party, provided no prejudice is caused thereby to the adverse party.

Section 4. Amendment to Conform to the Evidence. - When, at a hearing, issues not raised by the pleadings are introduced by express or implied consent of the parties, they shall be treated in all respects as if they

had been raised in the pleadings. Such amendments of the pleadings, as may be necessary to cause them to conform to the evidence, and to raise these new issues, may be made *motu proprio* by the Commission, or upon motion of any party at any time during or after the hearing.

The Commission may require the applicant or petitioner to comply with the service and publication requirements provided under Rule 6 of these Rules.

Section 5. Withdrawal. - A party desiring to withdraw a complaint, petition or application filed with the Commission shall file a motion to withdraw such complaint, petition or application, stating therein the reasons for the withdrawal.

In case of a joint complaint, petition or application, the motion shall be filed jointly by both parties. In the event that only one of the parties thereto files the motion, the Commission shall direct the other party to submit any comment or opposition to the motion.

Such motion may be granted or denied by the Commission as a matter of discretion.

RULE 8 – PARTIES

Section 1. Classification of Parties. - According to the nature of the proceedings before the Commission and the relationship of the parties thereto, a party to a proceeding shall be classified as an applicant, petitioner, complainant, respondent, or intervenor.

Section 2. Appearances. - A party may represent itself, or may be represented by a Counsel-of-record.

Any non-lawyer may be allowed to appear on behalf of a party and assist in all matters before the Commission; provided, that he or she possesses the expertise to render valuable service to the party being represented; and provided further, that he or she furnishes the Commission with a special power of attorney, or a secretary's certificate in case the party represented is a juridical entity. The Commission may also direct the appearance of experts if it determines that they may be of assistance in the resolution of matters brought before it.

Section 3. Conduct Required. - Any person appearing in a proceeding before the Commission must conform to recognized standards of ethical and courteous conduct required of persons appearing before the regular courts. Contumacious conduct by any person at any hearing before the Commission is a ground for the exclusion of that person from that hearing and for summary suspension of that person from further participation in the proceeding.

Section 4. Rights of Parties. - At any proceeding before the Commission, each party of record to a case is entitled to enter an appearance, receive and be furnished with copies of all pleadings and documents, except those covered by Rule 4 of these Rules, introduce evidence, examine and cross-examine witnesses, make arguments, make and argue motions and generally participate in the proceeding.

Section 5. Transfer of Interest; Substitution. - In case of any transfer of interest, the complaint, petition or application shall only be continued by or against the original party, unless the Commission, *motu proprio* or upon motion of the original party, directs the person to whom the interest is transferred, to be substituted in the action or be joined with the original party.

Section 6. Withdrawal of Representative. - Any representative withdrawing from a proceeding before the Commission must file a motion, stating the reasons for the requested withdrawal, and secure the conformity of the party represented.

RULE 9 – INTERVENTION, OPPOSITION AND COMMENT

Section 1. Intervention. - Any person having a direct and substantial interest in the subject matter of any hearing or investigation pending before the Commission, may become a party thereto by filing a verified petition to intervene with the Commission, indicating the docket number and title of the proceeding and stating: (1) the petitioner's name, 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 sought.

A petition to intervene filed by any person on behalf of an organization, association or entity, should be accompanied by a special power of attorney or a secretary's certificate, authorizing such person to file the same and represent the said organization, association or entity in the proceedings before the Commission.

Section 2. Filing of Petitions to Intervene and Comment thereon. - Petitions under this Rule shall be served on the parties and filed with the Commission not less than five (5) days prior to the scheduled initial hearing, unless the notice of hearing fixes a different period for filing such petitions. A petition, which for good cause shown was not filed within the time herein indicated, may be allowed by the Commission or the presiding officer at the time the proceeding is called for initial hearing.

Any person who appeared during the initial hearing and expressed an intention to intervene, may also be allowed to participate as an intervenor,

provided that the said person files a verified petition to intervene in accordance with Section 1 hereof, within a non-extendible period of fifteen (15) days from the date of the said hearing; otherwise, said person shall be treated as an oppositor.

The complainant, applicant or petitioner shall file a comment or opposition within five (5) days from receipt of the verified petition to intervene, without waiting for an order from the Commission for the filing of the same.

The Commission may accord standing to any person as an intervenor only upon the resolution granting the said verified petition to intervene and admitting the intervenor as party to a particular case.

Section 3. Grant of Leave to Intervene. - If a verified petition to intervene shows that the petitioner has a direct and substantial interest in the subject of the proceeding, or any part of it, and the intervention would not unduly broaden the issues, the Commission may grant leave for the petitioner to intervene or otherwise to appear in the proceeding with respect to the matters set forth in the petition and subject to such reasonable conditions as may be prescribed by the Commission.

The grant of such leave to intervene does not constitute a finding by the Commission that such party will or may be affected by any order or rule made in the proceeding. Failure of any party to file an answer, comment or opposition to such verified petition to intervene does not constitute an admission of the facts stated in such petition.

Section 4. Limitation on Intervenors. - When two or more intervenors have substantially the same interests and positions, the Commission or presiding officer may, in order to expedite the hearing, limit the number of intervenors who will be permitted to cross-examine, make and argue motions or make objections during the course of the hearing.

Section 5. Opposition and Comment. - Any person other than a party-of-record, who objects to the approval of an application, petition, or other matter which is, or will be, under consideration by the Commission, or otherwise may have some comments thereon, may file an opposition thereto or comment thereon at any stage of the proceedings before the applicant or petitioner rests its case. No particular form of opposition or comment is required, but the document, letter or writing should contain the name, address and e-mail address of such person, and a concise statement of the opposition or comment and the grounds relied upon. If possible, three (3) legible copies of the opposition or comment, including the original, shall be filed with the Commission, and the assigned docket number of such proceeding shall be clearly indicated therein. The parties affected by the opposition or comment filed shall be served with a copy thereof and shall be given the opportunity to respond to the same, within ten (10) days from

receipt thereof, without waiting for an order from the Commission for the filing of the same.

Section 6. Effect of Filing of Opposition or Comment. - An opposition or comment is intended solely to alert the Commission and the parties to a proceeding of the fact and nature of the objections to or comments on an application, petition, or any other proposed Commission action, and does not become an evidence in the proceeding. The filing of an opposition or comment does not make the person who filed the said opposition or comment a party to the proceedings, unless accorded the status of an intervenor by the Commission pursuant to this Rule.

RULE 10 – SERVICE AND FILING

Section 1. Service Upon Parties. - Subject to the provisions of Rule 4 of these Rules, a copy of all pleadings and documents filed in any proceeding before the Commission shall be served upon all other parties. If a party appears after the original documents have been filed, a copy of all pleadings and documents previously filed shall be furnished to such party upon its request.

Section 2. Manner of Service and Period to Respond. - Unless otherwise ordered by the Commission, service shall be made upon a party or upon its Counsel-of-record, either by personal service, registered mail, or private courier delivery, to its principal place of business or residence, or to the address specifically stated by the party in the application, petition, complaint, or intervention. Service may also be made through e-mail pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic service.

If the party served is allowed under these Rules or by order of the Commission, a certain period of time within which to respond to the pleading or document served upon it, the period shall commence on the date of receipt by personal delivery, registered mail, or private courier delivery.

In case service is made through e-mail, the period to respond shall commence upon the time the pleading or document served has been sent via e-mail to the person to be served, subject to the proof of service as provided in the succeeding paragraph. Service by electronic means shall not be deemed effective or complete if the party serving the pleading or document learns that it did not reach the addressee or person to be served.

Section 3. Proof of Service. - The original of each document filed with the Commission shall be accompanied by proof of service upon all other parties as required by this Rule. Such proof of service shall consist of an affidavit of service with attached stamped “received” copy of all documents and pleadings, if the service is by personal delivery; registry receipt or courier delivery receipt, with a written explanation why the service or filing was not

done personally, if the service is through registered mail or private courier; or if done electronically, proof of electronic service pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic service.

Section 4. Filing of Pleadings and Other Papers. – Except in cases of electronic filing, the filing of pleadings and other papers shall be made personally by presenting the original and two (2) printed copies of any pleading or other papers, together with at least three (3) storage devices containing the electronic files to the Central Records Division, or by sending them by registered mail or private courier addressed to the Commission through its Central Records Division.

The date of mailing of pleadings and other papers, as shown in the registry receipt or Commission-accredited courier delivery receipt, as the case may be, shall be considered as the date of filing with the Commission. The registry or accredited courier delivery receipt shall be attached to the records of the case.

Section 5. Electronic Filing. – In addition to the modes of filing under this Rule, all pleadings, together with their supporting documents, may also be electronically filed in accordance with Section 4, Rule V of Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic filing.

RULE 11 – TIME

Section 1. Computation. - Except as otherwise provided by law, in computing any period of time prescribed or allowed by these Rules, or any other Commission rule, regulation, or order, or by any applicable law, the day of the act, event, or default from or after which the designated period of time begins to run shall be excluded, but the last day of the period so computed shall be included, unless it falls on a Saturday, Sunday, or a legal holiday, in which case the period of time shall not run until the next working day.

Section 2. Extensions. - Except as otherwise provided, whenever by any Commission rule, regulation, order or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed maybe extended by the Commission upon good cause shown, through a motion filed prior to the expiration of the applicable or prescribed period of time.

Section 3. Continuance. - The Commission or presiding officer may, at any time for good cause, with or without request, continue or adjourn any hearing. A hearing before the Commission shall begin at the time and place fixed in an order or a notice, but may thereafter be adjourned from time to time or from place to place by the Commission or the presiding officer.

RULE 12 – MOTIONS

Section 1. Motions in General. - All requests for relief other than by a pleading shall be by motion.

All motions must be in writing, except those made on record during a hearing. A motion shall fully state the action requested or order sought and the grounds relied upon. If necessary, the motion shall prove the facts alleged therein that are not yet of record and shall be accompanied by supporting affidavits and other papers.

Any motion made during a hearing may be directed to be reduced in writing.

No written motion shall be acted upon by the Commission unless accompanied by proof of service upon all the parties.

Section 2. Objections/Comments. - Any party may file an objection or comment to the written motion filed pursuant to this Rule within ten (10) days from receipt of a copy of the motion, unless a different period is prescribed by the Commission. The objection or comment shall set forth in detail the grounds relied upon.

Failure of any party to file an objection or comment within the prescribed period shall be deemed a waiver of that party's right to object or to comment on the said motion.

Section 3. Action on the Motion. - The Commission or the presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address the issues raised by the motion.

Section 4. Delay of Proceeding. - The filing of a motion shall not delay the conduct of any proceeding, unless otherwise directed by the Commission or the presiding officer.

RULE 13 – NOTICE OF HEARING

Section 1. Notice Required. - The Commission shall give notice of the commencement of the hearings to all the parties to a case and to such other persons as the Commission may designate. After commencement, a hearing may be adjourned upon oral notice to those present at the time of adjournment.

Section 2. Form of Notice. - Notice shall be by personal service, registered mail, private courier delivery, or service by electronic means.

Nothing herein, however, shall limit the power of the Commission to direct the service of the notice through other means.

Section 3. Contents of Notice. - The notice shall include, but not be limited to, the following:

- (a) A statement of the time, place, and nature of the hearing;
- (b) A statement of the legal authority and jurisdiction under which the hearing is held; and
- (c) A statement of the pertinent allegations contained in the application or petition.

Section 4. Publication and Other Requirements - The notice of initial hearing for any application or petition for rate adjustment or for any relief affecting the consumers, shall be published by the applicant or petitioner, at its own expense, at least twice for two (2) successive weeks in two (2) newspapers of nationwide circulation, the dates of publication not being less than seven (7) days apart, with the date of last publication made not later than ten (10) days before the date of the scheduled initial hearing. In all other applications or petitions, the publication of the notice shall only be made once in a newspaper of nationwide circulation, at least ten (10) days before the scheduled initial hearing.

All notices of hearings of applications or petitions shall also be posted on the Commission's official website upon issuance thereof.

In its discretion, the Commission may impose upon the applicant or petitioner such other requirements as may be deemed necessary, in order that persons who may be affected by the application or petition shall be apprised thereof and have the opportunity to file their intervention, comment, or opposition thereto.

Section 5. Cancellation of Hearing Due to Force Majeure or Declaration of Suspension of Work in the Government. - In the event that the hearing is cancelled due to force majeure, or declaration of suspension of work in the government, the Commission shall issue a new notice of hearing. The applicant or petitioner must publish the new notice of hearing once (1x) in a newspaper of general circulation within the franchise and/or affected areas, at least ten (10) days before the scheduled hearing, and must furnish a copy thereof to the Offices of the Governor, Mayor, and the *Sanggunian* concerned within the franchise and/or affected areas, to the end that persons who may be affected by the application or petition shall be apprised thereof and will have an opportunity to file their intervention, comment, or opposition thereto. Provided, however, that the applicant or petitioner can prove compliance with Section 4 of this Rule in relation to the cancelled hearing.

The Commission may likewise direct compliance with such other requirements as it may deem necessary.

Section 6. Compliance with the Jurisdictional Requirements. - At the initial hearing of the application or petition, the applicant or petitioner shall submit in writing its compliance with the jurisdictional requirements of publication and notice to all affected parties, attaching thereto such evidence, including but not limited to registry or courier delivery receipts and/or return cards, methodically arranged and duly marked for examination or inspection by the other parties, and such other proof as the Commission may otherwise direct.

In case a new notice of hearing is issued pursuant to Section 5 of this Rule, the applicant or petitioner must likewise show proof of compliance therewith.

RULE 14 – PROVISIONAL AUTHORITY OR INTERIM RELIEF

Section 1. Provisional Authority or Interim Relief. – For applications or petitions covered by Section 1, Rule 6 of these Rules, the Commission may grant either a provisional authority or an interim relief, upon motion included in the application or petition and indicated in the caption thereof that such relief is requested, or through a separate motion filed by the applicant or petitioner.

Section 2. Allegations in the Motion and Supporting Documents. - The motion must allege such facts and circumstances that would justify the Commission's exercise of discretion in granting provisional authority or interim relief prior to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegations therein.

Section 3. Action on the Motion. - The Commission shall act on the motion for provisional authority or interim relief on the basis of the allegations in the application or petition, supporting documents and other pieces of evidence that the applicant or petitioner has submitted, as well as the comments or oppositions filed by interested persons, if there be any.

Motions for provisional authority or interim relief may be acted upon with or without hearing.

The Commission may act on the motion for provisional authority within seventy-five (75) days from the filing of the application or petition. If the Commission, through an order, acts on the motion without hearing, it shall schedule and start the hearing on the application or petition within thirty (30) days from date of issuance of the order. If such motion is included in the application or petition covered by Section 1, Rule 6 of these Rules, the Commission shall hold in abeyance its resolution on the said motion until

after the lapse of thirty (30) days from the receipt of a copy of the application or petition by the Offices of the Governor, Mayor, and the *Sanggunian* concerned within the franchise and/or affected areas or publication of the application or petition in a newspaper of general circulation, whichever comes later.

Section 4. Effect of Final Determination. – The provisional authority or interim relief granted by the Commission shall be subject to adjustment, if upon final evaluation of the case, the Commission determines that the applicant or petitioner was not entitled to the full amount of the provisional or interim rate allowed. The Commission may likewise impose such other conditions as it may deem necessary.

RULE 15 – DISCOVERY PROCEDURES

Section 1. Policy. - The Commission favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the parties for this exchange. Further, it is the Commission's policy to encourage the timely use of discovery as a means toward effective presentations during hearings and avoidance of the use of cross-examination for discovery purposes.

Section 2. Modes of Discovery. - The modes of discovery permitted under the Rules of Court, including its amendments or revisions, may be employed by any party. Upon experiencing any difficulty in obtaining discovery, a party may seek relief from the Commission by filing a proper motion.

Section 3. Depositions. – By leave of the Commission, the testimony of any witness may be taken by deposition at any time before the hearing is closed. The deposition shall proceed in the same manner and pursuant to the same procedures governing the taking and use of depositions under the Rules of Court, including its amendments or revisions.

Section 4. Data Requests. - In any pending proceeding, the Commission or any party may request for data, studies, work papers, reports, and information which are reasonably relevant to the proceeding and permitted by these Rules or by law.

In case a data request is made by a party, it shall be in writing, directed to the party to whom the request is made or its Counsel-of-record, copy furnished the Commission, and shall clearly specify the details of the data requested. Oral data requests made during a hearing may be allowed upon the discretion of the Commission or presiding officer.

Written or oral data requests shall include the purpose and justification therefor. Any requested material or portion thereof, to which no objection is made, shall be produced and furnished to the requesting party

not later than fifteen (15) days upon receipt of the request, unless shortened or extended by agreement or order of the Commission.

Objection to a written data request, in whole or in part, made by a party on the ground that the request is unreasonable and/or the material is not relevant or not permitted or required by law, shall be by motion filed not later than ten (10) days upon receipt of the request. Objection to an oral data request must be raised during the hearing upon which such request was made. The objection shall specify the portions of the data request being objected to and the basis of such objection. The Commission or the presiding officer shall determine the validity of the request, taking into account the objection thereto, and rule accordingly.

Copies of all requested data shall be served on the Commission and all other parties, subject to the reimbursement of the reproduction costs incurred by the party to whom the request was directed, unless a protective order has been granted under Section 5 of this Rule.

Section 5. Protective Orders. - Upon motion for a protective order made by a party from whom discovery is sought, and for good cause shown, the Commission may issue an order, when justice requires, to protect the party from unreasonable annoyance, embarrassment, oppression, burden or expense, or from disclosure of confidential business and financial information. If the motion is denied in whole or in part, the Commission may order that the data requested be provided or discovery be permitted. If the motion is made upon a claim of confidentiality, the procedure in Rule 4 of these Rules shall apply.

Section 6. Effect of Failure to Comply. - The failure of a party to comply with a data request allowed by the Commission or any order related thereto shall be a ground for striking such portion of any testimony related to such request, without prejudice to the institution of contempt proceedings against the erring party at the discretion of the Commission.

RULE 16 – PRE-TRIAL CONFERENCE

Section 1. Policy. - The Commission encourages the conduct of pre-trial conference to have more efficient use of hearing time and to aid in the disposition of the proceeding or the settlement of matters therein. The pre-trial conference may be beneficial in complex or multi-party proceedings in clearly delineating the issues prior to the hearing proper and laying down the ground rules for the conduct thereof.

The pre-trial conference may proceed after the applicant or petitioner has complied with the Commission's jurisdictional requirements and conducted its expository presentation.

Section 2. Matters to be Taken Up During Pre-Trial Conference. - The Commission may require that a pre-trial conference be held with the parties for the purpose of formulating and simplifying the issues, or addressing other matters in the proceeding for its orderly conduct and expeditious disposition. Such matters may include:

- (a) the necessity or desirability of amendments to the pleadings;
- (b) the possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (c) limitations of the issues, the number of witnesses and time allocated for the presentation of witnesses;
- (d) procedures at the hearing and the hearing schedule;
- (e) the submission of written testimony and exhibits to be offered at the hearing and the marking thereof;
- (f) the consideration of outstanding motions and petitions to intervene;
- (g) agreements regarding service of documents;
- (h) the status of any settlement negotiations, if appropriate, and the possibility of submission to alternative modes of dispute resolution; and
- (i) other matters as may aid in the prompt disposition of the proceeding.

Section 3. Pre-trial Brief. - The Commission shall require any one or all of the parties to a proceeding to file, at least five (5) days before the date of the initial hearing or the date set for pre-trial conference, a Pre-trial Brief containing, among others:

- (a) a summary of admitted facts and proposed stipulation of facts;
- (b) the issues to be tried or resolved;
- (c) the documents or exhibits to be presented, stating the purpose thereof and proposed markings therefor, which should also be attached to the Pre-trial Brief, unless already annexed to the application or petition; and
- (d) the number and names of the witnesses, with their written testimony in Judicial Affidavit form, to be attached to the Pre-trial Brief.

Failure to file the Pre-trial Brief shall have the same effect as failure to appear at the pre-trial conference, as provided in the immediately succeeding Section.

Section 4. Appearance of Parties. - All parties or their duly authorized representatives shall attend the pre-trial conference fully prepared for a productive discussion of all matters and fully authorized to make commitments or take positions. Failure of any party to attend or be represented during the pre-trial conference without good cause shown shall constitute a waiver of any objection to any agreement reached or to any order or ruling made as a result of the conference.

Section 5. Pre-Trial Order. - A Pre-trial Order is an order stating the matters taken up during the conference, the actions taken thereon, the amendments allowed to the pleadings, the agreements or admissions made by the parties, and such other matters considered.

The Commission shall issue a Pre-trial Order upon the termination of the pre-trial conference. However, the Commission, may, *motu proprio*, or upon motion of the applicant or petitioner, proceed with the presentation of the evidence prior to the issuance of the Pre-trial Order, provided that the issues are joined and agreed upon by the parties.

The contents of the Pre-trial Order shall control the subsequent proceedings, unless modified before the presentation of the evidence, to prevent manifest injustice.

RULE 17 – SUMMARY PROCEEDINGS

Section 1. Uncontested Proceedings. - In applications, petitions, or complaints where there are no intervenors or there is no contest, the applicant, petitioner, or complainant shall prove its case by submitting and offering into evidence the affidavits of its witnesses and other pieces of evidence within the time allowed by the Commission or presiding officer. Before considering the records closed and the case submitted for decision, the Commission may require the submission of additional data and/or set the case for clarificatory hearing and direct the applicant or petitioner and its witnesses to appear before it for questioning.

Section 2. Summary Procedure for Consumer Complaints. -

- (a) **Coverage.** - The following consumer complaints shall be heard in accordance with the summary procedure set forth herein:
1. The complaint involves an amount not more than Four Hundred Thousand Pesos (PhP 400,000.00);

2. The only issue involved in the complaint is incapable of pecuniary estimation or pertains to a violation of certain provisions of the Magna Carta for Residential Consumers on proper notices, meter testing and sealing, announcement of scheduled power interruptions, installation and relocation of meters, investigation by utilities of consumer complaints, and reconnections of electric service; or
3. Other cases as may be determined by the Commission.

However, nothing in this Section shall preclude the Commission from conducting a formal hearing on complaints previously declared as subject to summary procedure.

- (b) **Summary Dismissal of the Complaint.** - After the Commission determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such papers as may be attached thereto, dismiss the case outright on the grounds apparent therefrom, such as lack of jurisdiction over the subject matter of the proceeding.

If no ground for dismissal exists, it shall forthwith issue an order stating that the summary procedure under this section shall apply. The order shall also contain the issues to be resolved.

- (c) **Submission of Affidavits and Position Papers.** - Within a period of fifteen (15) days from receipt of the order mentioned in the preceding paragraph, the parties shall simultaneously submit affidavits of their witnesses and other pieces of evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them.
- (d) **Rendition of Judgment.** - The Commission shall render judgment in accordance with Section 3, Rule 22 of these Rules.

However, should the Commission find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order.

Section 3. Summary Decision. -

- (a) **Filing and Contents of Motion.** - Any party to a proceeding may file a motion for summary decision on any or all of the issues at any time before the close of the hearing on the merits. The motion for summary decision shall specifically describe the facts upon which the request for summary decision is based, the information and materials which demonstrate those facts, and

the laws or legal principles that entitle the party to a summary decision. Further, the said party shall demonstrate that the issue or issues may be resolved by summary decision. The motion must be supported by an affidavit based on personal knowledge and facts as would be admissible in evidence.

- (b) ***Response to Motion.*** – The other party may file its comment or opposition on the motion for summary decision within ten (10) days from receipt thereof. The said comment or opposition must be supported with an affidavit, deposition or data requested, matters of official notice, or any evidence of record, showing that there exists a genuine issue on material fact for determination at the hearing, or that summary decision is inappropriate as a matter of law.
- (c) ***Action on the Motion for Summary Decision.*** - The Commission may grant a motion for summary decision filed by any party, on any issue, if based on the said motion, comments or opposition, and supporting affidavit, deposition or data requested, matters of official notice, or any evidence of record, there exist no genuine issue as to any material fact and that the said party is entitled to a decision in its favor, as a matter of law.

RULE 18 – HEARINGS

Section 1. Public Hearings. – All hearings shall be public unless otherwise directed by law or by order of the Commission. Nevertheless, the Commission or the presiding officer may:

- a) limit the number of spectators and participants in the interest of public safety and order; or
- b) eject or bar the admission of any person who disrupts or threatens to disrupt a public hearing, or cite said person in contempt.

Section 2. Virtual Hearings. – Hearings may also be conducted through video conferencing pursuant to the provisions of Resolution No. 09, Series of 2020 on virtual hearings, or such other pertinent rules and regulations issued by the Commission.

Section 3. Postponements. - The parties, their duly authorized representatives or Counsels-of-record shall be prepared for the hearing at the time and place fixed in the order or notice. Postponements or continuance of hearings may be allowed by the Commission or presiding officer upon good cause shown.

Section 4. Venue. - All hearings shall be held in the Commission's Main Office, unless a different place is designated in the order or notice of hearing.

The hearing for rate applications or petitions which affect the electricity rates of consumers must be held at least once in the locality within the affected area.

In case the hearing is conducted through video conferencing, the applicant or petitioner shall host the virtual hearing in the locality within the affected area as the designated venue for the conduct thereof, and ensure that the same is open to the public and that their participation shall not be impaired.

Section 5. Consolidation. - The Commission may, *motu proprio*, or upon motion by a party, consolidate cases involving common questions of fact or law at any stage of the proceedings, or may conduct joint hearings thereon. However, upon motion of a party, a separate hearing may be held on issues peculiar only to such party.

Section 6. Presiding Officer. - The hearing shall be conducted by the Commission or a presiding officer who shall be the Chair or a Commissioner or a Commission counsel. The presiding officer or the clerk of the Commission may administer oaths and affirmations. The presiding officer shall take full control of the proceedings and shall limit the presentation of evidence to matters relevant to the issues and necessary for a just and speedy disposition of the case. The presiding officer shall be authorized to make all decisions regarding the admission or exclusion of evidence or any other procedural matters which may arise in the course of the hearing.

Section 7. Order of Presentation. - The following order of presentation of evidence shall be followed:

- (a) The party initiating the proceeding shall present its evidence by offering the affidavits and supporting documents of its witnesses and such additional evidence as it may wish to present. In consolidated proceedings, all parties initiating the consolidated proceeding shall first present their evidence;
- (b) The witnesses shall be cross-examined by the respondent, opposing party in a complaint, or intervenors;
- (c) The party initiating the proceeding may, if it deems necessary, ask questions on re-direct examination on matters covered during the cross-examination of its witness; and the respondent, opposing party in a complaint, or intervenors shall thereafter be allowed to conduct re-cross-examination on matters covered by the re-direct examination of the witness;

- (d) After presentation of its witnesses, the party initiating the proceeding shall formally offer its exhibits; and
- (e) The respondent, opposing party in a complaint, or intervenors, as the case may be, shall then present their evidence in the same manner.

Section 8. Direct Testimony. - A direct testimony shall be presented in writing, unless otherwise allowed by the Commission or the presiding officer. Written testimony, when properly authenticated by the witness under oath, may be transcribed into the record or admitted as an exhibit. Direct testimony shall be filed together with the Pre-trial Brief pursuant to Section 3, Rule 16 of these Rules, unless the Commission or the presiding officer directs the filing thereof at a later time.

Written testimony shall be prepared in question and answer form, numbering each line of text along the left-hand margin, if possible, and with the pages numbered consecutively; shall contain a statement of the qualifications of the witness, matters only of personal knowledge to the witness, or matters on which the witness is an expert or otherwise competent to testify, and shall be accompanied by any exhibit to which it relates. Written testimony shall be signed under oath, which should not be administered by any of the Counsel-of-record of the party being represented. Such written testimony shall be subject to the same rules on admissibility and cross-examination of the witness as if it was presented orally.

Section 9. Cross-examination. - Cross-examination of the witness shall proceed and terminate at the hearing upon which the written testimony was presented and authenticated, unless otherwise directed by the Commission or presiding officer for good cause. In the cross-examination of a witness, only questions relevant to the written testimony or necessary to enlighten the Commission on the issues, shall be allowed.

Section 10. Exhibits. - All exhibits shall, to the extent practicable, be marked for identification during the pre-trial conference or prior to the presentation of evidence. Except as allowed by the Commission or the presiding officer, no exhibit shall be marked for identification unless copies have been provided to all parties and to the Commission.

Section 11. Offer of Evidence. - The Commission shall not consider any evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

Evidence may be offered orally. The offer of the testimony of a witness in evidence must be made at the time the witness is called to testify. The offer of a documentary and object evidence shall be made after the presentation of a party's testimonial evidence.

A written formal offer of all evidence presented shall be filed within fifteen (15) days after a party completes its presentation of evidence, or such other period that the Commission may require. The written formal offer must specify in detail all the exhibits being offered, their markings, and purposes for which they are offered.

Section 12. Objections/Comments on Offer of Evidence. - Objections to oral offer of evidence must be raised immediately after the offer is made during the hearing.

Objections to the testimony of a witness for lack of a formal offer must be made as soon as the witness begins to testify. Objections to a question propounded in the course of the oral examination of a witness must be made as soon as the ground therefor becomes reasonably apparent. The grounds for the objections must be specified. All objections not timely made shall be deemed waived.

Comments on the written formal offer of evidence may be filed within fifteen (15) days from receipt thereof. Failure to file the said comment within the prescribed period shall be deemed a waiver to file the same.

Section 13. Number of Witnesses. - The Commission or presiding officer may limit the number of witnesses who may testify upon any issue, as may be appropriate.

Section 14. Further Evidence. - At any stage of the hearing, the Commission may call for further evidence upon any issue, and require such evidence to be presented by the party concerned. The Commission may also direct any party to file specific documentary evidence as part of the record within a fixed period, before considering the case submitted for decision. If requested by a party, cross-examination on such documentary evidence may be permitted.

Section 15. Memorandum. - Unless waived by the parties with the consent of the Commission or the presiding officer, the Commission shall fix the time for the filing of memoranda, giving due regard to the nature of the proceeding, the magnitude of the record, and the complexity and importance of the issues involved. The memorandum shall contain:

- (a) a concise statement of the case and the issues for resolution; and
- (b) proposed findings of fact and conclusions of law, together with the proof or exhibits relating thereto and the reasons therefor separately stated and discussed.

Section 16. Recording of Hearings. - Hearings shall be recorded by the Commission through any available means, which shall be considered as the official recording thereof. The official recording and the transcript of

the hearing shall form part of the records of the case. Such transcript shall include a verbatim report of the hearing and nothing shall be omitted therefrom, except as otherwise directed on record by the Commission or the presiding officer. The transcript shall be certified as true and correct by any of the Commission's stenographers.

In extraordinary circumstances where the Commission may require the applicant or petitioner to outsource the transcription of the hearing, the Commission may direct any of the parties to prepare and submit the transcript based on the official recording, subject to the verification and certification by any of the Commission's stenographers that the transcript submitted faithfully reflects what are contained in the official recording.

Any person may record, upon motion and with prior leave of the Commission, all or any portion of a hearing by way of camera, video, or voice recorder of any kind, subject to whatever conditions that the Commission may impose. However, only the Commission's recording will form part of the records of the case.

Section 17. Reopening of Proceedings. – Any party may file a motion for reopening of the proceedings for the purpose of taking additional evidence, at any time after the presentation of evidence has been completed but before the issuance of a decision or final order, if during that period there should occur or arise transactions, events or matters, whether factual or legal, resulting in a changed situation of the parties.

Such motion shall clearly set forth the facts claimed to constitute as grounds for reopening of the proceedings, including the material changes of fact or of law alleged to have occurred since the conclusion of the hearing. The motion shall be served upon all parties or their Counsels-of-record. Any other party may file its comment or objection on the said motion within ten (10) days upon receipt thereof, unless a different period is prescribed by the Commission.

The Commission may also *motu proprio* reopen the proceedings for reception of additional evidence at any time prior to the issuance of a decision or final order, after notice to the parties and opportunity to be heard.

RULE 19 – RULES OF EVIDENCE

Section 1. Rules of Evidence Not to be Strictly Applied. - Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not be strictly applied to proceedings before the Commission. However, irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

Section 2. Official Notice. - Official notice may be taken of judicially cognizable facts not subject to reasonable dispute, in that they are generally known within the jurisdiction of the Commission, or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. In addition, official notice may be taken of generally recognized facts within the area of the Commission's specialized knowledge.

Section 3. Motions for Official Notice and Opportunity to Respond. - If a party intends to rely on matters of official notice as part of its case, it shall file a motion for official notice during the presentation of its evidence. Motions for official notice may be written or oral. The motion shall specifically state the facts, materials, records, or documents of which official notice is requested, and copies of such materials, records, or documents shall be provided to the Commission and all parties. A party who opposes the motion shall have the opportunity to contest the same.

Section 4. Data Requests Allowed by the Commission. - The Commission may consider in its decision such data, studies, work papers, reports, and information submitted pursuant to Section 4, Rule 15 of these Rules.

Section 5. Additional Documents Required by the Commission. - Notwithstanding the provisions of Section 17, Rule 18 of these Rules, the Commission may require additional documents from the parties after the submission of their formal offer of evidence, or after a motion for reconsideration is filed by any party. Such documents, copy furnished all parties, shall be considered by the Commission in the evaluation of the application or petition, or resolution of the motion for reconsideration even absent a formal offer.

RULE 20 – PROCEDURES AND REQUIREMENTS IN PARTICULAR COMMISSION PROCEEDINGS

A. Applications for a General Change in Rate Schedules or Revision of Rates

Section 1. Applications for a General Change in Rate Schedules or Revision of Rates. - Applications for a general change in rate schedules shall indicate the revised rates applied for and the reasons cited to justify such revision or adjustment. Rate applications of distribution utilities that are not yet under performance-based regulation shall conform to the existing Commission Standard Forms, as may be appropriate.

Section 2: Supporting Documents and Information. - The application for a general change in rate schedules shall be accompanied by the documents and information as specified in the relevant rules and regulations of the Commission, or as may be required, when necessary.

B. Applications for Approval of Power Supply Contracts

B.1 Power Supply Contract between a Distribution Utility and a Power Producer

Section 1. Applications for Approval of Power Supply Contract between a Distribution Utility and a Power Producer. –

An application for the approval of the power supply contract between a distribution utility and a power producer, other than those covered by the Commission's Resolution No. 11, Series of 2005 (Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas), shall include but not be limited to: (1) supply-demand scenario of the distribution utility; (2) narration of the conduct of the competitive selection process for the procurement of power supply pursuant to the pertinent laws, rules and regulations; (3) a statement of the salient provisions of the said contract, including the stipulations on pricing; and (4) a statement of the impact on the overall rates of the distribution utility once the said contract is approved.

Section 2. Supporting Documents and Information. – The application for approval of the power supply contract shall be accompanied by documents and information as specified in the relevant rules and regulations of the Commission, or as may be required, when necessary.

B.2 Power Supply Contract between a Distribution Utility and a New Power Producer

Section 1. Applications for Approval of Power Supply Contract between a Distribution Utility and a New Power Provider. -

The distribution utility in an application for the approval of power supply contract with a new power provider (NPP), as covered by the Commission's Resolution No. 11, Series of 2005, shall comply with the requirements in the said guidelines pertaining to the filing of the application and approval of such power supply contract and the true cost of generation rate (TCGR). The distribution utility shall also comply with the requirements on the competitive selection process pursuant to the pertinent laws, rules and regulations.

Section 2. Supporting Documents and Information. –The application for approval of the power supply contract shall be accompanied by documents and information as specified in the relevant rules and regulations of the Commission, or as may be required, when necessary.

C. **Applications for Approval of Capital Expenditure (CAPEX) Projects**

Section 1. Applications for Approval of Capital Expenditure (CAPEX) Projects. - Any plan for expansion, improvement, or restoration of facilities shall be reviewed and approved by the Commission to ensure that all capital projects are optimized and that the contracting and procurement of the equipment, assets and services have been subjected to transparent and competitive bidding and purchasing processes to protect public interest.

Applications of this nature must include a statement of the impact on the overall rate of the applicants should the said applications be approved.

Applications must include the authorization to secure loan, if the CAPEX projects subject of the applications are to be funded through financing, either in whole or in part.

Applicants are likewise required to comply with all other requirements provided under relevant rules, regulations and guidelines of the Commission.

Section 2. Supporting Documents and Information. – CAPEX applications shall be accompanied by supporting documents and information as specified in relevant rules and regulations of the Commission, or as may be required, when necessary.

Section 3. Permit Fee. – For authorization and approval of the capital projects, applicants shall be required to pay a permit fee based on the existing schedule of fees and charges of the Commission or any amendments thereto.

Section 4. Reportorial Requirements. – In addition to the foregoing, applicants shall comply with the reportorial and other requirements of the Commission.

D. **Applications for Authorizations as Required by Section 20 (e) and (g) of the Commonwealth Act No. 146 (Public Service Act)**

Section 1. In General. - A distribution utility shall secure the Commission's authorization for issuance of stock certificates representing an increase of capital, any share of stock without par value, or any bond or other evidence of indebtedness payable in more than one year from the issuance thereof. It shall also secure the Commission's approval to the sale, alienation, mortgage, encumbrance, or lease of its property, franchises, certificates, privileges, or rights or any part thereof; merger or consolidation of its property, franchises, certificates, privileges, or rights or any part thereof, with those of another utility.

Section 2. Supporting Documents and Information. – Applications for authorizations shall be accompanied by supporting documents and information as specified in the relevant rules and regulations of the Commission, or as may be required, when necessary.

Section 3. Applications for Issuance of any Bond or Other Evidence of Indebtedness Payable in More Than One Year To Fund Capital Projects. - If the issuance of bonds or other evidence of indebtedness payable in more than one year from issuance, is for the purpose of funding the distribution utility’s capital projects, the application for authorization therefor and for the mortgage or encumbrance of property to secure such indebtedness, shall be filed together with the application for approval of the said capital projects pursuant to Rule 20 (C) of these Rules.

E. **Applications for Approval of Other Rate and Non-Rate Cases**

Section 1. In General. – All other applications within the jurisdiction of the Commission shall be filed for approval pursuant to the relevant rules and regulations of the Commission.

Section 2. Supporting Documents and Information. – The application shall be accompanied by documents and information as specified in the relevant rules and regulations of the Commission, or as may be required, when necessary.

F. **Consumer Complaints**

Section 1. Intent, Application and Scope. - It is the Commission’s intent that disputes between distribution utilities and their customers are resolved as quickly, effectively, and inexpensively as possible. This Rule establishes informal customer complaint procedures that are designed to address disputes, subject to the Commission’s jurisdiction, that occur between distribution utilities and individual customers. It provides for expedited processes for customer complaints that can be resolved quickly by the customer and the distribution utility. It also provides a process for informal Commission staff resolution of complaints that cannot be resolved by the distribution utility and the customer. Alternative modes of dispute resolution shall be adopted whenever practicable and convenient, and as far as it is in accordance with law and the Commission’s rules and regulations.

Section 2. Informal Process for Consumer Complaints. –

- (a) Any customer of a distribution utility may file a complaint with the Commission’s Consumer Affairs Service or with its Visayas Area Operations Division (VAOD) or Mindanao Area Operations Division (MAOD) whenever the customer has an unresolved dispute with the distribution utility regarding the electric service that is subject to the Commission’s regulation. The complaint

shall be communicated in writing or through electronic means, pursuant to Resolution No. 9, Series of 2020, at the election of the customer. The complaint shall include the name of the distribution utility against which the complaint is made, the name of the customer and the customer's service address, and a description of the complaint. The customer may authorize a representative to file the complaint on his/her behalf, provided that he/she executes a special power of attorney for said purpose.

- (b) The Commission staff handling the complaint will determine if the customer has already communicated his/her complaint with the distribution utility and that the said complaint has been referred to the complaint to the distribution utility's Consumer Welfare Desk (CWD) officer for resolution. If the customer has not yet communicated with the distribution utility, the Commission staff will advise the customer to refer the complaint first to the distribution utility's CWD officer, or, at the Commission's option, direct the said distribution utility to answer the said complaint. For the expeditious resolution of the complaint, the Commission may direct the submission of copies of bills, billing statements, field reports, photographs, documents, or other information in the customer's possession that may be necessary.
- (c) If the complaint has already been referred to the distribution utility's CWD officer and no resolution has been reached, the Commission staff shall issue a notice, addressed to the distribution utility's CWD officer or any of its responsible officer, through recognized modes of communication, including electronic means pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic filing, copy furnished the customer.

The said notice shall state, among others, the following: (1) A complaint was filed by the customer against the distribution utility; (2) the distribution utility is directed to submit a written response to the said complaint, together with the copies of bills, billing statements, field reports, photographs, documents, or other information in the distribution utility's possession, within fifteen (15) days from receipt of the notice; and (3) reply to the clarification of the Commission, if any.

- (d) The distribution utility's response to the Commission staff shall explain the likely cause of the problem, all actions taken by the distribution utility to resolve the customer's complaint at the CWD level, and the distribution utility's proposed resolution of the complaint and shall answer every specific question raised by the Commission staff in the notification. The distribution utility's response shall also include communications sent to the customer

that contain the distribution utility's proposed resolution of the complaint or statement of position in addressing or resolving the complaint.

- (e) If a customer objects to the distribution utility's response to the complaint or rejects the distribution utility's proposed resolution thereof, the complaint shall be docketed as a letter-complaint case (LC) and assigned a case number. The Commission staff may schedule an informal conference in the form of mediation or conciliation proceedings or other alternative modes of dispute resolution acceptable to the Commission. During said informal conference, the Commission staff may direct the submission of copies of bills, billing statements, field reports, photographs, documents, or other information in the customer's possession that may be necessary.
- (f) If applicable, the Commission staff may propose resolution of the dispute and if said proposed resolution is acceptable, the customer and the distribution utility shall manifest their acquiescence thereto in writing. If the customer or the distribution utility is not in agreement with Commission staff's proposed resolution and the parties do not reach any amicable settlement, the customer shall be advised to file a verified complaint which shall be endorsed for hearing and dispute resolution by the Commission.

Section 3. Formal Hearing. –

- (a) After the Commission staff endorses the verified complaint for hearing, the complaint shall be docketed as a consumer complaint case and assigned a case number. Thereafter, the Commission shall issue an order requiring the respondent to file its answer thereto within fifteen (15) days from receipt of the order. If the respondent fails to file its answer within the period, the Commission shall render a decision based on the records.
- (b) After respondent files its answer, the Commission shall determine if the case can be tried under the summary procedure in Section 2, Rule 17 of these Rules. If the Commission determines that this procedure is applicable, it shall issue an order to this effect as stated in Section 2, Rule 17 of these Rules. If the Commission determines otherwise, it shall set the case for pre-trial conference and require the parties to submit their pre-trial briefs in accordance with Section 3, Rule 16 of these Rules.
- (c) Hearings shall then proceed in accordance with Rule 18 of these Rules.

- (d) The unjustified non-appearance of the complainant in three (3) hearings scheduled by the Commission, despite due notice thereof, shall be a ground for the dismissal of the case with prejudice.
- (e) In compliance with Sec. 2.3., Executive Order No. 26 (1992), entitled “Prescribing Procedures and Sanctions to Ensure Speedy Disposition of Administrative Cases,” in addition to the memorandum, position paper, or last pleading required, the parties shall submit a draft of the decision they seek, stating clearly and distinctly the facts and the law upon which it is based. The Commission may then adopt, in whole or in part, either of the parties’ draft decisions, or reject both.
- (f) Notwithstanding the pendency of the verified complaint, the parties shall be accorded every opportunity to exert earnest efforts to resolve issues amicably for their mutual benefit, in compliance with Republic Act No. 9285 (An Act to Institutionalize the Use of an Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for Other Purposes), and Executive Order No. 523 (Instituting the Use of Alternative Dispute Resolution in the Executive Department of Government).

The manner of service and period to respond under this Section shall be in accordance with Section 2, Rule 10 of these Rules.

The Commission may subsequently prescribe a detailed set of rules governing the resolution of consumer complaints.

Section 4. Submission of Complaints Electronically. – Notwithstanding the provisions under this Rule, any person may file a complaint with the Commission electronically pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on electronic filing and virtual hearings.

G. Commission-Initiated Investigation

Section 1. Investigation by the Commission. – Pursuant to Section 43 of the EPIRA and its Implementing Rules and Regulations (IRR), the Commission may *motu proprio* initiate an administrative action against any person or entity who has violated or failed to comply with the provisions of the EPIRA and its IRR, the Philippine Grid Code (PGC), the Philippine Distribution Code (PDC), and other relevant rules and regulations, resolutions, orders, directives, advisories, and other issuances of the Commission.

Section 2. How Initiated. - In the exercise of its powers and functions, the Commission may commence an investigation and impose an administrative action against any person or entity through the issuance of a show cause order wherein the said person or entity is required to explain why no administrative penalty shall be imposed against the person or the said entity, and/or criminal action be instituted against its officers and directors. The said order shall state the facts constituting the violation which is the subject of the investigation, the grounds and legal bases for such order, and the sanction or penalty that may be imposed against the person, entity, or officers and directors, under investigation.

Section 3. Explanation. - Within a period of fifteen (15) days from receipt of the show cause order, the respondent shall file a verified explanation stating therein the date of the receipt of the show cause order and the facts and legal basis for its explanation.

Section 4. Disposition. - If the Commission, upon its evaluation, finds the explanation filed and the evidence presented by the respondent, as well as the records of the Commission and the attendant circumstances, as sufficient, it shall issue an order absolving the respondent from administrative liability and declaring the case closed and terminated. Otherwise, the Commission shall proceed with the administrative action.

If the Commission needs further clarification on the explanation filed by the respondent, it may set the case for conference.

Section 5. Offers of Settlement. – If applicable, the respondent may, at any time, before a decision becomes final and executory, make an offer of settlement to the Commission in accordance with Resolution No. 03, Series of 2009 (Resolution Amending the Guidelines to Govern the Imposition of Administrative Sanctions in the Form of Fines and Penalties Pursuant to Section 46 of Republic Act No. 9136).

Section 6. Cease and Desist Order. - In appropriate cases, the Commission shall issue cease and desist orders after due notice and hearing.

Section 7. Imposition of Fines and Penalties. – After evaluation of the case, if the respondent is found to have violated or failed to comply with the provisions of the EPIRA and its IRR, the PGC, PDC, rules, regulations, resolutions, orders, directives, advisories and other issuances of the Commission, subject of the show cause order, the Commission shall render a decision imposing the appropriate penalty.

H. Compliance Filings with the Commission

Section 1. In General. – When the Commission adopts certain rules authorizing or requiring a party to make a filing in accordance therewith, the filing is deemed a “compliance filing” and must include the following:

- (a) A verified pleading that identifies the specific rules to which the filing relates, the period covered, if applicable, and the name, address and contact number of the person making the filing, and summary of the compliance; and
- (b) All the pertinent or required documents to be submitted in support of the compliance filing as provided in the relevant rules and regulations of the Commission, or as may be required, when necessary.

This Compliance is filed with the Central Records Division which shall assign it a separate docket number.

Section 2. Commission Action on Compliance Filings. –The Commission shall make a determination of the completeness of the submission. If it finds that there are additional documents and data that must be submitted, it shall issue an order directing the submission of such other documents and data. In such case, the filing shall be deemed to have been made only upon the receipt by the Commission of such additional documents and data.

RULE 21 – RULE-MAKING

Section 1. Initiation of Rule-Making. - The process of adopting a new rule or amending or repealing an existing rule may be initiated by the Commission or by interested persons upon a petition for the issuance, amendment, or repeal of any rule.

Section 2. Petition to Initiate Rule-Making. - Interested persons may petition the Commission to adopt, amend, or repeal a rule by filing a petition to initiate rule-making. The petition must contain the name, address, and e-mail address of the petitioner, the specific rule and action requested, the reasons for such request, and the facts showing that the petitioner has a substantial interest in the rule and the action requested.

The Commission may either deny the petition to initiate rule-making, stating its reasons in writing, or give due course to the petition by issuing a Notice of Proposed Rule-Making.

Petitions of similar nature may be consolidated upon the discretion of the Commission.

Section 3. Notice of Proposed Rule-Making. - The Commission shall issue a Notice of Proposed Rule-Making and cause the proposed rule to be published on its official website. Depending on the nature or subject matter of the proposed rule, the Commission may also cause the publication thereof in newspapers of nationwide circulation and send copies thereof to affected parties. For proposed rules that involve the fixing or setting of rates

and charges, the notice shall be published once (1x) in a newspaper of nationwide circulation at least two (2) weeks before the scheduled public consultation thereon.

The Notice of Proposed Rule-Making shall set a period to submit the written comments and the manner by which these comments will be received by the Commission, as well as the time, date, and place of the public consultation to be conducted, if applicable.

Section 4. Public Consultation. Before finalizing the language of a proposed new rule or amendment to, or repeal of an existing rule, the Commission shall receive comments on the proposed rule or amendment.

In appropriate cases, a public consultation shall be conducted by the Commission. The Chair, any Commissioner, or any person designated by the Commission may preside at the public consultation. The Commission shall ensure that its staff responsible for preparing the proposed rule or amendment are available. The Commission shall notify the person who filed the petition of the scheduled public consultation and require said person to be present, at the said public consultation to explain the proposed rule or amendment and to respond to questions or comments regarding the same.

All interested persons who submitted their comments, as well as the public, will be given a reasonable opportunity to discuss their comments and clarify matters on the proposed rule or amendment.

The Commission shall record the comments made at the public consultation.

After the public consultation, any person may submit written comments, suggestions or proposals within the period specified by the Commission. All timely-submitted comments, suggestions or proposals shall be considered and be made part of the record of the rule-making proceedings.

The public consultation may be conducted through video conferencing, pursuant to Resolution No. 09, Series of 2020, or such other pertinent rules and regulations issued by the Commission on virtual hearings.

Section 5. Resolution to Adopt a Rule. - Before adopting a proposed rule or amendment, the Commission will consider all written and/or oral submissions in its resolution. The Commission will use its own experience, specialized knowledge, and judgment in the adoption of a rule. The resolution adopting the proposed rule or amendment shall not be subject to a motion for reconsideration under Rule 23 of these Rules. Anyone who is adversely affected by the said resolution may petition the Commission to initiate rule-making under Section 2 of this Rule.

Section 6. Issuance and Publication. - After the approval and issuance of the rule, the Commission shall cause its publication in a newspaper of general circulation or the Official Gazette and shall file a certified copy thereof with the Office of the National Administrative Register (ONAR) at the University of the Philippines (UP) Law Center. The Commission shall also post the same on its official website.

Section 7. Effectivity of Rules. – Unless otherwise provided therein, rules issued by the Commission pursuant to this Rule shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier.

RULE 22 – FINAL ORDERS, RESOLUTIONS, AND DECISIONS

Section 1. How Rendered. - Subject to the requirement provided in Section 38 of the EPIRA, all final orders, resolutions, and decisions shall be signed by the members of the Commission who concurred thereto at the time the same was deliberated upon and approved in a Commission meeting where a quorum is present, unless the physical act of signing was delegated by the Commission to any one or more of its members for purposes of expediency.

Section 2. Form and Contents. - All final orders determining the merits of the case and decisions shall be in writing and shall state clearly and distinctly the facts and the law on which it is based. The Central Records Division shall immediately serve copies of the final orders or decisions upon all parties and to such other persons or entities as the Commission may designate.

Section 3. Rendition of Decision / Issuance of Final Order. - Unless otherwise stated in these Rules or order of the Commission, or when the Commission is prevented by circumstances beyond its control, the Commission shall render its decision in all applications, petitions or complaints within a reasonable period, from the time that the application, petition or complaint is submitted for resolution, as provided under applicable laws, rules and regulations.

In all its final orders, resolutions and decisions, the Commission may grant reliefs, impose conditions, or fix terms as may be deemed necessary to promote public interest.

Section 4. Correction of Clerical Errors. - Clerical errors in orders or decisions arising from oversight or omission may be corrected by the Commission at any time *motu proprio*, or on motion of any party. All affected parties shall be notified of such correction.

Section 5. Finality and Implementation. - All final orders and decisions of the Commission shall become final and unappealable upon the

expiration of fifteen (15) days from notice thereof to the parties concerned. Any motion for reconsideration or appeal shall not stay the implementation of the final order or decision, unless the Commission or the appellate court directs otherwise.

Section 6. Appeal. – Any final order or decision of the Commission may be appealed in accordance with the Rules of Court, or such other amendments or revisions thereof.

Section 7. Compilation and Publication of Orders, Resolutions and Decisions. - The Central Records Division shall compile all final orders, resolutions and decisions of the Commission and make them available to the public.

RULE 23 – MOTION FOR RECONSIDERATION

Section 1. Filing of Motion for Reconsideration. - A party adversely affected by an order on the merits or decision of the Commission may, within fifteen (15) days from receipt of a copy thereof, file a motion for reconsideration.

No more than one motion for reconsideration by each party shall be entertained.

Section 2. Opposition/Comments on the Motion for Reconsideration. – Any party to the proceeding may file its objection to or comment on a motion for reconsideration filed under Section 1 of this Rule, within ten (10) days from receipt thereof. After the filing of the said opposition or comment or the lapse of the period for filing the same, the motion shall be deemed submitted for resolution, unless the Commission requires the reopening of the proceedings, in which case the motion shall be set for hearing.

Section 3. Effect of Filing of Motion for Reconsideration. - The filing of a motion for reconsideration shall toll the running of the fifteen (15) day period in Section 5, Rule 22 of these Rules and prevent the order or decision of the Commission from becoming final and unappealable. However, unless otherwise ordered by the Commission, such filing shall not prevent the order or decision from becoming executory.

RULE 24 – MISCELLANEOUS PROVISIONS

Section 1. Repeal. - All prior rules, regulations, guidelines or generally accepted practices before the Commission which are inconsistent herewith are hereby repealed or deemed modified accordingly.

Section 2. Applicability of Existing Rules. – The provisions in Resolution No. 09, Series of 2020, or such other rules and regulations promulgated by the Commission, shall be deemed incorporated in these Rules whenever applicable.

Section 3. Construction of Rules. - The liberal construction of these Rules shall apply in the broader interest of justice, and the Commission may exempt itself from these Rules to avoid manifest injustice.

Section 4. Separability Clause. - If, for any reason, any provision of these Rules is declared unconstitutional or contrary to law, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 5. Effectivity. - These Rules shall become effective fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette, whichever comes earlier. Upon becoming effective, these Rules shall be applied to pending proceedings before the Commission to the extent that the same are practicable.

Pasig City, 17 December 2020.




AGNES YST DEVANADERA
Chairperson and CEO

(On leave)
ALEXIS M. LUMBATAN
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner

(On leave)
CATHERINE P. MACEDA
Commissioner


MARKO ROMEO L. FUENTES
Commissioner