

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP,
OWN, AND OPERATE
DEDICATED POINT-TO-
POINT LIMITED FACILITIES
TO REHABILITATE THE
CONNECTION OF BAGO
BINARY GEOTHERMAL
POWER PLANT TO THE
BACOLOD SWITCHYARD,
WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2024-027 MC

**ENERGY DEVELOPMENT
CORPORATION,**

Applicant.

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Promulgated:
July 31, 2024

ORDER

On 28 June 2024, Energy Development Corporation (EDC) filed, through the Energy Virtual One-Stop Shop (EVOSS) portal, an *Application* dated 12 June 2024, seeking the Commission's approval for authority to develop, own, and operate dedicated point-to-point limited facilities to rehabilitate the connection of Bago Binary Geothermal Power Plant to the Bacolod Switchyard, with prayer for provisional authority.

The pertinent allegations in the said *Application* are hereunder quoted, as follows:

A. Introduction

1. EDC is a corporation duly organized and validly existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City. It may be served with orders and other legal processes through the undersigned counsel.

2. EDC is in the business of, among others, generating, storing, transmitting, and/or distributing energy, including electricity and ancillary power derived from any and all forms, types, and kinds of renewable and other energy sources for lighting, power and other purposes.
3. In its Power Development Plan 2020-2040, the Department of Energy (“DOE”) recognizes the growing demand for power in the Philippines. For the Visayas Grid, the DOE projects the peak demand to more than quadruple, from 2,201 MW in 2020 to 8,827 MW in 2040. Given this, and based on its simulations for a high-demand scenario vis-a-vis an aspirational target of 50% renewable energy power generation mix by 2040 (i.e., “RE50-High Demand Scenario”), the DOE projects that a total of 19,195 MW in new build capacities must be added to meet the demand and reserve margin requirements of the grid. Renewable energy’s share in these new build capacities are broken down as follows: 9,992 MW from solar; 4,335 MW from hydro; 3,768 MW from wind; and 240 MW from geothermal.¹
4. To help address the increasing energy demand and in response to the Philippine Government’s call to accelerate the exploration and development of renewable energy resources under Republic Act No. 9513, or the Renewable Energy Act of 2008, EDC is developing the Bago Binary Geothermal Power Plant Project (“BBGPP” or the “Project”).
5. In order to convey the electricity generated by the BBGPP to the consumers, EDC intends to connect the Project to the Visayas Grid. For this purpose, EDC plans to rehabilitate an approximately 7.5-kilometer, 138-kilovolt transmission line which includes a switchyard and other related facilities (the “Connection Asset”). This Connection Asset shall connect the BBGPP directly to the Visayas Grid through a direct connection to the NGCP-Bacolod Substation owned and operated by NGCP.
6. Section 9 of Republic Act (“RA”) 9136 or the Electric Power Industry Reform Act (“EPIRA”) of 2001 expressly provides that:

“A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the Transmission Development Plant (“TDP”): *Provided*, That such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: *Provided, further*, That in the event that such assets are required for competitive purposes, ownership of the same shall be transferred to the TRANSCO at a fair market price: *Provided, finally*, That in the case of disagreement on the fair market price, the ERC shall determine the fair market value of the asset.”
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¹ Page 61, Department of Energy Power Development Plan (DOE PDP) 2020-2040. A print-out of the relevant section in the DOE’s PDP 2020-2040 is attached hereto as Annex “D”.

7. Furthermore, Section 5, Rule 5 of the Implementing Rules and Regulations of EPIRA provides that:

“Section 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company.

- (a) Subject to prior authorization from ERC, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: *Provided, That:*
- (i) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;
- (ii) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and
- (iii) Any other documents that may be required by the ERC.
- (b) In the event that such assets are required for competitive purposes, ownership of the same shall be transferred to the TRANSCO at a fair market price. In case of disagreement on the fair market price, the ERC shall determine the fair market value of such asset, either directly or through such dispute resolution mechanisms as ERC may specify.”

B. Allegations in Support of Application

8. On October 23, 2009, EDC was granted a Certificate of Registration² by the DOE, with Registration No. 2009-10-005. This Certificate recognizes EDC as a Renewable Energy (“RE”) developer of the Geothermal Energy Resources located in Northern Negros, Negros Occidental. The Certificate was renewed for a period of twenty-five (25) years which will end on March 23, 2044.
9. On May 18, 2023, EDC submitted a request to the DOE to amend the Confirmation of Commerciality Certificate to reflect the capacity of the Northern Negros Geothermal Project (“NNGP”) from 5 MW to 5.645 MW, and to change the official project name to BBGPP.³ In response to this request, the DOE, in a letter dated November 14, 2023, granted EDC’s request for the amendment and the registration of BBGPP under the Northern Negros Geothermal Project.⁴
10. An assessment of the impact of the BBGPP on the Visayas Grid was conducted by NGCP. A System Impact Study (“SIS”) was ^{ap}

² A copy of DOE Certificate of Registration No. GRESC 2009-10-1005 issued to EDC on 23 October 2009 is attached hereto as Annex “E”.

³ Annex “F.”

⁴ Annex “G”

subsequently prepared by NGCP. NGCP concluded that the proposed connection of the BBGPP to the Visayas Grid will require the completion of the Cebu-Negros-Panay 230 kV Backbone Project – Stage 3 (“CNP 3”).⁵

11. EDC assessed the BBGPP as capable and able to sustain a power plant with a maximum capacity of 5.645 MW, and with a view that the site may be operated commercially.⁶

*THE BAGO BINARY GEOTHERMAL
POWER PLANT CONNECTION ASSET
IS FINANCIALLY FEASIBLE, AND EDC
HAS THE FINANCIAL CAPABILITY TO
DEVELOP, OWN, AND OPERATE THE
CONNECTION ASSET*

12. The Connection Asset is financially feasible. The cost for constructing and developing the Connection Asset is estimated at PhP 204.32 Million Pesos.⁷ The Project, including the Connection Asset, will be funded through cash.
13. EDC’s Audited Financial Statements for the Year 2023 will show that EDC has sufficient funds on hand to undertake the construction, development, operation, and maintenance of the entire Project.⁸ With respect to the net present value and five-(5) year projected financial ratios, these do not only apply to the Connection Asset; rather, these apply to the Bago Binary Geothermal Power Plant Project as a comprehensive project, which is expected to be in operation within the third quarter of 2024.⁹
14. EDC carefully studied two options for the Project: a) Option A, which will entail the construction of a new connection asset consisting of a transmission line made out of forty-four (44) conventional lattice type and ninety-two (92) compact type transmission towers, and b) Option B, which will involve the rehabilitation and refurbishment of the existing 25.5-kilometer, 138kilovolt transmission line asset, switchyard, and other related facilities.¹⁰

EDC selected Option B considering that this option is more economical and viable in order to convey the electric power generated by the Project to the public whilst ensuring the safe operation of the assets.

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⁵ A copy of the SIS is attached hereto as Annex “H”.

⁶ Annex “I”, Project Brief

⁷ A copy of the Estimated Cost of Construction and Development of Connection Asset is attached hereto as Annex “J”.

⁸ A copy of EDC’s Audited Financial Statements for the Year 2023 is attached hereto as Annex “K”.

⁹ A copy of the latest Five-Year Financial Projections for the Bago Binary Geothermal Power Plant Project is attached hereto as Annex “L”, subject of the Motion of Confidential Treatment of Information.

¹⁰ The options analysis for the Bago Binary Geothermal Power Plant’s transmission line route is contained in the document hereto attached as Annex “M”.

*THE BAGO BINARY GEOTHERMAL
POWER PLANT CONNECTION ASSET
IS TECHNICALLY FEASIBLE, AND EDC
HAS THE TECHNICAL CAPABILITY TO
DEVELOP, OPERATE, AND MAINTAIN
THE CONNECTION ASSET*

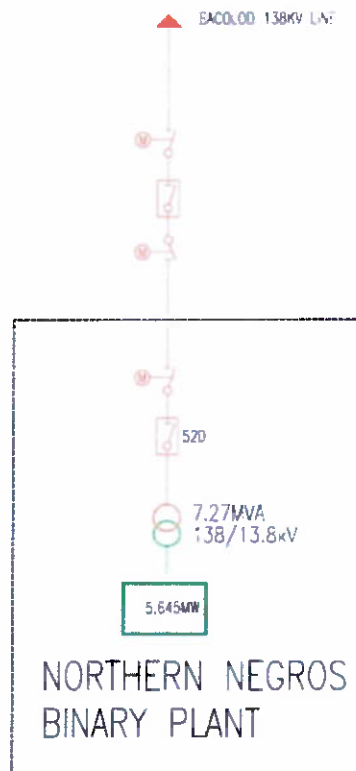
15. The SIS shows that the Connection Asset is technically feasible. EDC, by itself, and/or with its subsidiaries and affiliates, have the technical capability to develop, construct, operate, and maintain the Connection Asset.
 - 18.1 *(sic)* EDC is the largest producer of geothermal energy in the Philippines and the third largest in the world. It has expertise spanning the entire geothermal energy value chain, including geothermal energy exploration and development, reservoir engineering and management, engineering design and construction, power plant operation, environmental management, and power marketing.
 - 18.3 *(sic)* In recent years, EDC has expanded its portfolio of renewable energy projects by venturing into hydro, wind, and solar energy development and operations.
 - 18.4 *(sic)* EDC has the experience, technical expertise, and resources necessary to undertake the commitments specified in the work programs of their service contracts with the DOE, including the development and operation of the Bago Binary Geothermal Power Plant (“BBGPP”) Project.
 - 18.5 *(sic)* The operation and maintenance of the Connection Asset is planned to be carried out by personnel belonging to the Facilities Operations and Maintenance (“FOM”) Group of EDC. These personnel will be under the supervision and direction of Engr. Liberato S. Virata, as the Head of EDC FOM.

**EDC SHOULD BE GRANTED
AUTHORITY TO DEVELOP, OWN AND
OPERATE THE CONNECTION ASSET**

16. Pursuant to Section 9 of the EPIRA, EDC hereby applies with the Honorable Commission for authority to develop, own, and operate the Connection Asset.
 - 19.1 *(sic)* EDC's Connection Asset is required only to connect the Bago Binary Geothermal Power Plant Project to the Visayas Grid.
 - 19.2 *(sic)* The Connection Asset will be used solely by the Bago Binary Geothermal Power Plant Project.
 - 19.3 *(sic)* If the Connection Asset is taken out of the transmission system, it will not affect the Visayas Grid.

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17. The single-line diagram of the proposed interconnection shows that the Connection Asset will be exclusively used by the Bago Binary Geothermal Power Plant Project.¹¹



18. EDC endeavors that the Connection Asset will comply with the existing rules and regulations, particularly the 2016 Philippine Grid Code, and undertakes to comply with all such rules and regulations.¹²

**Motion for Provisional Authority and Allegations in Support
of Prayer for Provisional Authority**

19. Rule 14 of the Honorable Commission's Rules of Practice and Procedure authorizes the issuance of a provisional authority or an interim relief prior to a final decision, provided that the facts and circumstances warrant the issuance of the same.
20. EDC expects to complete the construction of the Connection Asset within the third quarter of 2024. The Company intends to have the Connection Asset in place and ready for the commissioning of the Bago Binary Geothermal Power Plant Project, which is scheduled to happen within the third quarter of 2024.¹³
21. Given the urgent need for additional capacity by 2025 and onwards as projected by the DOE, the completion of the Bago Binary Geothermal Power Plant Project within the projected

¹¹ A copy of the Single Line Diagram is attached hereto as Annex "N-series".

¹² An Undertaking to Comply with the 2016 Philippine Grid Code is attached hereto as Annex "O".

¹³ A copy of the Project Schedule is attached hereto as Annex "P".

time frame is critical to ensure that additional capacity will be available for the Visayas Grid in a timely manner. EDC respectfully prays that the Honorable Commission provisionally authorize the development, ownership, and operation of the Connection Asset considering that the power demand projected by the DOE warrants the issuance of a Provisional Authority.

22. It is in such context that EDC respectfully prays that a provisional authority be immediately issued for the development and construction of the Connection Asset.

OTHER RELATED DOCUMENTS

26. (sic) In further support of the instant application, the Applicant most respectfully submits to the Honorable Commission, the following documents:

Annex	Document
A	Certificate of Incorporation, Original Articles of Incorporation and By-Laws
B	Amended Articles of Incorporation
C	EDC Latest General Information Sheet
D	Excerpt from DOE Power Development Plan 2020-2040 (Page 61)
E	DOE Certificate of Registration
E-1	Renewal of GRESC No. 2009-10-005 for Northern Negros GPP
F	Letter to DOE dated May 18, 2023 regarding the request for amendment of the Certificate of Confirmation of Commerciality (CoCoC) and registration of the BBGPP
F-1	Confirmation of Commerciality No. GEMD 2022-10-010 issued to EDC, October 20, 2022
G	DOE Letter of Approval regarding the request for amendment and registration of the BBGPP
H	System Impact Study (SIS) Final Report
H-1	Transmittal Letter re: System Impact Study Final Report
H-2	Connection Agreement between NGCP and EDC for the 5.645MW Bago Binary Geothermal Power Plant
H-3	Facility Study
I	Project Brief
I-1*	Project Description
J*	Estimated Cost of Construction and Development of Connection Asset
K	EDC's Audited Financial Statements for year 2023
L*	Five-Year Financial Projections for the Bago Binary Geothermal Power Plant Project
M	Options analysis for the Bago Binary Geothermal Power Plant Project
N-series	Single Line Diagram
O	Undertaking to comply with the 2016 Philippine Grid Code
P	Project Schedule
P-1	Relevant Dates
Q-series	DENR-EMB Letter to EDC re: Minor Amendment of ECC-CO1406-0011
R	DOE Certificate of Endorsement (November 16, 2023)
R-1	Letter from DOE re: EDC Request for DOE Endorsement (November 16, 2023)
R-2	Letter to DOE re: Request for Endorsement (October 13, 2023)
R-3	Letter from DOE dated October 24, 2023
S	Visayas Committed Power Projects
T-series*	5.645 BBGPP Switchyard design
U*	BBGPP Connection Asset conceptual design
V	NNGP Transmission As Built Profile

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Annex	Document
W*	BBGPP Technical Capability
X	EDC Special Power of Attorney

**Subject to motion for confidential treatment of information*

**Motion for Confidential Treatment of Information and
Allegations in Support of the Prayer for Confidential
Treatment of Information**

27. The Honorable Commission may, upon request of a party and determining that the disclosure of information requested to be treated as confidential information is justified, treat certain information submitted to it as confidential. Applicant is bound by confidentiality agreements prohibiting the disclosure of any business, technical, marketing, operational, organizational, financial or other information and trade secrets and other confidential documents, papers and information, as well as bound by data privacy law and rules as regards confidentiality of personal information of personnel or individuals.
28. Accordingly, the Applicant respectfully requests before the Honorable Commission that Annexes "I-1", "J", "L", "T-series", "U", and "W" attached hereto not be disclosed and be treated as confidential in accordance with Rule 4 of the ERC Rules. Annexes "I-1", "J", "L", "T-series", "U", and "W" attached hereto contain confidential information critical to the business operation of the Applicant, including trade secrets and business calculations, assumptions and projections, as well as personal employee information which may be covered by the Data Privacy Act.

PRAYER

WHEREFORE, Applicant EDC most respectfully prays that this Honorable Commission:

1. Issue an order declaring Annexes "I-1", "J", "L", "T-series", "U", and "W", and the information therein, as confidential information, within the purview of Rule 4 of the ERC Rules, thereby directing the same to be treated with confidentiality and be protected from public disclosure;
2. Issue an order provisionally authorizing EDC to develop, own, and operate the Connection Asset for the Bago Binary Geothermal Power Plant Project; and
3. After due notice and hearing, issue a final order: i) making the provisional authority a permanent authority to develop, own, and operate the Connection Asset; and ii) authorizing EDC to operate and maintain the Connection Asset until such time said project is otherwise re-classified, owned, operated, and maintained by NGCP.

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Other reliefs as may be appropriate under the circumstances are likewise prayed for.

Finding the said *Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for hearing for determination of compliance with the jurisdictional requirements, expository presentation, and Pre-Trial Conference¹⁴ on **06 September 2024 (Friday) at nine o'clock in the morning (9:00 A.M.)**, through **MS Teams Application** as the online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,¹⁵ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure).¹⁶

RELATIVE THERETO, EDC is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, at least ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Municipal Mayor, and Local Government Unit (LGU) legislative bodies of the area affected by the project for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General.^{ap}

¹⁴ In the Commission's *Advisory* dated 26 July 2023, the Commission adopted the Summary Proceedings in accordance with Rule 17 of the Commission's Revised Rules of Practice and Procedure (ERC Revised RPP) in the filing, processing and evaluation of the applications for authority to develop and own or operate dedicated point-point limited transmission facilities, in the following instances: (1) Applications without intervenors, or uncontested applications; and (2) Applications with intervenors, provided all parties have agreed to subject the application to summary proceedings. Under the said summary proceedings and in accordance with Rule 17 of the ERC Revised RPP, the Applicant's presentation of evidence is through the submission and offering of the affidavits of its witnesses and other pieces of evidence within the time allowed by the Commission.

¹⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

¹⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

(OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives and attend the scheduled hearing; and

- 5) Furnish with copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

No later than ten (10) calendar days prior to the date of the initial virtual hearing, EDC must submit to the Commission through the EVOSS portal and via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements attaching the following methodically arranged and duly marked:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayor, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by EDC to inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, by all those making requests therefor, if any; and

- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, EDC is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Offices of the Governor, Mayor, and LGU legislative bodies, and to submit proof of posting thereof.

Applicant EDC and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-Trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-Trial Brief.

Applicant EDC must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-Trial Conference pursuant to the preceding paragraph.

Failure of EDC to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing.

Applicant EDC must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the

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consumers and other concerned parties, the nature of the *Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Application* must be cited in support thereof.

Applicant EDC is hereby directed to file a copy of its Expository Presentation via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. Applicant shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.

Applicant EDC is further directed to submit, through personal service, registered mail, or ordinary mail/private courier, one (1) set of the original or certified true hard copies of its Jurisdictional Compliance, Expository Presentation, Pre-Trial Brief, and Judicial Affidavits of witnesses, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

Moreover, the National Grid Corporation of the Philippines (NGCP) is hereby impleaded as a necessary party to this *Application*. Accordingly, NGCP is hereby directed to submit its **Verified Comment** via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual hearing.

NGCP is further directed to submit, through personal service, registered mail, or ordinary mail/private courier, one (1) set of the original or certified true hard copies of its **Verified Comment**, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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Finally, Applicant EDC, including its authorized representatives and witnesses, is hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, their e-mail addresses upon receipt of this *Order*. The Commission will send the access link to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 31 July 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: CNR/LSP/KTB

ERC
Office of the Chairperson and CEO



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