

## COMMISSION RESOLUTION NO. 029-2020

### SUPPLEMENTAL GUIDELINES FOR THE PRESENTATION OF DOCUMENTARY EVIDENCE AND RESOURCE PERSONS FOR HEARINGS BY VIDEOCONFERENCING DURING GENERAL COMMUNITY QUARANTINE OR MODIFIED GENERAL COMMUNITY QUARANTINE (GCQ/MGCQ)

**WHEREAS**, on 8 March 2020, President Rodrigo R. Duterte (the “President”) issued Proclamation No. 922 declaring a State of Public Health Emergency throughout the Philippines due to the confirmation of the local transmission of COVID-19 in the Philippines;

**WHEREAS**, on 12 March 2020, the Inter-Agency Task Force for the Management of Emerging Infectious Disease (“IATF”) issued Joint Resolution No. 11, s. 2020, recommending the imposition of stringent social distancing measures in the National Capital Region (“NCR”);

**WHEREAS**, among the stringent social distancing measures to manage the COVID-19 situation in the NCR are the imposition of community quarantine and the implementation of alternative work arrangements in the Executive Branch;

**WHEREAS**, the health and safety of PCC employees, transacting parties, resource persons, and other stakeholders are of utmost concern to the Commission;

**WHEREAS**, on 15 September 2020, the PCC issued Commission Resolution No. 21-2020, adopting Interim Guidelines on the Resumption of Adjudication Proceedings during General Community Quarantine and Modified General Community Quarantine (the “Interim Adjudication Guidelines”);

**WHEREAS**, the Interim Adjudication Guidelines provide that the Commission may conduct preliminary conferences, hearings, and other proceedings by videoconference;<sup>1</sup>

**WHEREAS**, there is a need to outline the rules for the presentation of documentary evidence, witnesses, and resource persons during preliminary

<sup>1</sup> Section 13, PCC Interim Guidelines on the Resumption of Adjudication Proceedings During General Community Quarantine and Modified General Community Quarantine.

conferences, hearings, and other proceedings conducted by videoconference for the guidance of parties appearing before the Commission;

**WHEREAS**, Rule IV, Article I, Section 4.3 of the 2017 Rules of Procedure of the Philippine Competition Commission provides for the liberal application of evidentiary rules;<sup>2</sup>

**NOW, THEREFORE**, in view of the foregoing considerations, the Commission has **RESOLVED**, as it hereby **RESOLVES**, to adopt the following rules as a supplement to the existing Interim Adjudication Guidelines:

1. ***Submission of Documents by the Parties.*** – Submission of documentary evidence by the parties for presentation, or those at issue during or relating to the videoconferencing hearing, must be received by the Commission at least three (3) days prior to the scheduled videoconferencing hearing.

During the course of a hearing, the Commission may order the submission of additional documentary evidence. Unless otherwise provided, the documentary evidence must be received by the Commission within three (3) days from an order of the Commission requiring such submission.

All parties must be furnished with the copies of such documentary evidence via email. The documentary evidence must be received by the Adjudication Division through the email address [adjudication@phcc.gov.ph](mailto:adjudication@phcc.gov.ph) and be accompanied by proof of service to all parties at the email address provided by the receiving parties. The Adjudication Office shall inform the concerned party of the date of receipt.

Non-compliance with this rule may bar a party from introducing such documentary evidence during the videoconferencing hearing.

2. ***Admissibility of Electronic Documents.*** – An electronic copy of an original document is admissible to the same extent as an original unless: (1) a genuine question is raised as to the authenticity of the original, or (2) given the circumstances, the Commission finds it unjust or inequitable to admit the electronic copy in lieu of the original.
3. ***Presentation of Documents During the Conduct of Hearings, Preliminary Conference, and Other Proceedings via Videoconference.*** – Unless the Commission gives permission to any other person, only the Clerk of Court of the Commission may share his/her screen to present the documents during the videoconference hearing.

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<sup>2</sup> Rule IV, Article I, Section 4.3 of the 2017 Rules of Procedure of the Philippine Competition Commission provides: “Technical rules of procedure and evidence shall not be strictly applied. The Commission shall have the discretion to determine the relevance, materiality, weight, and sufficiency of all evidence presented. Evidence willfully suppressed by an Entity may be presumed to be adverse if produced.”

4. **Witnesses and Resource Persons During Clarificatory Hearings.** – The Commission may invite resource persons to share their knowledge, views, and opinions, either orally or in writing, for the purpose of aiding the Commission in the determination of certain issues in a case.<sup>3</sup>

During clarificatory hearings, unless otherwise allowed by the Commission, only the Commission may propound questions to the parties, their witnesses, or resource persons to clarify or ascertain facts, issues, and other matters necessary and relevant to the resolution of the case.<sup>4</sup>

5. **Witnesses During Other Proceedings.** – When the Commission conducts a proceeding wherein a party is required to present a witness, only the Commission may propound questions to the witness. Opposing parties may, however, submit their questions to the Commission for its consideration.
6. **Administration of Oaths to Witnesses or Resource Persons.** – During clarificatory hearings or other proceedings, the Commission shall administer an oath to witnesses or resource persons remotely via videoconference pursuant to the Interim Adjudication Guidelines,<sup>5</sup> *provided*, that the confirmation of his or her location,<sup>6</sup> and the taking of the screenshot<sup>7</sup> shall not apply.

*Provided further*, that in the case of resource persons, he or she will be asked to swear to truthfully answer the questions before the Commission to the best of his/her knowledge and ability.

**RESOLVED, FURTHER**, that Commission Resolution No. 21-2020 and other PCC resolutions, guidelines, and issuances, or provisions thereof, which are inconsistent with this Resolution are hereby superseded or modified accordingly;

**RESOLVED, FINALLY**, that this Resolution shall take effect immediately and shall remain in effect until modified or revoked by the Commission.

**DONE** this 17 December 2020 in Quezon City, Philippines.

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<sup>3</sup> Rule IV, Article VII, Section 4.40 of the 2017 Rules of Procedure of the Philippine Competition Commission.

<sup>4</sup> Sec. 15.8 of the PCC Rules on Merger Procedure.

<sup>5</sup> Section 10, PCC Interim Guidelines on the Resumption of Adjudication Proceedings During General Community Quarantine and Modified General Community Quarantine.

<sup>6</sup> Section 10(e), PCC Interim Guidelines on the Resumption of Adjudication Proceedings During General Community Quarantine and Modified General Community Quarantine.

<sup>7</sup> Section 10(h), PCC Interim Guidelines on the Resumption of Adjudication Proceedings During General Community Quarantine and Modified General Community Quarantine.

  
**ARSENIO M. BALISACAN**  
Chairman

  
**JOHANNES BENJAMIN R. BERNABE**  
Commissioner

  
**AMABELLE C. ASUNCION**  
Commissioner

  
**MACARIO R. DE CLARO, JR.**  
Commissioner

  
**EMERSON B. AQUENDE**  
Commissioner