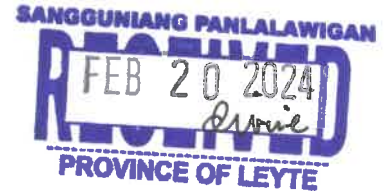


February 14, 2024

HON. LEONARDO JAVIER, JR.
Provincial Vice Governor / Presiding Officer
SANGGUNIANG PANLALAWIGAN
4th Floor, Leyte Provincial Government Complex,
West-By-Pass Road, Brgy. Guindapunan,
Palo, Province of Leyte



Re: IN THE MATTER OF THE APPLICATION FOR APPROVAL THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND NORTHERN SAMAR ELECTRIC COOPERATIVE INC., WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION - ENERGY DEVELOPMENT CORPORATION (EDC) AND NORTHERN SAMAR ELECTRIC COOPERATIVE, INC. (NORSAMELCO)
ERC CASE NO. 2024-015 RC

Gentlemen:

In compliance with the Revised Rules of Practice and Procedure of the Energy Regulatory Commission ("ERC") and the Order dated 2 February 2024 of the ERC, we are furnishing this Honorable Office with the said Order and Notice of Virtual Hearing both dated 2 February 2024.

In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the **Office of Sangguniang Panlalawigan of Leyte's** bulletin board of this Honorable Office, in compliance with the said Order and the Revised Rules of Practice and Procedure of the ERC.

Consequently, we are also requesting for a Certification of Posting from this Honorable Office stating that a copy of the Order and Notice of Virtual Hearing both dated 2 February 2024 of the above-captioned case was served to, duly received and duly posted by this Honorable Office.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Andy T. Duroc", written over a blue circular stamp.

ANDY T. DUROC
Energy Development Corporation
Head, Unified Leyte Geothermal Power
Plant

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER
SUPPLY AGREEMENT
BETWEEN ENERGY
DEVELOPMENT
CORPORATION AND
NORTHERN SAMAR
ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2024-015 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
NORTHERN SAMAR
ELECTRIC COOPERATIVE,
INC. (NORSAMELCO),**

Applicants.

X-----X

Promulgated:

February 02, 2024

ORDER

On 31 January 2024, Energy Development Corporation (EDC) and Northern Samar Electric Cooperative, Inc. (NORSAMELCO) filed a *Joint Application* dated 04 August 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

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

1. Applicant NORSAMELCO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay Magsaysay, Bobon, Northern Samar, Philippines, where it may be served with summons and other legal processes. NORSAMELCO is represented here by its Task Force Northern Samar Board President, JOEY L. TALON, who has been authorized by its Board of Directors

to file the Joint Application as evidenced by the Board Resolution dated September 29, 2022, attached hereto as Annex "B-1".

2. Applicant EDC is a generation company duly organized, incorporated and registered under and by virtue of the laws of the Philippines, with principal office at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Vice President, Marvin Kenneth S. Bailon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated October 13, 2022, attached hereto as Annex "D-1".

2.1 EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA").

2.2 Pursuant to the Honorable Commission's Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.

2.3 While EDC is a co-applicant, it manifests that this Joint Application shall neither modify, diminish, nor constitute as a waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

3. Applicant NORSAMELCO is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City/Municipalities of San Isidro, Victoria, Allen, Lavezares, Rosario, San Jose, Bobon, Lope de Vega, Mondragon, Catarman, San Vicente, Capul, San Antonio, Biri, San Roque, Pambujan, Silvino Lobos, Laoang, Catubig, Las Navas, Palapag, Mapanas, Gamay, Lapinig, all in the Province of Northern Samar.

4. Applicant EDC owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte ("Plant").

5. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their respective undersigned counsels at the address indicated herein.

NATURE OF THE APPLICATION

6. This is a Joint Application for the approval of the Emergency Power Supply Agreement ("EPSA") entered into by and between NORSAMELCO and EDC dated November 10, 2022, being submitted to this Honorable Commission for its review and approval.

STATEMENT OF FACTS

7. NORSAMELCO is in immediate need of a 2MW contracted capacity for around one (1) year¹. To maintain an uninterrupted and reliable power supply due to a high level of supply deficit of at least 2MW, NORSAMELCO decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customer to the volatile Wholesale Electricity Spot Market ("WESM") prices.

8. Pursuant to Department of Energy ("DOE") Department Circular 2018-02-003, as amended by DC 2021-09-0030, NORSAMELCO is allowed to enter into a negotiated procurement of emergency electric power supply agreements with a generation company for a period not exceeding one (1) year, subject to such terms and conditions provided under Section 2.2.1.2 of DC 2021-09-0030.

9. NORSAMELCO wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of 2MW emergency power supply from EDC. The Letter expressed NORSAMELCO's urgent need for supply of electricity due to circumstances beyond the control of NORSAMELCO, and the limited time to conduct the said Competitive Selection Process ("CSP").

10. On 31 August 2022, the DOE, in response to NORSAMELCO's letter-request, issued Certificate of Exemption No. COE-CSP-2022-08-034, exempting it from the conduct of the CSP for the procurement of emergency electric power supply.

11. In view of NORSAMELCO's supply deficit of at least 2MW for the period of 26 August 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, NORSAMELCO solicited for emergency power supply for one (1) year.

12. In response to NORSAMELCO's demand, EDC has offered to supply a portion of the emergency electric power supply requirements of NORSAMELCO at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and NORSAMELCO accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement ("EPSA") for the supply of 2 MW emergency power supply to NORSAMELCO².

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND
RELATED INFORMATION**

13. Under the EPSA, EDC shall supply power to NORSAMELCO for the term of the Cooperation Period, or unless

¹ Under the EPSA, the term shall end on the last day of the Cooperation Period, which shall not be later than the date prescribed by the DOE in the Certificate of Exemption; both the EPSA and the Certificate of Exemption provide for the period of 26 August 2022 to 25 August 2023.

² NORSAMELCO and EDC executed a letter confirming that the Contracted Capacity for supply under DOE Certificate of Exemption No. COE-CSP-2023-08-031 is 2MW.

sooner terminated pursuant to the EPSA, with a Contracted Capacity of 2MW.³

- 13.1 Supply of Electricity – EDC shall make available to NORSAMELCO the Contracted Capacity from the Power Plant and/or Other Sources throughout the duration of the Cooperation Period, subject to Section 2.2.1 of the EPSA. The Parties agree that EDC shall have no obligation to supply more than the Contracted Capacity to NORSAMELCO. NORSAMELCO shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. NORSAMELCO shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – NORSAMELCO is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 13.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by NORSAMELCO shall start no later than Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent under Section 11 of the EPSA.
- 13.4 Electricity Fees – Electricity fees shall refer to 5.8798 PhP/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by NORSAMELCO.

RATE IMPACT ANALYSIS

14. NORSAMELCO simulated a rate impact analysis which resulted in a PhP 1.3969/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

	Weighted Average Rate (kWh)
NORSAMELCO rate:	11.7310

³ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

	Weighted Average Rate (kWh)
WITHOUT EPSA	
NORSAMELCO rate: WITH EPSA	10.3341
Generation Impact: Increase /(Decrease)	(1.3969)

OTHER RELATED DOCUMENTS

15. To substantiate the instant application, Applicants most respectfully submit to the Honorable Commission the following documents:

ANNEX	DOCUMENTS
A	Articles of Incorporation of NORSAMELCO
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of NORSAMELCO
B-1	Board Resolution of Authorized Representative of NORSAMELCO
B-2	Board Resolution of Counsel of NORSAMELCO
C	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws
C-1	Latest Amended Articles of Incorporation of EDC
C-2	Latest Amended By-laws of EDC
D	General Information Sheet of EDC
D-1	Secretary's Certificate of EDC
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificate of Compliance and/or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement

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I*	Renewable Energy Service Contracts
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line Diagram Connection
M	Emergency Power Supply Agreement between NORSAMELCO and EDC
M-1	Letter of NORSAMELCO and EDC clarifying items in the Emergency Power Supply Agreement
N	DOE Certificate of Exemption
N-1	Letters to or from NORSAMELCO
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreement
P-1	Transmission Service Agreement between NGCP and NORSAMELCO
Q	Write up on TSC
Q-1	NGCP Certificate of Adequate Capacity
R	Executive Summary of EPSA
S*	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T*	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U*	Bank Certifications
V*	Sworn statement on fuel procurement
W*	Relevant technical and economic characteristics of generation capacity
X	Supply Demand Scenario
Y	Estimation of Potential for Reduction in Load
Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	NORSAMELCO Write-up on Demand Side Management

CC-2	EDC sample OR
DD	Water Permit from NWRB
EE	NORSAMELCO's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

16. In Compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the Office of the Mayor and Governor and the legislative bodies of the municipality and province wherein the principal place of business of NORSAMELCO is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service or the Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Bobon and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Northern Samar, or from their duly authorized representatives, attesting to the fact of service of the Application are attached hereto as Annexes "GG" to "GG-3", respectively.

17. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC's principal place of business is located and to Ormoc City, Kananga, and Province of Leyte as EDC's place of operation. Copies of the certification of receipt from and/or affidavits of service to the the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, and the place of operation in Ormoc City and Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-7".

18. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of NORSAMELCO. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as Annexes "II" and "JJ", respectively.

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

19. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

(This space is intentionally left blank.)

ANNEX	DOCUMENTS
I	Renewable Energy Service Contract
S	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U	Bank Certifications
V	Sworn statement on fuel procurement
W	Relevant technical and economic characteristics of generation capacity

20. Applicants treat the above-mentioned documents, such as related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

21. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and a determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

PRAYER

WHEREFORE, premises considered, Applicants EDC AND NORSAMELCO respectfully pray of this Honorable Commission the following:

- a. After due hearing, render a decision approving with finality the EPSA subject of the instant Joint Application, thereby confirming the rates in the EPSA as implemented by the Applicants; and
- b. Issue an Order declaring the documents, and the information therein, duly marked as Annexes "I", "S", "T", "U", "V" and "W" 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.

Other reliefs, just and equitable under the premises, are likewise prayed for.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁴ and Resolution No. 01, Series of 2021⁵ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
20 March 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
27 March 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and presentation of evidence

Accordingly, EDC and NORSAMELCO are hereby directed to host the virtual hearings at **NORSAMELCO's Principal Office at Barangay Magsaysay, Bobon, Northern Samar**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, EDC and NORSAMELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, EDC and NORSAMELCO are hereby directed to:

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

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Offices of the Provincial Governor, the Mayors, and the Local Government Unit (LGU) legislative bodies within NORSAMELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within NORSAMELCO's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, the reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearings; and
- 5) Furnish with copies of the *Joint 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.

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

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editor or Business Manager of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 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, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by EDC and NORSAMELCO to inform the consumers within NORSAMELCO's franchise area of the filing of the *Joint Application*, their reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint 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 and NORSAMELCO are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

Joint Applicants EDC and NORSAMELCO, and all interested parties are also required to submit via e-mail at docket@erc.ph, and 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.**

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

Failure of EDC and NORSAMELCO to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from the said date of cancellation.

Joint Applicants EDC and NORSAMELCO must also be prepared to make an expository presentation of the instant *Joint Application*, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *Joint Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Joint Application* must be cited in support thereof.

Joint Applicants EDC and NORSAMELCO are hereby directed to file a copy of their 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. EDC and NORSAMELCO shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Joint Applicants EDC and NORSAMELCO are further directed to submit, either through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their 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.


(This space was intentionally left blank.)

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

SO ORDERED.

Pasig City, 02 February 2024.

**FOR AND BY AUTHORITY
OF THE COMMISSION:**


MONALISA C. DIMALANTA
Chairperson and CEO


LS: ADGS/ARG/LSP

ERC
Office of the Chairperson and CEO



MCD2024-014097

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Copy Furnished:

1. Northern Samar Electric Cooperative, Inc. (NORSAMELCO)
Applicant
Magsaysay, Bobon, Northern Samar
2. Energy Development Corporation (EDC)
Applicant
Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City
3. Attys. Edson G. Piczon, Tyron Jan G. Albao, and Peter Joven Y. De Oño
Counsels for NORSAMELCO
Unit 2, 2nd Floor Tacloban Convention Center, Real Street, Tacloban City
attpiczon@gmail.com, attyteejalbao@gmail.com, power8lawyers@gmail.com
4. Attys. Miguel K. Mathay, Gianna Maria C. Comsti, Jose Antonio S. Reyes, Rem Joshua T. Serrano, and Beatriz Raine L. Bayudan
Quiason Makalintal Barot Torres Ibarra Sison & Damaso
Counsel for Applicant EDC
21st Floor Robinsons-Equitable Tower 4 ADB Avenue cor. Poveda Street, Ortigas Center, Pasig City
qmbti@qmbti.com
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
citizenedesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
committee.energy@house.gov.ph
9. Office of the Governor
Province of Northern Samar
10. Office of the Local Government Unit (LGU) Legislative Body
Province of Northern Samar
11. Office of the Mayor
Allen, Northern Samar
12. Office of the Local Government Unit (LGU) Legislative Body
Allen, Northern Samar
13. Office of the Mayor
Biri, Northern Samar
14. Office of the Local Government Unit (LGU) Legislative Body
Biri, Northern Samar
15. Office of the Mayor
Bobon, Northern Samar
16. Office of the Local Government Unit (LGU) Legislative Body
Bobon, Northern Samar
17. Office of the Mayor
Capul, Northern Samar
18. Office of the Local Government Unit (LGU) Legislative Body
Capul, Northern Samar
19. Office of the Mayor
Catarman, Northern Samar
20. Office of the Local Government Unit (LGU) Legislative Body
Catarman, Northern Samar
21. Office of the Mayor
Catubig, Northern Samar

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22. Office of the Local Government Unit (LGU) Legislative Body
Catubig, Northern Samar
23. Office of the Mayor
Gamay, Northern Samar
24. Office of the Local Government Unit (LGU) Legislative Body
Gamay, Northern Samar
25. Office of the Mayor
Laoang, Northern Samar
26. Office of the Local Government Unit (LGU) Legislative Body
Laoang, Northern Samar
27. Office of the City Mayor
Lapinig Northern Samar
28. Office of the Local Government Unit (LGU) Legislative Body
Lapinig, Northern Samar
29. Office of the City Mayor
Las Navas, Northern Samar
30. Office of the Local Government Unit (LGU) Legislative Body
Las Navas, Northern Samar
31. Office of the City Mayor
Lavezares, Northern Samar
32. Office of the Local Government Unit (LGU) Legislative Body
Lavezares, Northern Samar
33. Office of the City Mayor
Lope De Vega, Northern Samar
34. Office of the Local Government Unit (LGU) Legislative Body
Lope De Vega, Northern Samar
35. Office of the City Mayor
Mapanas, Northern Samar
36. Office of the Local Government Unit (LGU) Legislative Body
Mapanas, Northern Samar
37. Office of the City Mayor
Mondragon, Northern Samar
38. Office of the Local Government Unit (LGU) Legislative Body
Mondragon, Northern Samar
39. Office of the City Mayor
Palapag, Northern Samar
40. Office of the Local Government Unit (LGU) Legislative Body
Palapag, Northern Samar
41. Office of the City Mayor
Pambujan, Northern Samar
42. Office of the Local Government Unit (LGU) Legislative Body
Pambujan, Northern Samar
43. Office of the City Mayor
Rosario, Northern Samar
44. Office of the Local Government Unit (LGU) Legislative Body
Rosario, Northern Samar
45. Office of the City Mayor
San Antonio, Northern Samar
46. Office of the Local Government Unit (LGU) Legislative Body
San Antonio, Northern Samar

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47. Office of the City Mayor
San Isidro, Northern Samar
48. Office of the Local Government Unit (LGU) Legislative Body
San Isidro, Northern Samar
49. Office of the City Mayor
San Jose, Northern Samar
50. Office of the Local Government Unit (LGU) Legislative Body
San Jose, Northern Samar
51. Office of the City Mayor
San Roque, Northern Samar
52. Office of the Local Government Unit (LGU) Legislative Body
San Roque, Northern Samar
53. Office of the City Mayor
San Vicente, Northern Samar
54. Office of the Local Government Unit (LGU) Legislative Body
San Vicente, Northern Samar
55. Office of the City Mayor
Silvino Lobos, Northern Samar
56. Office of the Local Government Unit (LGU) Legislative Body
Silvino Lobos, Northern Samar
57. Office of the City Mayor
Victoria, Northern Samar
58. Office of the Local Government Unit (LGU) Legislative Body
Victoria, Northern Samar
59. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive, San Antonio, Ortigas Center, Pasig City
ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER
SUPPLY AGREEMENT
BETWEEN ENERGY
DEVELOPMENT
CORPORATION AND
NORTHERN SAMAR
ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2024-015 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
NORTHERN SAMAR
ELECTRIC COOPERATIVE,
INC. (NORSAMELCO),
Applicants.**

Promulgated:
February 02, 2024

X-----X

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 31 January 2024, Energy Development Corporation (EDC) and Northern Samar Electric Cooperative, Inc. (NORSAMELCO) filed a *Joint Application* dated 04 August 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

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

1. Applicant NORSAMELCO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay

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Magsaysay, Bobon, Northern Samar, Philippines, where it may be served with summons and other legal processes. NORSAMELCO is represented here by its Task Force Northern Samar Board President, JOEY L. TALON, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Board Resolution dated September 29, 2022, attached hereto as Annex "B-1".

2. Applicant EDC is a generation company duly organized, incorporated and registered under and by virtue of the laws of the Philippines, with principal office at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Vice President, Marvin Kenneth S. Bailon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated October 13, 2022, attached hereto as Annex "D-1".

2.1 EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA").

2.2 Pursuant to the Honorable Commission's Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.

2.3 While EDC is a co-applicant, it manifests that this Joint Application shall neither modify, diminish, nor constitute as a waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

3. Applicant NORSAMELCO is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City/Municipalities of San Isidro, Victoria, Allen, Lavezares, Rosario, San Jose, Bobon, Lope de Vega, Mondragon, Catarman, San Vicente, Capul, San Antonio, Biri, San Roque, Pambujan, Silvino Lobos, Laoang, Catubig, Las Navas, Palapag, Mapanas, Gamay, Lapinig, all in the Province of Northern Samar.

4. Applicant EDC owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte ("Plant").

5. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their respective undersigned counsels at the address indicated herein.

NATURE OF THE APPLICATION

6. This is a Joint Application for the approval of the Emergency Power Supply Agreement ("EPSA") entered into by and between NORSAMELCO and EDC dated November 10, 2022, being submitted to this Honorable Commission for its review and approval.

STATEMENT OF FACTS

7. NORSAMELCO is in immediate need of a 2MW contracted capacity for around one (1) year¹. To maintain an uninterrupted and reliable power supply due to a high level of supply deficit of at least 2MW, NORSAMELCO decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customer to the volatile Wholesale Electricity Spot Market (“WESM”) prices.

8. Pursuant to Department of Energy (“DOE”) Department Circular 2018-02-003, as amended by DC 2021-09-0030, NORSAMELCO is allowed to enter into a negotiated procurement of emergency electric power supply agreements with a generation company for a period not exceeding one (1) year, subject to such terms and conditions provided under Section 2.2.1.2 of DC 2021-09-0030.

9. NORSAMELCO wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of 2MW emergency power supply from EDC. The Letter expressed NORSAMELCO’s urgent need for supply of electricity due to circumstances beyond the control of NORSAMELCO, and the limited time to conduct the said Competitive Selection Process (“CSP”).

10. On 31 August 2022, the DOE, in response to NORSAMELCO’s letter-request, issued Certificate of Exemption No. COE-CSP-2022-08-034, exempting it from the conduct of the CSP for the procurement of emergency electric power supply.

11. In view of NORSAMELCO’s supply deficit of at least 2MW for the period of 26 August 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, NORSAMELCO solicited for emergency power supply for one (1) year.

12. In response to NORSAMELCO’s demand, EDC has offered to supply a portion of the emergency electric power supply requirements of NORSAMELCO at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and NORSAMELCO accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement (“EPSA”) for the supply of 2 MW emergency power supply to NORSAMELCO².

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND
RELATED INFORMATION**

13. Under the EPSA, EDC shall supply power to NORSAMELCO for the term of the Cooperation Period, or unless

¹ Under the EPSA, the term shall end on the last day of the Cooperation Period, which shall not be later than the date prescribed by the DOE in the Certificate of Exemption; both the EPSA and the Certificate of Exemption provide for the period of 26 August 2022 to 25 August 2023.

² NORSAMELCO and EDC executed a letter confirming that the Contracted Capacity for supply under DOE Certificate of Exemption No. COE-CSP-2023-08-031 is 2MW.

sooner terminated pursuant to the EPSA, with a Contracted Capacity of 2MW.³

- 13.1 Supply of Electricity – EDC shall make available to NORSAMELCO the Contracted Capacity from the Power Plant and/or Other Sources throughout the duration of the Cooperation Period, subject to Section 2.2.1 of the EPSA. The Parties agree that EDC shall have no obligation to supply more than the Contracted Capacity to NORSAMELCO. NORSAMELCO shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. NORSAMELCO shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – NORSAMELCO is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 13.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by NORSAMELCO shall start no later than Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent under Section 11 of the EPSA.
- 13.4 Electricity Fees – Electricity fees shall refer to 5.8798 Php/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by NORSAMELCO.

RATE IMPACT ANALYSIS

14. NORSAMELCO simulated a rate impact analysis which resulted in a Php 1.3969/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

³ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

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	Weighted Average Rate (kWh)
NORSAMELCO rate: WITHOUT EPSA	11.7310
NORSAMELCO rate: WITH EPSA	10.3341
Generation Impact: Increase /(Decrease)	(1.3969)

OTHER RELATED DOCUMENTS

15. To substantiate the instant application, Applicants most respectfully submit to the Honorable Commission the following documents:

ANNEX	DOCUMENTS
A	Articles of Incorporation of NORSAMELCO
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of NORSAMELCO
B-1	Board Resolution of Authorized Representative of NORSAMELCO
B-2	Board Resolution of Counsel of NORSAMELCO
C	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws
C-1	Latest Amended Articles of Incorporation of EDC
C-2	Latest Amended By-laws of EDC
D	General Information Sheet of EDC
D-1	Secretary's Certificate of EDC
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificate of Compliance and/or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement

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I*	Renewable Energy Service Contracts
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line Diagram Connection
M	Emergency Power Supply Agreement between NORSAMELCO and EDC
M-1	Letter of NORSAMELCO and EDC clarifying items in the Emergency Power Supply Agreement
N	DOE Certificate of Exemption
N-1	Letters to or from NORSAMELCO
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreement
P-1	Transmission Service Agreement between NGCP and NORSAMELCO
Q	Write up on TSC
Q-1	NGCP Certificate of Adequate Capacity
R	Executive Summary of EPSA
S*	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T*	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U*	Bank Certifications
V*	Sworn statement on fuel procurement
W*	Relevant technical and economic characteristics of generation capacity
X	Supply Demand Scenario
Y	Estimation of Potential for Reduction in Load
Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	NORSAMELCO Write-up on Demand Side Management

CC-2	EDC sample OR
DD	Water Permit from NWRB
EE	NORSAMELCO's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

16. In Compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the Office of the Mayor and Governor and the legislative bodies of the municipality and province wherein the principal place of business of NORSAMELCO is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service or the Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Bobon and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Northern Samar, or from their duly authorized representatives, attesting to the fact of service of the Application are attached hereto as Annexes "GG" to "GG-3", respectively.

17. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC's principal place of business is located and to Ormoc City, Kananga, and Province of Leyte as EDC's place of operation. Copies of the certification of receipt from and/or affidavits of service to the the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, and the place of operation in Ormoc City and Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-7".

18. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of NORSAMELCO. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as Annexes "II" and "JJ", respectively.

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

19. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

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ANNEX	DOCUMENTS
I	Renewable Energy Service Contract
S	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U	Bank Certifications
V	Sworn statement on fuel procurement
W	Relevant technical and economic characteristics of generation capacity

20. Applicants treat the above-mentioned documents, such as related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

21. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and a determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

PRAYER

WHEREFORE, premises considered, Applicants EDC AND NORSAMELCO respectfully pray of this Honorable Commission the following:

- a. After due hearing, render a decision approving with finality the EPSA subject of the instant Joint Application, thereby confirming the rates in the EPSA as implemented by the Applicants; and
- b. Issue an Order declaring the documents, and the information therein, duly marked as Annexes "I", "S", "T", "U", "V" and "W" 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.

Other reliefs, just and equitable under the premises, are likewise prayed for.

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The Commission hereby sets the instant *Joint Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁴ and Resolution No. 01, Series of 2021⁵ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
20 March 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
27 March 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and presentation of evidence

Accordingly, EDC and NORSAMELCO are directed to host the virtual hearings at **Barangay Magsaysay, Bobon, Northern Samar**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. EDC and NORSAMELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- 1) The petitioner's name, mailing 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 desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **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.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* on the Commission's official website at www.erc.gov.ph.

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Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 2nd day of February 2024 in Pasig City.

Medimalanta
MONALISA C. DIMALANTA
Chairperson and CEO

LS: ADGS/ARG/LSF
LS: ADGS/ARG/LSF

ERC
Office of the Chairperson and CEO



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