

OneDORELCO

Item No.: 21

Date: 16 2024 APR

"Energizing household, Empowering People"

SANGGUNIANG PANLALAWIGAN

APR 02 2024

PROV. LEONARDO M. JAVIER JR.  
Vice Governor, Province of Leyte  
Provincial Capitol,  
Palo, Leyte

20 March 2024

Office of the Vice Governor

Received

By: REBECCA  
Date: 4/2/24  
Time: 10:52 Am

SUBJECT: Request for a Certificate of Receipt of the attached Joint Application

Dear Vice Governor Javier:

In compliance with the requirements of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 ("EPIRA"), its Implementing Rules and Regulations ("IRR"), and the Energy Regulatory Commission's ("ERC") Rules of Practice and Procedure ("ERC Rules"), we are furnishing you a copy of the Joint Application complete with annexes and accompanying documents (except those subject of a motion for confidential treatment of information) to be filed with the ERC entitled:

**"In the Matter of the Joint Application for Approval of the Emergency Power Supply Agreement Entered Into by and Between Don Orestes Romualdez Electric Cooperative, Inc. and FDC Misamis Power Corporation, with Prayer for Provisional Authority and Confidential Treatment of Information"**

In connection thereto, we respectfully request your office to issue three (3) original copies of a certification attesting that the *Sangguniang Panlalawigan* of the Province of Leyte was duly served a copy of the said Joint Application together with its annexes and accompanying documents. Under the EPIRA-IRR and the ERC Rules, the certification should be issued by the Office of the Municipal Mayor or his/her duly authorized representative. Attached is a blank certification which your office may opt to use for this purpose.

Thank you very much for your usual cooperation.

Respectfully,

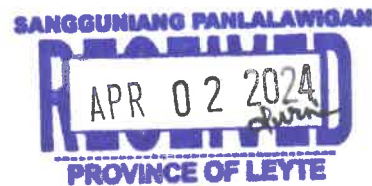
**DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE, INC.**

By:

  
**CHRISTOPHER A. GARCIA**  
Acting General Manager

Encls: a/s

Republic of the Philippines  
ENERGY REGULATORY COMMISSION  
Ortigas Center, Pasig City



IN THE MATTER OF THE JOINT  
APPLICATION FOR APPROVAL OF  
THE EMERGENCY POWER SUPPLY  
AGREEMENT ENTERED INTO BY  
AND BETWEEN DON ORESTES  
ROMUALDEZ ELECTRIC  
COOPERATIVE, INC. AND FDC  
MISAMIS POWER CORPORATION,  
WITH PRAYER FOR PROVISIONAL  
AUTHORITY AND CONFIDENTIAL  
TREATMENT OF INFORMATION

ERC CASE NO. 2023-\_\_\_\_\_ RC

DON ORESTES ROMUALDEZ  
ELECTRIC COOPERATIVE, INC. AND  
FDC MISAMIS POWER  
CORPORATION,

Joint Applicants.

x-----x

**JOINT APPLICATION**

*(With Prayer for Provisional Authority and Confidential Treatment of  
Information)*

Joint Applicants **DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE, INC. ("DORELCO")** and **FDC MISAMIS POWER CORPORATION ("FDCMPC")**, through their respective undersigned counsels and unto the Honorable Commission, most respectfully state, that:

Joint Application (DORELCO-FDCMPC EPSA)

**THE JOINT APPLICANTS**

1. **DORELCO** is a non-stock, non-profit electric cooperative, duly organized and existing under and by the laws of the Philippines, with principal office address at National Highway, Brgy. San Roque, Tolosa, Leyte. It is authorized to distribute and provide electricity services to its member consumers in the Municipalities of Abuyog, Burauen, Dagami, Dulag, Javier, Julita, La Paz, Macarthur, Mahaplag, Mayorga, Tabon-Tabon, Tanauan, Tolosa (collectively, the "Franchise Area"). For purposes of this instant Application, DORELCO is represented herein by its Board President, **MR. RYAN C. REAS**, and Acting General Manager, **MR. CRISTOPHER A. GARCIA**, duly authorized by its Board of Directors.<sup>1</sup>

2. **FDCMPC** is a corporation duly organized and existing under and by the laws of the Republic of the Philippines, with its principal office address at the PHIVIDEC Industrial Estate, Villanueva, Misamis Oriental 9002. For purposes of this Application, FDCMPC is represented by its President and Chief Executive Officer ("CEO"), **MR. JUAN EUGENIO L. ROXAS**, duly authorized for the purpose by virtue of a Secretary Certificate No. 202310-01.<sup>2</sup>

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

**NATURE OF THE APPLICATION**

4. The instant Joint Application for approval of the Emergency Power Supply Agreement ("EPSA") entered into by and between DORELCO and FDCMPC dated 05 October 2023 (the "*DORELCO-FDCMPC EPSA*") is being submitted to the Honorable Commission for its review and approval pursuant to Sections 25<sup>3</sup> and 45(b)<sup>4</sup> of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (the "EPIRA"), Rule 20(B) of the Honorable Commission's Resolution No. 01, Series of 2021<sup>5</sup> (the "ERC Revised Rules of Practice and Procedure"), and Department of Energy ("DOE") Department Circular No. 2023-06-0021 (the "DC2023-06-0021").<sup>6</sup>

<sup>1</sup> See Annexes "DD" and "DD-3" of the Joint Application.

<sup>2</sup> See Annex "EE" of the Joint Application.

<sup>3</sup> SEC.25. Retail Rate. – The retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that will promote efficiency as may be determined by the ERC.

<sup>4</sup> Distribution utilities may enter into bilateral power supply contracts subject to review by the ERC: xxx xxx xxx.

<sup>5</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

<sup>6</sup> Entitled, "*Prescribing the policy for the mandatory conduct of the Competitive Selection Process by the Distribution Utilities for the procurement of power supply for their captive market*"

**Joint Application (DORELCO-FDCMPC EPSA)**

5. In compliance with Section 2, Rule 6 of the ERC Revised Rules of Practice and Procedure, a copy of the instant Application (with all its annexes and accompanying documents, except those subject of a motion for confidential treatment of information) was furnished to the following offices:<sup>7</sup>

- a. Office of the Mayor of the Municipality of Villanueva;
- b. Office of the Presiding Officer of the *Sangguniang Bayan* of the Municipality of Villanueva;
- c. Office of the Governor of the Province of Misamis Oriental;
- d. Office of the Presiding Officer of the *Sangguniang Panlalawigan* of the Province of Misamis Oriental;
- e. Office of the Mayor of the Municipality of Tolosa;
- f. Office of the Presiding Officer of the *Sangguniang Bayan* of the Municipality of Tolosa;
- g. Office of the Governor of the Province of Leyte; and
- h. Office of the Presiding Officer of the *Sangguniang Panlalawigan* of the Province of Leyte.

6. Further, the Joint Application was also published in a newspaper of general circulation.<sup>8</sup>

**STATEMENT OF FACTS**

7. **Necessity for Power Supply:** DORELCO executed a Power Purchase and Sale Agreement (“PPSA”) with GNPower Dinginin Ltd. Co. (“GNPD”) for 12 MW Baseload Power Supply, which was submitted to the Honorable Commission for approval under ERC Case No. 2016-051 RC.

8. However, as will be discussed below, the Honorable Commission ultimately directed DORELCO to stop implementing the PPSA; thus, DORELCO was constrained to look for alternative power suppliers and eventually executed the *DORELCO-FDCMPC EPSA* subject of this Joint Application.

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<sup>7</sup> See Annex “FF” and series of the Joint Application.

<sup>8</sup> See Annex “GG” and series of the Joint Application.

**Joint Application (DORELCO-FDCMPC EPSA)**

8.1. On 23 September 2016, the Honorable Commission issued an Order dated 05 July 2016 granting provisional authority to DORELCO and GNPD to implement the PPSA.

8.2. On 03 May 2019, the Supreme Court rendered its Decision in the case of *Alyansa Para sa Bagong Pilipinas, Inc. v. Energy Regulatory Commission, et al.* (the "*Alyansa Decision*"),<sup>9</sup> requiring all applications for approval of power supply agreements filed before the Honorable Commission on or after 30 June 2015 to comply with the Competitive Selection Process ("CSP") requirement provided under the DOE Department Circular No. DC2018-02-003.

8.3. In an *Order* dated 19 April 2023 for ERC Case No. 2016-051 RC, which was received by DORELCO on 21 September 2023,<sup>10</sup> the Honorable Commission: (i) dismissed the application filed by DORELCO and GNPD for the approval of the PPSA; (ii) terminated the provisional authority granted to DORELCO and GNPD to implement the PPSA; and (iii) directed DORELCO and GNPD to stop implementing their PPSA immediately upon receipt of the *Order*.

8.4. In compliance with the above-cited *Order* DORELCO and GNPD stopped implementing the PPSA.

9. With the displacement of the 12 MW dependable capacity from GNPD, DORELCO is not able to cover its total demand requirements and is forced to purchase power from the Wholesale Electricity Spot Market ("WESM"), thereby exposing itself (and its consumers) to the volatile prices in the market.

10. DORELCO intends to account for the deficit supply in its upcoming Power Supply Procurement Plan and conduct the necessary CSP to secure its energy needs. However, the CSP process will take time thereby subjecting DORELCO to prevailing WESM market prices in the interim period.

11. All these conditions resulted into an emergency situation which prompted DORELCO to immediately procure emergency supply of energy.

12. DORELCO then solicited offers from various generation companies<sup>11</sup> for their emergency power requirements, and FDCMPC's offer was the most advantageous given the circumstance. Accordingly, DORELCO entered into negotiations with FDCMPC for emergency power supply, and

<sup>9</sup> G.R. No. 227670, 03 May 2019.

<sup>10</sup> Section 1, Rule VI of the *Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission* provides that Orders by the Honorable Commission received beyond working hours or days shall be deemed received on the next working day. Considering that DORELCO received the *Order* dated 19 April 2023 for ERC Case No. 2016-051 RC on 5:09pm, 20 September 2023, the *Order* was deemed received by DORELCO on 21 September 2023.

<sup>11</sup> See Annex "Q" and series of the Joint Application.

**Joint Application (DORELCO-FDCMPC EPSA)**

eventually executed the *DORELCO-FDCMPC EPSA* subject of the instant Joint Application.

13. Notably, on 10 August 2023, the Honorable Commission issued an Advisory approving a “Transition Period” to allow distribution utilities, like DORELCO, an opportunity to negotiate an emergency power sales agreement for their respective power requirements.<sup>12</sup>

**ABSTRACT OF THE EMERGENCY POWER SALES AGREEMENT AND RELATED INFORMATION**

14. **DORELCO Power Situation.** DORELCO’s peak demand for its Franchise Area is 19.74 MW for 2023 to 2024 as provided in its Supply - Demand Scenario.<sup>13</sup>

15. **Generation Facility.** The power to be provided to DORELCO will be sourced from FDCMPC’s 3 x 135 MW circulating fluidized bed coal fired thermal power plant in the PHIVIDEC Industrial Estate, in Villanueva, Misamis Oriental, with a rated capacity of 405 MW and net dependable capacity of 369 MW (the “Power Plant”). FDCMPC shall supply power to DORELCO under the terms stipulated in the *DORELCO-FDCMPC EPSA*.

16. **Salient Features of the EPSA.**

16.1. Term: The Term of the EPSA shall be one (1) year from commencement of delivery.

16.2. Date of Commencement of Supply: The obligation of FDCMPC to deliver electric power to DORELCO shall commence immediately following the execution of the EPSA, and more specifically on 08 October 2023.

16.3. Contract Type: Firm

16.4. Installed Capacity of the Power Plant: 405MW

16.5. Net Dependable Capacity of the Power Plant: 369MW

16.6. Contract Demand and Contract Energy: The Joint Applicants agreed to the following service specifications:

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<sup>12</sup> See Annex “HH” and series of the Joint Application.

<sup>13</sup> See Annex “M” of the Joint Application.

**Joint Application (DORELCO-FDCMPC EPSA)**

	<b>Firm</b>
Contracted Demand	12,000 kW
Contracted Energy (Annual)	At least 73,584,000 kWh
Customer Load Factor Per Interval	At least 70% of the Contract Demand, per interval
Delivery Point	Plant Gate FDC Misamis Power Corporation's Power Plant
Voltage at the Plant Gate	138 kV

16.7. Outage Allowance: FDCMPC is allowed an Outage Allowance of 32.30 days or 775.2 hours.

DORELCO shall be responsible for the procurement of Replacement Power during Outage within the Outage Allowance. While FDCMPC shall exert best efforts to procure Replacement Power beyond the Outage Allowance.

16.8. Billing and Settlement: FDCMPC shall provide a monthly Power Bill to DORELCO that shall contain the volume of energy, and the amount of money (in Philippine Peso) due and payable by DORELCO every Billing Period both reckoned from the Delivery Point.

The Billing and Settlement between the Parties shall be in accordance with Schedule 3 of the EPSA.

16.9. Termination: Either party may terminate the DORELCO-FDCMPC EPSA with immediate effect by serving written notice to the other party in the event that the other party breaches any provision of the EPSA and fails to cure such breach within a period of thirty (30) days from receipt of notice of such breach.

16.10. Generation Charge:

<b>BASELOAD (FIRM):</b>	<b>RATE IN PHP/KW /MONTH</b>	<b>RATE IN PHP/KWH</b>	<b>BILLING DETERMINANT(BD)</b>
Capital Recovery Fee (CRF), Php/kW/month	1,095.00	1.5000	Contract Demand in kW
Fixed O&M (FOM),	452.09	0.6193	Contract Demand in kW

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Php/kW/month		
Variable O&M (VOM), Php/kWh	0.1907	Actual energy consumed or 70% of Contract Energy in kWh, whichever is higher
Fuel Cost (FC), Php/kWh	pass-through	Actual energy consumed in kWh

**BASELOAD (FIRM)**

**Generation Charge = [CRF + FOM + VOM + FC] Charges**

- CRF Charge = (1,095.00Php/kW/month)\* BD  
 FOM Charge = [(452.09Php/kW/month)\* (PH CPI<sub>CURRENT</sub>/PH CPI<sub>BASE</sub>)] \* BD  
 VOM Charge = [(0.1907Php/kWh)\* (PH CPI<sub>CURRENT</sub>/PH CPI<sub>BASE</sub>)] \* BD  
 Fuel Cost = [(DCP \* ACR or MCR, whichever is lower)/1000] \* BD

**WHERE:**

- BD = Billing Determinant kW or kWh  
 DCP = Delivered Coal Price Php/MT  
 = Total Coal Cost (Php)/ Total Coal Consumption (MT)  
 ACR = Actual Fuel Consumption Rate kg/kWh  
 = Total Coal Consumption (MT)/ Total Metered Quantity of the Plant (kWh)  
 MCR<sub>CAP</sub> = Maximum Consumption Rate equal to 0.75, kg/kWh  
 escalated at a rate of 1.5% annually

Indexation: PH CPI<sub>BASE</sub> = 121.4 (January 2023)

Other Pass-Through Charges: Market Charges and Line Rental Charges

17. **Estimated Rate Impact.** The indicative rate impact on DORELCO's overall generation rate with and without the additional supply from FDCMPC is as follows:<sup>14</sup>

<b>Generation Rate Impact of EPSA</b>	
With DORELCO-FDCMPC EPSA	Php5.8910/kWh
Without DORELCO-FDCMPC EPSA	Php8.4833/kWh
Rate Impact	(Php2.5923/kWh)

<sup>14</sup> See Annex "KK" of the Joint Application.



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18. **Environmental Compliance Certificate.** The Department of Environment and Natural Resources – Environmental Management Bureau (“DENR-EMB”) issued the Environmental Compliance Certificate No. ECC-CO-1304-0012 covering the Power Plant.<sup>15</sup>

19. **Board of Investments (“BOI”) Certificate.** The Power Plant is registered with the BOI. A Certificate of Registration No. 213-177 was issued by the BOI to this effect.<sup>16</sup>

20. **Fuel Supply.** In order to ensure the supply of fuel for the operations of the Power Plant, FDCMPC solicited offers from reputable suppliers, and has contracted with the supplier that offered the best terms.<sup>17</sup>

21. **DOE Certification.** The DOE has certified that the Power Plant is consistent with the Power Development Plan. A Certificate of Endorsement No. 2015-03-010 was issued by the DOE to this effect.<sup>18</sup>

22. **Provisional Authority to Operate (“PAO”).** The Honorable Commission has issued a Certificate of Compliance No. 17-05-M-00108M (“COC”) for the Power Plant, which expired. On 28 October 2021, the Honorable Commission issued a PAO for the Power Plant for a period of one (1) year until 16 October 2022. Subsequently, on 15 June 2023, the Honorable Commission issued a Certification, valid until 15 December 2023, that the PAO for the Power Plant is currently being evaluated. Finally, through a letter dated 01 December 2023 from the Honorable Commission, the validity period of FDCMPC’s PAO was extended until 16 October 2024 subject to the same terms and conditions.<sup>19</sup>

23. **Point-to-Point Application.** In an application docketed as ERC Case No. 2015-054 MC, FDCMPC secured the authority from this Honorable Commission to develop, own, and operate dedicated point-to-point limited transmission facilities connecting the Power Plant to the Mindanao grid through the National Grid Corporation of the Philippines’ Villanueva Substation.

24. Copies of the following documents and/or information are attached to the Joint Application as annexes and made as integral parts hereof:

<sup>15</sup> See Annex “I” of the Joint Application.

<sup>16</sup> See Annex “H” of the Joint Application.

<sup>17</sup> See Annexes “X” and “Y” of the Joint Application.

<sup>18</sup> See Annex “K” of the Joint Application.

<sup>19</sup> See Annexes “J” to “J-3” of the Joint Application.

**Joint Application (DORELCO-FDCMPC EPSA)**

<b>Annex</b>	<b>Documents/Information</b>
<b>"A"</b>	DORELCO-FDCMPC EPSA
<b>"B"</b> <b>"B-1"</b>	DORELCO Articles of Incorporation, DORELCO By-Laws with Amendments
<b>"C"</b>	DORELCO Certificate of Franchise
<b>"D"</b>	DORELCO NEA Certificate of Registration of Amended Articles of Incorporation
<b>"E"</b>	DORELCO List of Board of Directors
<b>"F"</b> <b>"F-1"</b> <b>"F-2"</b> <b>"F-3"</b>	FDCMPC Amended Articles of Incorporation, FDCMPC Amended By-Laws, FDCMPC Amended General Information Sheet for 2023, and FDCMPC Verified Certification on Parent, Subsidiaries, and Affiliates Board of Directors
<b>"G"</b> <b>and</b> <b>series</b>	FDCMPC SEC Certificate of Registration with Amendments and Shareholders' Agreement
<b>"H"</b>	FDCMPC BOI Certificate of Registration with attached Terms and Conditions
<b>"I"</b>	FDCMPC DENR-EMB ECC
<b>"J"</b> <b>"J-1"</b> <b>"J-2"</b> <b>"J-3"</b>	FDCMPC ERC COC No. 17-05-M-00108M FDCMPC PAO valid until 16 October 2022 FDCMPC PAO Certificate of Filing dated 15 June 2023 FDCMPC Extension of Validity of PAO
<b>"K"</b>	FDCMPC DOE Certificate of Endorsement
<b>"L"</b> <b>"L-1"</b>	DORELCO Power Supply Procurement Plan and DORELCO Distribution Development Plan
<b>"M"</b> <b>"M-1"</b>	DORELCO Supply and Demand Scenario, Details of Existing Suppliers, and Contract Utilization DORELCO Average Daily Load Curve
<b>"N"</b>	DORELCO Single-line Diagram
<b>"O"</b>	DORELCO Performance Assessment
<b>"P"</b>	DORELCO Potential for Load Reduction Due to Retail Competition
<b>"Q"</b> <b>and</b> <b>series</b>	DORELCO Solicitation Letters to Generation Companies

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<b>"R"</b>	FDCMPC Samuel R. Lamorena Verified Certification
<b>"S" and series</b>	DORELCO Transmission Service Agreement, DORELCO Metering Services Agreement, FDCMPC Transmission Service Agreement, and FDCMPC Metering Services Agreement
<b>"T"</b>	DORELCO-FDCMPC EPSA Executive Summary
<b>"U"</b> <b>"U-1"</b>	FDCMPC Sources of Funds and Financial Plans and FDCMPC Bank Certifications
<b>"V"</b> <b>"V-1"</b> <b>"V-2"</b>	FDCMPC Generation Rate and Derivation, FDCMPC Basis of Other Charges, FDCMPC Financial Model, Project Costs, and Breakdown of Costs
<b>"W"</b>	FDCMPC Cash Flow
<b>"X"</b>	FDCMPC Fuel Supply Procurement Process
<b>X-1</b>	FDCMPC Certification on Spot Fuel Agreement
<b>"Y"</b>	FDCMPC Sworn Statement on Fuel Concerns
<b>"Z"</b> <b>"Z-1"</b> <b>"Z-2"</b>	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity, FDCMPC Engineering, Procurement, and Construction Contract Certification, and FDCMPC Simulation of Operating Units to Meet Minimum Energy Off-Take
<b>"AA"</b>	FDCMPC 2022 Audited Financial Statements
<b>"BB"</b> <b>"BB-1"</b>	FDCMPC WESM Registration DORELCO WESM Registration
<b>"CC"</b> <b>"CC-1"</b>	FDCMPC Affidavit in Support of Prayer for Provisional Authority and DORELCO Affidavit in Support of Prayer for Provisional Authority
<b>"DD"</b> <b>"DD-1"</b> <b>"DD-2"</b> <b>"DD-3"</b>	DORELCO Board Resolution No. 2023-095; DORELCO Board Resolution No. 2023-094; DORELCO Board Resolution No. 2023-097; and DORELCO Board Resolution No. 2024-023
<b>"EE"</b>	FDCMPC Secretary's Certificate
<b>"FF"</b>	Affidavits of Service/Certifications
<b>"GG"</b>	Affidavit of Publication
<b>"HH"</b>	ERC Advisory dated 10 August 2023
<b>"II"</b> <b>"II-2"</b>	ERC Advisory dated 07 June 2023 ERC Advisory dated 23 June 2023

**Joint Application (DORELCO-FDCMPC EPSA)**

"JJ"	Explanation for Non-Applicability of Documents
"KK"	DORELCO Rate Impact Analysis
"LL"	FDCMPC Sample Computation with Derivation of Pass-Through Charges

*The conduct of a CSP is not required and the DORELCO-FDCMPC EPSA is immediately implementable*

25. DORELCO need not undergo a CSP prior to execution of the DORELCO-FDCMPC EPSA. Moreover, the DORELCO-FDCMPC EPSA is immediately implementable upon its execution consistent with prevailing regulations of the Honorable Commission and the DOE.

26. As mentioned above, the Honorable Commission granted distribution utilities affected by the *Alyansa* Decision, like DORELCO, an opportunity to negotiate an emergency power sales agreement for their respective power requirements.

27. Under Sections 2.3 and 2.3.5 of the DOE's DC2023-06-0021, the conduct of a CSP is not required for the negotiated procurement of emergency power supply, and the filing of an emergency power supply agreement with the Honorable Commission does not need any prior clearance or certification from the DOE.

28. Moreover, in an Advisory dated 07 June 2023 as amended by another *Advisory* dated 23 June 2023,<sup>20</sup> the Honorable Commission stated that an emergency power supply agreement shall be immediately implementable upon its execution, and the rates to be charged shall be capped at the latest ERC-approved generation tariff for the same technology in comparable areas.

**ALLEGATIONS RELATIVE TO THE  
PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION**

29. Section 1, Rule 4 of the ERC Revised Rules of Practice and Procedure provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.

30. Pursuant thereto, FDCMPC prays that the information contained in the documents enumerated below be treated as *CONFIDENTIAL* and that the same be continuously protected from public disclosure, except

<sup>20</sup> See Annexes "II" and "II-2" of the Joint Application.

**Joint Application (DORELCO-FDCMPC EPSA)**

to the officers and staff of the Honorable Commission (collectively referred to as "Confidential Documents"):

<b>Annex</b>	<b>Documents/Information</b>
<b>"U"</b>	FDCMPC Sources of Funds and Financial Plans
<b>"U-1"</b>	FDCMPC Bank Certifications
<b>"V"</b>	FDCMPC Generation Rate and Derivation
<b>"V-1"</b>	FDCMPC Basis of Other Charges
<b>"V-2"</b>	FDCMPC Financial Model, Project Costs, and Breakdown of Costs
<b>"W"</b>	FDCMPC Cash Flow
<b>"X"</b>	FDCMPC Fuel Supply Procurement Process
<b>"X-1"</b>	FDCMPC Certification on Spot Fuel Agreement
<b>"Z"</b>	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity
<b>"Z-1"</b>	FDCMPC Engineering, Procurement, and Construction Contract Certification
<b>"LL"</b>	FDCMPC Sample Computation of Power Rates

31. The Confidential Documents contain certain non-public information, data, and calculations involving business operations and financial trade secrets reflecting FDCMPC's investment and business calculations. As such, the foregoing information, data, and calculations fall within the bounds of "trade secrets" that are entitled to protection under the law.

32. In the case *Air Philippines Corporation vs. Pennswell Inc.*,<sup>21</sup> the Supreme Court defined "trade secret" as follows:

"A trade secret is defined as a plan or process, tool, mechanism, or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having commercial value. A trade secret may consist of any formula, pattern, device, or compilation of information that (1) is used in one's business; and (2) gives the employer an opportunity to obtain advantage

<sup>21</sup> G. R. No. 172835, 13 December 2007.

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over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights.”

33. Also, the Confidential Documents were prepared and developed for the exclusive use of FDCMPC, and is designed for the specific use of the company in its power generation business. Consequently, should the same be disclosed to the public, they could easily be copied or used by FDCMPC’s competitors or other entities engaged in the power business for their own benefit, and to the prejudice of FDCMPC.

34. The interest of DORELCO’s consumers is sufficiently protected by the review and evaluation of the rates under the EPSA by the Honorable Commission, without the need to disclose the contents of the Confidential Documents.

35. Given the foregoing, the Confidential Documents qualifies as “confidential information” and FDCMPC respectfully moves for the issuance of a Protective Order to this effect.

**ALLEGATIONS IN SUPPORT FOR THE  
ISSUANCE OF PROVISIONAL AUTHORITY**

36. The Joint Applicants recognize the importance of the continued operation of DORELCO and its ability to continuously supply electricity to the consumers within its franchise area. While DORELCO intends to account for the deficit supply, this process will take time and DORELCO’s consumers will need the assurance of seamless, stable and reliable power while it prepares for the CSP.

37. Consequently, DORELCO was compelled to enter into the *DORELCO-FDCMPC EPSA* to ensure an adequate power supply at a rate advantageous to its consumers. In order to ensure the sustainability of their operations, DORELCO should be permitted to collect the rates, fees, and charges provided in the *DORELCO-FDCMPC EPSA* from its customers, as accordingly charged by FDCMPC against DORELCO pursuant to the same agreement. Any rate lower than the one specified in the *DORELCO-FDCMPC EPSA* is not economically feasible and goes against the regulatory principle of enabling generation companies to recover fair and reasonable costs along with a reasonable return.

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38. The provisional approval of the EPSA will enable both DORELCO and FDCMPC to fulfill their obligations without compromising the viability of their operations.

39. The Affidavits of Juan Eugenio L. Roxas, President and CEO of FDCMPC, and Allan L. Laniba, General Manager of DORELCO, attesting to the truth of the above matters and in support of the prayer for provisional authority are attached as Annexes "CC" and "CC-1"

40. Pursuant to the ERC Rules of Practice and Procedure, the Honorable Commission may exercise its discretion by granting a provisional authority or an Interim Relief prior to a final decision. It is understood that the provisional authority or Interim Relief sought by the Joint Applicants shall be subject to adjustments and other conditions that the Honorable Commission may impose.

**PRAYER**

**WHEREFORE**, premises considered, Joint Applicants DORELCO and FDCMPC most respectfully pray that the Honorable Commission:

1. **ISSUE AN ORDER** declaring the Confidential Documents attached hereto as Annexes "U", "U-1", "V", "V-1", "V-2", "W", "X", "X-1", "Z", "Z-1", and "LL" as confidential information as well as directing that the same be treated with confidentiality and be protected from public disclosure;
2. **ISSUE** the corresponding **PROTECTIVE ORDER** in accordance with Section 2, Rule 4 of the ERC Revised Rules of Practice and Procedure;
3. Pending trial on the merits, **GRANT PROVISIONAL AUTHORITY** to implement the *DORELCO-FDCMPC EPSA* and allow DORELCO to collect such rates, fees, and charges as provided in the EPSA from its customers reckoned from the start of the supply by FDCMPC to DORELCO; and
4. After due notice and hearing, **ISSUE A DECISION** (i) approving the instant Joint Application *in toto* which will thereby allow/authorize DORELCO to charge and collect the fees from its consumers reckoned from the commencement of the supply to the latter by FDCMPC; and (ii) directing that the rates, terms, and conditions of the *DORELCO-FDCMPC EPSA* be retroactively applied for the entire term of the EPSA.

**Joint Application (DORELCO-FDCMPC EPSA)**

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

Quezon City and Tacloban City for Pasig City, 04 March 2024.

**GULA LAW & NOTARIAL  
OFFICE**

*Counsel for Don Orestes Romualdez  
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Tacloban City

By:



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Republic of the Philippines )  
DAVAO CITY ) S.S.

**JOINT VERIFICATION AND  
CERTIFICATION AGAINST FORUM SHOPPING**


We, **RYAN C. REAS** and **CHRISTOPHER A. GARCIA** are both of legal age, Filipinos, with office address at National Highway, San Roque, Tolosa, Leyte, after having been duly sworn to in accordance with law, do hereby depose and state for ourselves and Don Orestes Romualdez Electric Cooperative, Inc. ("DORELCO"), that:

1. We are the Board President and Acting General Manager of DORELCO with authority to commence, initiate, sign, and file the foregoing Joint Application with the Energy Regulatory Commission ("ERC") for the approval of the Emergency Power Supply Agreement ("EPSA") entered into by DORELCO and FDC Misamis Power Corporation, with prayer for issuance of provisional authority and confidential treatment of information (the "Joint Application").
2. We have read the Joint Application and the allegations therein are true and correct based on our personal knowledge or the authentic records of DORELCO;
3. The Joint Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
4. The factual allegations in the Joint Application have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
5. We or DORELCO have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein; and
6. If we or DORELCO should hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report the said fact within

five (5) days from discovery thereof to the Honorable Commission.


**IN WITNESS WHEREOF**, I have hereunto affixed my signature this day of 05 MAR 2024 at \_\_\_\_\_.

  
**RYAN C. REAS**  
Affiant  
UMID#006-0119-0159-0

  
**CHRISTOPHER A. GARCIA**  
Affiant  
LTO PDL#H02-97-043825  
Valid until 2024-07-20

**SUBSCRIBED and SWORN TO** before me this day of \_\_\_\_\_, at \_\_\_\_\_ with affiants exhibiting before me their competent proofs of identity above indicated.

Doc No. 166;  
Page No. 35;  
Book No. XT;  
Series of 2024.

  
**ABBEY MONTER C. MIRALLES**  
Notary Public until December 31, 2024  
N.C. No. 2021-0151  
IBF No. 390473 - 01/03/2024  
PTR No. 8879352 - 01/02/2024  
Rpt No. 72376 - TIN 924-740-744  
MCLE Compliance No. VII-0004981  
Rm. 218, Melecio Tan Bldg. Cor. Zamora & Salazar St., Tacloban City

Republic of the Philippines )  
QUEZON CITY ) S.S.

**VERIFICATION AND  
CERTIFICATION AGAINST FORUM SHOPPING**

I, **Juan Eugenio L. Roxas**, of legal age, married, with office address at PHIVIDEC Industrial Estate, Villanueva, Misamis Oriental 9002, after having been duly sworn to in accordance with law, do hereby depose and state for FDC Misamis Power Corporation ("FDCMPC"), that:


1. I am currently the President and Chief Executive Officer ("PCEO") of FDCMPC with authority to commence, initiate, sign, and file the foregoing Joint Application with the Energy Regulatory Commission ("ERC") for the approval of the Emergency Power Supply Agreement ("EPSA") entered into by Don Orestes Romualdez Electric Cooperative, Inc. ("DORELCO") and FDCMPC, with prayer for issuance of provisional authority and confidential treatment of information (the "Joint Application").
2. I have read the Joint Application and the allegations therein are true and correct based on my personal knowledge or the authentic records of FDCMPC;
3. The Joint Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
4. The factual allegations in the Joint Application have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
5. I or FDCMPC have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein; and
6. If I or FDCMPC should hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report the said fact within five (5) days from discovery thereof to the Honorable Commission.

IN WITNESS WHEREOF, I have hereunto affixed my signature this day  
of MAR 09 2024 at QUEZON CITY Metro Manila.

  
JUAN EUGENIO L. ROXAS  
Affiant

SUBSCRIBED and SWORN TO before me this day of MAR 09 2024,  
with affiant \_\_\_\_\_ having presented to me her Passport 71B, issued  
at DFA MANILA on 20 Dec 2018 valid until 19 Dec 2028, as competent and reliable  
evidence of his identity.

Doc. No. 224;  
Page No. 46;  
Book No. 148;  
Series of 2024.

  
ATTY. RUBEN M. AZANES, JR.  
NOTARY PUBLIC  
UNTIL DECEMBER 31, 2024  
PTR NO. 5555119, QUEZON CITY  
IBP NO. 384112, QUEZON CITY CHAPTER  
Roll of Attorney's No. 46427  
Admin Matter No. 025(2023-2024)  
MCLE-VII-0018605-05-24-2022  
TIN: 140-394-386-000  
Bagong Lipunan Crime C.C.