



LEYTE V ELECTRIC COOPERATIVE, INC.

Brgy. San Pablo, Ormoc City, Leyte
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Website: www.leyeco-v.com.ph eMail Address: info@leyeco-v.com.ph

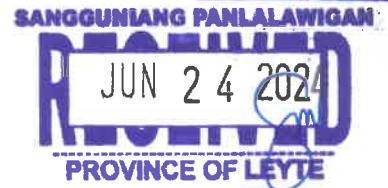


Item No. 11

Reference No. 2024-06-390

20 June 2024

Date: 02 2024 JUN



HON. LEONARDO M. JAVIER
Provincial Vice Governor of Leyte
Leyte Provincial Government Complex
West Bypass Road, Brgy. Guindapunan
6501 Palo, Leyte, Philippines

Subject: IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND LEYTE V ELECTRIC COOPERATIVE INC., WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION - ENERGY DEVELOPMENT CORPORATION (EDC) AND LEYTE V ELECTRIC COOPERATIVE INC. (LEYECO V) ERC CASE NO. 2024-045 RC

Dear Honorable Vice-Governor Javier:

Greetings from LEYECO V!

In compliance with the Revised Rules of Practice and Procedure of the Energy Regulatory Commission ("ERC") and the Order dated May 29, 2024 of the ERC, we are furnishing this Honorable Office with the said Order and Notice of Virtual Hearing both dated July 4, 2024 at 2:00 PM and July 11, 2024 at 2:00 PM.

In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the **Bulletin Board of the Sangguniang Panlalawigan Hall**, 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 May 29, 2024 of the above-captioned case was served to, duly received and duly posted by this Honorable Office.

Thank you very much for your usual cooperation.

Very truly yours,

ATTY. JANNIE ANN J. DAYANDAYAN, CPA
General Manager

ap / mrg

Executive Secretary: 206 InfoTech & Comm. Services: 216-218, 509
Institutional Services Dept.: 401 Public Relations: 214 Clinic: 209
Membership Division Chief: 403 Membership: 404 Housewiring: 407
Customer Welfare Desk: 200-205 Motorpool: 406 ODM: 409
Human Resources: 402, 210 GSD Chief: 408 Warehouse: 405
Corporate Planning & Energy Trading Dept.: 219, 221, 223

Technical Services Dept.: 801,802 Engineering: 803
Line Construction: 804
Internal Audit Dept.: 701 Auditors: 702
Finance Services Dept.: 501 Cashiering: 502
Collection: 503-504 Accounting: 505 Consumer Accts: 506
Meter Reading & Billing: 507, 508 & 510



Republic of the Philippines
Province of Leyte
Palo, Leyte



Office of the Sangguniang Panlalawigan

ncwd
6/26/24

Date : _____

CERTIFICATION

To Whom It May Concern:

This is to certify that a copy of the Order and Notice of Virtual Hearing both dated **May 29, 2024** in ERC Case No. **2024-045RC** entitled: **“IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND LEYTE V ELECTRIC COOPERATIVE INC. WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION - ENERGY DEVELOPMENT CORPORATION AND LEYTE V ELECTRIC COOPERATIVE INC.,** was served to, duly received, and duly posted by this Honorable Office in its Bulletin Board.

This Certification is issued upon the request of **LEYTE V ELECTRIC COOPERATIVE INC., (LEYECO V)**, one of the Applicants in the said case.

(Signature over Printed Name of the
Vice-Governor or the duly authorized
representative)

(Official Dry Seal)

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 LEYTE
V ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION

ERC CASE NO. 2024-045 RC

ENERGY DEVELOPMENT
CORPORATION (EDC) AND
LEYTE V ELECTRIC
COOPERATIVE, INC.
(LEYECO V),

Applicants.

Promulgated:
May 29, 2024

X-----X

ORDER

On 25 March 2024, the Energy Development Corporation (EDC) and Leyte V Electric Cooperative, Inc. (LEYECO V) filed a *Joint Application* dated 25 September 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:

THE APPLICANTS

1. Applicant LEYECO V 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 San Pablo, Ormoc City, Philippines, where it may be served with summons and other legal processes. LEYECO V is represented here by its President, Emmanuel S. Arpon, who has been authorized by its Board of

Directors to file the Joint Application as evidenced by the Secretary's Certificate dated June 2, 2023, 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 September 21, 2023, 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 LEYECO V is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City/Municipalities of Merida, Isabel, Palompon, Villaba, Tabango, San Isidro, Calubi-an, Leyte, Matag-ob, Kananga, Albuera, Ormoc City, all in the Province of Leyte.

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 LEYECO V and EDC dated November 7, 2022, being submitted to the Honorable Commission for its review and approval.

STATEMENT OF FACTS

7. LEYECO V is in immediate need of a 2MW contracted capacity for around one (1) year¹. To maintain an uninterruptible and

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.

reliable power supply due to a high level of supply deficit of at least 2 MW, LEYECO V decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customers to volatile Wholesale Electricity Spot Market ("WESM") prices.

8. Pursuant to Department of Energy ("DOE") Department Circular 2018-02-003, as amended by C 2021-09-0030, LEYECO V 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. LEYECO V 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 LEYECO V's urgent need for supply of electricity due to circumstances beyond the control of LEYECO V, and the limited time to conduct the said Competitive Selection Process ("CSP").

10. On 31 August 2022, the DOE, in response to LEYECO V's letter-request, issued Certificate of Exemption No. COE-CSP-2022-08-031 exempting it from the conduct of CSP for the procurement of emergency electric power supply.

11. In view of LEYECO V'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, LEYECO V solicited for emergency power supply for one (1) year.

12. In response to LEYECO V's demand, EDC has offered to supply a portion of the emergency electric power supply requirements of LEYECO V at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and LEYECO V accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement ("EPSA") for the supply of 2 MW emergency power supply to LEYECO V².

13. Due to circumstances beyond the control of LEYECO and EDC, the implementation of the EPSA was delayed such that supply only commenced on 26 December 2022. As such, on 12 May 2023, LEYECO requested from the DOE the amendment of the validity period of Certificate of Exemption No. COE-CSP-2023-08-031.

14. Recognizing that the delay in the implementation of the EPSA is considered a force majeure/fortuitous event in accordance with Section 3.30 of Department Circular 2021-09-0030, DOE issued Amended Certification COE-CSP-2023-07-032 dated 17 August 2023 to reflect the change in the validity period from 26 August 2022 to 25 August 2023 to 26 December 2022 to 25

² LEYECO 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.

December 2023. As such, LEYECO V and EDC entered into an Amendment Agreement to the EPSA on 24 August 2023.

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

15. Under the EPSA, EDC shall supply power to LEYECO V for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 2 MW.³

- 15.1 Supply of Electricity – EDC shall make available to LEYECO V 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 LEYECO V. LEYECO V shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. LEYECO V shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 15.2 Purchase of Electricity – LEYECO V is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 15.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by LEYECO V 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.
- 15.4 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

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

services in connection with the delivery of electricity under the EPSA shall be paid by LEYECO V.

RATE IMPACT ANALYSIS

16. LEYECO V simulated a rate impact analysis which resulted in a Php 0.2164/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

	Average Blended Rate (Php/kW)
LEYECO V Blended rate: Existing Suppliers WITHOUT EDC EPSA	9.4178
LEYECO V Blended rate: Existing Suppliers WITH EDC EPSA	9.2014
Generation Impact: Increase /(Decrease)	(0.2164)

OTHER RELATED DOCUMENTS

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

ANNEX	DOCUMENTS
A	Articles of Incorporation and By-laws of LEYECO V
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of LEYECO V
B-1	Board Resolution of LEYECO V
C-series	Certificate of Incorporation of EDC and 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	Certificates of Compliance and/or Provisional Authority to Operate

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ANNEX	DOCUMENTS
H-series	DOE Certificates of Endorsement
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 LEYECO V and EDC
M-1	Letter of LEYECO V and EDC clarifying items in the Emergency Power Supply Agreement
M-2	Amendment Agreement to the Emergency Power Supply Agreement between LEYECO V and EDC
N	DOE Certificate of Exemption
N-1	Letters to or from LEYECO V
N-2	DOE Amended Certificate of Exemption
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreements
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

ANNEX	DOCUMENTS
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	LEYECO V Write-up on Demand Side Management
CC-2	EDC Sample OR
DD	Water Permits from NWRB
EE	LEYECO V's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

18. 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 LEYECO V is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Ormoc City and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Leyte, 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.

19. 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 Kananga, Leyte. Copies of the certification of receipt from and/or affidavits of service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City and the Kananga, Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-3".

20. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of LEYECO V. 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

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

ANNEX	DOCUMENTS
I	Renewable Energy Service Contracts
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

22. 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.

23. 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 LEYECO V 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
04 July 2024 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
11 July 2024 (Thursday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and presentation of evidence

Accordingly, Applicants EDC and LEYECO V are hereby directed to host the virtual hearings at **LEYECO V's Principal Office at Barangay San Pablo, Ormoc City, Leyte** as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, Applicants EDC and LEYECO V shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, Applicants EDC and LEYECO V 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;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Offices of the Provincial Governor,

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.

the Mayors, and the Local Government Unit (LGU) legislative bodies within LEYECO V's franchise area for the appropriate posting thereof on their respective bulletin boards;

- 3) Inform the consumers within LEYECO V'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, Applicants EDC and LEYECO V 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 LEYECO V to inform the consumers within LEYECO V's

franchise area of the filing of the *Joint Application*, the 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, Applicants EDC and LEYECO V 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.

Applicants EDC and LEYECO V, 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.

Applicants EDC and LEYECO V 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 hearing and Pre-Trial Conference, pursuant to the preceding paragraph.

Failure of Applicants EDC and LEYECO V to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings.

Applicants EDC and LEYECO V 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.

Applicants EDC and LEYECO V 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 LEYECO V 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.

Applicants EDC and LEYECO V 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 is intentionally left blank.)

Finally, Applicants EDC and LEYECO V, 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.

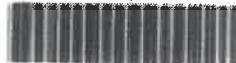
SO ORDERED.

Pasig City, 29 May 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO

ERC
Office of the Chairperson and CEO



MCD2024-017491


LS: ADGS/ARG/KTB

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ORDER/ 29 MAY 2024
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Copy Furnished:

1. Leyte V Electric Cooperative, Inc. (LEYECO V)
Applicant
San Pablo, Ormoc City, Leyte
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 LEYECO V
Unit 2, 2nd Floor Tacloban Convention Center, Real Street, Tacloban City
attypiczon@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, Beatriz Raine L. Bayudan, and Mervin Kim P. Capila
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
citizensdesk@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 Leyte
10. Office of the Local Government Unit (LGU) Legislative Body
Province of Leyte
11. Office of the Mayor
Albuera, Leyte
12. Office of the Local Government Unit (LGU) Legislative Body
Albuera, Leyte
13. Office of the Mayor
Calubi-an, Leyte
14. Office of the Local Government Unit (LGU) Legislative Body
Calubi-an, Leyte
15. Office of the Mayor
Isabel, Leyte
16. Office of the Local Government Unit (LGU) Legislative Body
Isabel, Leyte
17. Office of the Mayor
Kananga, Leyte
18. Office of the Local Government Unit (LGU) Legislative Body
Kananga, Leyte
19. Office of the Mayor
Leyte, Leyte
20. Office of the Local Government Unit (LGU) Legislative Body
Leyte, Leyte
21. Office of the Mayor
Matag-ob, Leyte

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22. Office of the Local Government Unit (LGU) Legislative Body
Matag-ob, Leyte
23. Office of the Mayor
Merida, Leyte
24. Office of the Local Government Unit (LGU) Legislative Body
Merida, Leyte
25. Office of the Mayor
Ormoc City, Leyte
26. Office of the Local Government Unit (LGU) Legislative Body
Ormoc City, Leyte
27. Office of the City Mayor
Palompon, Leyte
28. Office of the Local Government Unit (LGU) Legislative Body
Palompon, Leyte
29. Office of the City Mayor
San Isidro, Leyte
30. Office of the Local Government Unit (LGU) Legislative Body
San Isidro, Leyte
31. Office of the City Mayor
Tabango, Leyte
32. Office of the Local Government Unit (LGU) Legislative Body
Tabango, Leyte
33. Office of the City Mayor
Villaba, Leyte
34. Office of the Local Government Unit (LGU) Legislative Body
Villaba, Leyte
35. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive, San Antonio, Ortigas Center, Pasig City
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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 LEYTE
V ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2024-045 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
LEYTE V ELECTRIC
COOPERATIVE, INC.
(LEYECO V),**

Applicants.

Promulgated:

May 29, 2024

X-----X

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 25 March 2024, the Energy Development Corporation (EDC) and Leyte V Electric Cooperative, Inc. (LEYECO V) filed a *Joint Application* dated 25 September 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:

THE APPLICANTS

1. Applicant LEYECO V is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the

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laws of the Philippines, with principal office at Barangay San Pablo, Ormoc City, Philippines, where it may be served with summons and other legal processes. LEYECO V is represented here by its President, Emmanuel S. Arpon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated June 2, 2023, 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 September 21, 2023, 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 LEYECO V is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City/Municipalities of Merida, Isabel, Palompon, Villaba, Tabango, San Isidro, Calubi-an, Leyte, Matag-ob, Kananga, Albueria, Ormoc City, all in the Province of Leyte.

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 LEYECO V and EDC dated November 7, 2022, being submitted to the Honorable Commission for its review and approval.

STATEMENT OF FACTS

7. LEYECO V 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 2 MW, LEYECO V decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customers to volatile Wholesale Electricity Spot Market ("WESM") prices.

8. Pursuant to Department of Energy ("DOE") Department Circular 2018-02-003, as amended by C 2021-09-0030, LEYECO V 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. LEYECO V 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 LEYECO V's urgent need for supply of electricity due to circumstances beyond the control of LEYECO V, and the limited time to conduct the said Competitive Selection Process ("CSP").

10. On 31 August 2022, the DOE, in response to LEYECO V's letter-request, issued Certificate of Exemption No. COE-CSP-2022-08-031 exempting it from the conduct of CSP for the procurement of emergency electric power supply.

11. In view of LEYECO V'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, LEYECO V solicited for emergency power supply for one (1) year.

12. In response to LEYECO V's demand, EDC has offered to supply a portion of the emergency electric power supply requirements of LEYECO V at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and LEYECO V accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement ("EPSA") for the supply of 2 MW emergency power supply to LEYECO V².

13. Due to circumstances beyond the control of LEYECO and EDC, the implementation of the EPSA was delayed such that supply only commenced on 26 December 2022. As such, on 12 May 2023, LEYECO requested from the DOE the amendment of the

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 LEYECO 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.

validity period of Certificate of Exemption No. COE-CSP-2023-08-031.

14. Recognizing that the delay in the implementation of the EPSA is considered a force majeure/fortuitous event in accordance with Section 3.30 of Department Circular 2021-09-0030, DOE issued Amended Certification COE-CSP-2023-07-032 dated 17 August 2023 to reflect the change in the validity period from 26 August 2022 to 25 August 2023 to 26 December 2022 to 25 December 2023. As such, LEYECO V and EDC entered into an Amendment Agreement to the EPSA on 24 August 2023.

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

15. Under the EPSA, EDC shall supply power to LEYECO V for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 2 MW.³

- 15.1 Supply of Electricity – EDC shall make available to LEYECO V 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 LEYECO V. LEYECO V shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. LEYECO V shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 15.2 Purchase of Electricity – LEYECO V is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 15.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by LEYECO V 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.
- 15.4 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

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

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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 LEYECO V.

RATE IMPACT ANALYSIS

16. LEYECO V simulated a rate impact analysis which resulted in a Php 0.2164/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

	Average Blended Rate (Php/kW)
LEYECO V Blended rate: Existing Suppliers WITHOUT EDC EPSA	9.4178
LEYECO V Blended rate: Existing Suppliers WITH EDC EPSA	9.2014
Generation Impact: Increase /(Decrease)	(0.2164)

OTHER RELATED DOCUMENTS

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

ANNEX	DOCUMENTS
A	Articles of Incorporation and By-laws of LEYECO V
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of LEYECO V
B-1	Board Resolution of LEYECO V
C-series	Certificate of Incorporation of EDC and 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

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ANNEX	DOCUMENTS
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificates of Compliance and/or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement
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 LEYECO V and EDC
M-1	Letter of LEYECO V and EDC clarifying items in the Emergency Power Supply Agreement
M-2	Amendment Agreement to the Emergency Power Supply Agreement between LEYECO V and EDC
N	DOE Certificate of Exemption
N-1	Letters to or from LEYECO V
N-2	DOE Amended Certificate of Exemption
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreements
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

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ANNEX	DOCUMENTS
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	LEYECO V Write-up on Demand Side Management
CC-2	EDC Sample OR
DD	Water Permits from NWRB
EE	LEYECO V's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

18. 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 LEYECO V is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Ormoc City and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Leyte, 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.

19. 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 Kananga, Leyte. Copies of the certification of receipt from and/or affidavits of service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City and the Kananga, Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-3".

20. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of LEYECO V. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper

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publication are attached hereto as Annexes "II" and "JJ", respectively.

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

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

ANNEX	DOCUMENTS
I	Renewable Energy Service Contracts
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

22. 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.

23. 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 LEYECO V 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

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- 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.

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
04 July 2024 (Thursday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
11 July 2024 (Thursday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and presentation of evidence

Applicants EDC and LEYECO V are directed to host the virtual hearings at **LEYECO V's Principal Office at Barangay San Pablo, Ormoc City, Leyte** as the designated venue for the conduct thereof, and ensure that the same is open to the public. Applicants EDC and LEYECO V 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

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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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 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 29th day of May 2024 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO


LS: ADGS/ARG/KTB

ERC
Office of the Chairperson and CEO



MCD2024-017491