



# LEYTE V ELECTRIC COOPERATIVE, INC.

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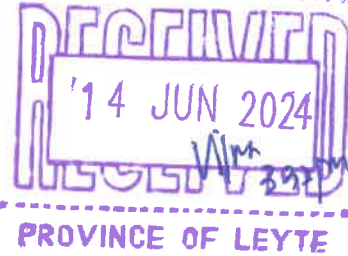
2024 JUN 15

FDC

Reference No. 2024-06-342

10 June 2024

SANGGUNIANG PANLALAWIGAN



**HON. LEONARDO M. JAVIER**  
Provincial Vice Governor of Leyte and  
Sangguniang Panlalawigan Presiding Officer  
**Leyte Provincial Government Complex**  
West Bypass Road, Brgy. Guindapunan  
6501 Palo, Leyte Philippines .

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

Dear Honorable 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 (see enclosed usb flash drive) 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 Leyte V 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 Presiding Officer or Secretary of the *Sanggunian* concerned 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 yours,

**ATTY. JANNIE ANN J. DAYANDAYAN, CPA**  
General Manager

ap / mvc / fcc / 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
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Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**

Ortigas Center, Pasig City

SANGBUNIANG PANLALAWIGAN



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

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

**LEYTE V 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 **LEYTE V ELECTRIC COOPERATIVE, INC. ("LEYECO V")**  
and **FDC MISAMIS POWER CORPORATION ("FDCMPC")**, through the  
undersigned counsel and unto the Honorable Commission, most respectfully  
state, that:

**THE JOINT APPLICANTS**

1. **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 address at Brgy. San Pablo, Ormoc City. LEYECO V serves  
the power requirements of the Municipalities of Merida, Isabel, Palompon,  
Villaba, Tabango, San Isidro, Calubi-an, Leyte, Matag-ob, Kananga, Albuera,

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and the City of Ormoc, all in the Province of Leyte (collectively, the “Franchise Area”). For purposes of this *Joint Application*, LEYECO V is represented herein by its Board President **MR. EMMANUEL S. ARPON** and General Manager **ATTY. JANNIE ANN J. DAYANDAYAN**, duly authorized by LEYECO V’s 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 principal office address at the PHIVIDEC Industrial Estate, Villanueva, Misamis Oriental 9002. For purposes of this *Joint 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 Secretary Certificate No. 202308-09.<sup>2</sup>

3. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their undersigned counsel at the address 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 LEYECO V and FDCMPC dated 20 September 2023 (the “*LEYECO V-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 the Department of Energy’s (“DOE”) *Department Circular No. 2023-06-0021* (the “DC2023-06-0021”).<sup>6</sup>

5. In compliance with Section 2, Rule 6 of the *ERC Revised Rules of Practice and Procedure*, a copy of the instant *Joint 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>

<sup>1</sup> See Annex “DD” 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.

<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*”

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

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

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

### STATEMENT OF FACTS

7. **Necessity for Power Supply:** LEYECO V belongs to the Federation of Rural Electric Cooperatives in Region 8 (“FRECOR 8”), a regional association composed of non-stock, non-profit electric cooperatives located within Region VIII of the Philippines. In 2019, FRECOR 8 agreed in principle to conduct an aggregated Competitive Selection Process (“CSP”) for all electric cooperatives belonging thereto to take advantage of a lower price for electricity resulting from “economies of scale.” This CSP was to be conducted at the start of the year 2020. However, several unfortunate and unforeseen incidents occurring between 2019 until 2022 completely prevented FRECOR 8 from conducting the intended CSP.

8. In 2019, more particularly on Christmas Eve of the same year, the Province of Leyte was heavily hit by Typhoon Ursula, with it being reported that the Province of Leyte was subjected to winds of up to 170 km/h.<sup>9</sup> Thus, LEYECO V, as was the entire “energy family” and the Department of Energy (“DOE”) *Task Force on Energy Resiliency*, was forced to focus on the immediate full restoration of distribution services in the affected areas,<sup>10</sup> which would extend well into 2020.

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

<sup>9</sup> “Typhoon Ursula even stronger as it heads for Tacloban-Palo”, available at <https://www.rappler.com/nation/weather/247900-typhoon-ursula-pagasa-forecast-december-24-2019-8pm/>.

<sup>10</sup> “Sec. Cusi Rallies Energy Family for Full Restoration of Energy Services in Ursula Affected Areas”, available at <https://www.doe.gov.ph/press-releases/sec-cusi-rallies-energy-family-full-restoration-energy-services-ursula-affected-areas>.

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8.1. It bears further emphasis that the destruction to infrastructure resulting from Typhoon Ursula included the impairment of mobile and internet services.<sup>11</sup> In fact, it was still being reported as of 03 January 2020 that mobile, phone, and electricity services were still being gradually restored in affected communities.<sup>12</sup> Thus, taking into consideration the events discussed below, FRECOR 8 (which includes LEYECO V) could not practically and properly conduct even an *online* CSP.

9. While still reeling from the effects of Typhoon Ursula, in January 2020, the Philippines would record its first confirmed case of the COVID-19 virus,<sup>13</sup> signaling the entry of the pandemic into the country. The Office of the President of the Philippines would then issue *Proclamation* No. 929 dated 16 March 2020 (“Proclamation No. 929”),<sup>14</sup> which declared a nationwide State of Calamity throughout the Philippines, and imposed an Enhanced Community Quarantine (“ECQ”). The ECQ imposed stringent limitations on movement and transportation of people as well as the strict regulation of operating industries, among others.<sup>15</sup>

10. The Province of Leyte would soon locally impose its own community quarantine guidelines likewise resulting in travel restrictions therein.<sup>16</sup> It bears stressing that the Province of Leyte, **even as of December 2020**, would still report high spikes of confirmed cases of COVID-19, thus being labelled, at the very least as a “province of concern.”<sup>17</sup> Relevantly, **2020 onwards to 2021**, even the smaller towns within the Province of Leyte also declared their own lockdowns.<sup>18</sup>

<sup>11</sup> “Typhoon Ursula downs mobile services in parts of Visayas, Southern Luzon”, available at <https://www.rappler.com/business/247955-typhoon-ursula-downs-mobile-services-visayas-southern-luzon/>.

<sup>12</sup> “Flash Update No. 3 – Philippines: Typhoon Phanfone (Ursula), As of 3 January 2020, 4 p.m. local time”, available at <https://reliefweb.int/report/philippines/flash-update-no-3-philippines-typhoon-phanfone-ursula-3-january-2020-4-pm-local>.

<sup>13</sup> “DOH probing Philippines’ 1<sup>st</sup> suspected case of coronavirus”, available at <https://www.philstar.com/headlines/2020/01/22/1986773/doh-probing-philippines-1st-suspected-case-coronavirus>.

<sup>14</sup> Copy available at <https://www.officialgazette.gov.ph/2020/03/16/proclamation-no-929-s-2020/>.

<sup>15</sup> See the *Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines* (2020 ed.), available at <https://www.officialgazette.gov.ph/downloads/2020/05may/20200429-Omnibus-Guidelines-on-the-Implementation-of-Community-Quarantine-in-the-Philippines.pdf>.

<sup>16</sup> “Leyte placed under community quarantine”, available at <https://www.rappler.com/nation/255010-leyte-community-quarantine/>.

<sup>17</sup> “Makati, Baguio, Davao City marked as ‘high-risk’ as mobility boosts COVID-19: OCTA”, available at <https://news.abs-cbn.com/news/12/09/20/makati-baguio-davao-city-marked-high-risk-as-mobility-boosts-covid-19-octa>; see also “E. Visayas logs highest Covid-19 daily tally with 244 cases”, available at <https://www.pna.gov.ph/articles/1125567>.

<sup>18</sup> See “Leyte town locks down community over Covid-19 fear”, available at <https://www.pna.gov.ph/articles/1106267>; see also “Leyte, Pangasinan villages on lockdown”, available at <https://www.philstar.com/nation/2020/06/05/2018775/leyte-pangasinan-villages-lockdown>; see also “9 Leyte villages put on lockdown due to mounting COVID-19 cases”, available at <https://www.philstar.com/nation/2020/06/05/2018775/leyte-pangasinan-villages-lockdown>; see also “COVID-19 prevention: Leyte bans return of stranded people until the end of 2020”, available at

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10.1. It must be reiterated that FRECOR 8 (including LEYECO V), intended to **collectively** conduct their CSP for their total aggregated demand requirement, to take advantage of a lower price arising from the “economies of scale.” Logically, this required the complete coordination of **all said electric cooperatives**. However, a collective CSP became impractical, if not impossible, at the time due to each individual electric cooperative having to deal with their own localized concerns.

10.2. It was only on **21 July 2023, or more than three (3) years after Proclamation No. 929**, did the Office of the President of the Philippines finally lift the State of Public Health Emergency throughout the country.<sup>19</sup>

11. On 16 December 2021, Typhoon Odette, the second costliest typhoon in Philippine history with damage estimated at around USD1.02 Billion,<sup>20</sup> hit the province of Leyte<sup>21</sup> resulting in a state of calamity being declared by the Provincial Government.<sup>22</sup> Given the immense damage to the Province’s power infrastructure, *Task Force Kapatid* was formed by various ECs including those belonging to FRECOR 8 (and necessarily LEYECO V).<sup>23</sup> The restoration process of the damaged power infrastructure was completed only in **late 2022**.<sup>24</sup>

*All the above-described events constitute Force Majeure or Fortuitous Events that are beyond the control of LEYECO V, thus allowing the procurement of Emergency Power*

12. Section 2.3.5. of the DOE’s *Department Circular No. DC2023-06-0021* allows for the negotiated procurement of Emergency Power supply in

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<https://newsinfo.inquirer.net/1372528/covid-19-prevention-leyte-bans-return-of-stranded-people-until-end-of-2020>.

<sup>19</sup> See *Proclamation No. 297* dated 21 July 2023, available at <https://www.officialgazette.gov.ph/2023/07/21/proclamation-no-297-s-2023/>.

<sup>20</sup> See *SitRep No. 44 for Typhoon Odette (2021)* dated 7 February 2022, copy available at [https://monitoring-dashboard.ndrrmc.gov.ph/assets/uploads/situations/SitRep No 44 for Typhoon ODETTE 20211.pdf](https://monitoring-dashboard.ndrrmc.gov.ph/assets/uploads/situations/SitRep_No_44_for_Typhoon_ODETTE_20211.pdf).

<sup>21</sup> “Typhoon Odette makes 3<sup>rd</sup>, 4<sup>th</sup> landfalls in Southern Leyte”, available at <https://www.rappler.com/nation/weather/typhoon-odette-pagasa-forecast-december-16-2021-5pm/>.

<sup>22</sup> “Southern Leyte under state of calamity due to ‘Odette’”, available at <https://www.pna.gov.ph/articles/1163328>.

<sup>23</sup> “Philreca mobilizes task force to restore power lines”, available at <https://newsinfo.inquirer.net/1530723/philreca-mobilizes-task-force-to-restore-power-lines>.

<sup>24</sup> “Electricity fully restored in all barangays in Southern Leyte 7 months after ‘Odette’”, available at <https://mb.com.ph/2022/08/03/electricity-fully-restored-in-all-barangays-in-southern-leyte-7-months-after-odette/>.

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the event that a distribution utility's power supply falls below its low demand due to Force Majeure or Fortuitous Events that are beyond its control.<sup>25</sup> Force Majeure or Fortuitous Event is likewise defined as follows, to wit:

“Force Majeure or Fortuitous Event refers to any extraordinary event not foreseeable or avoidable, or to an event that could not be foreseen, or which, though foreseen, is inevitable and independent of human will or the DU's participation, whether by active intervention, neglect or failure to act.

This further refers to any event or circumstance generally caused: (1) by nature, such as, but not limited to, fires, **floods, typhoons or other catastrophes, or acts of God**; and/or (2) by the acts of man, such as, but not limited to, war, **national emergencies**, revolution, riot, insurrection, civil unrest, or any other violent or threatening actions.”<sup>26</sup> [Emphasis and underscoring supplied]

13. Based on the above definition, the incidents previously discussed constitute Force Majeure or Fortuitous Events which would justify the procurement by LEYECO V of emergency power through the LEYECO V-FDCMPC EPSA. To elaborate:

13.1. **First**, the occurrence of Typhoons Ursula and Odette fall squarely as “floods, typhoons or other catastrophes or acts of God” described under Section 3.8. of the DOE's *Department Circular No. DC2023-06-0021*. As previously discussed, the immense damage arising therefrom devastated both structures and infrastructures needed to properly conduct FRECOR 8's intended and aggregated CSP, which included LEYECO V's power requirements.

It bears reiteration that this damage was of an extent that forced not only LEYECO V, but *other* electric cooperatives **found within and even without Region VIII** to devote their full and undivided attention towards the restoration of power and electric distribution services in the affected areas of the Province of Leyte. It further bears stressing that Typhoons Ursula and Odette are inevitable and independent of LEYECO V's participation.

13.2. **Second**, equally extraordinary, unforeseeable, and unavoidable were the circumstances brought about by the COVID-19 Pandemic. The pandemic was categorized as a national emergency and

<sup>25</sup> See also Section 3.7. of the DOE's *Department Circular No. DC2023-06-0021*.

<sup>26</sup> See Section 3.8. of the DOE's *Department Circular No. DC2023-06-0021*.

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imposed several logistical restrictions, which extended to an unprecedented scale (and exponentially affected by the still lingering effects of Typhoons Ursula and Odette at the time). These circumstances effectively prevented FRECOR 8 (including LEYECO V) from properly conducting its aggregated CSP.

13.3. It must be emphasized that the exponential consequences of the series of unfortunate events beyond the control of LEYECO V rendered it extremely difficult and impossible to timely recover and plan.

14. All things considered, LEYECO V lost roughly **two (2) years** to conduct its CSP. If LEYECO V had the opportunity to devote its resources during this period for its intended CSP through FRECOR 8, it would have been able to source its power requirements.

15. For context, FRECOR 8 was constrained to resume the conduct of the CSP for the power requirements of all ECs in Region VIII **only on January 2022**, with some of the effects of the above-described events still lingering. From that point until this date, LEYECO V (through FRECOR 8) has continuously, incessantly, and persistently done all that can be expected to finish the conduct of its CSP, which unfortunately for reasons outside of its control it could not do so.

16. Therefore, the incidents discussed above clearly constitute Force Majeure and/or Fortuitous Events which allowed LEYECO V to procure Emergency Power without undergoing a CSP.

17. In fact, from January 2022 to this day, LEYECO V (through FRECOR 8) had already done the following in relation to its intended CSP:

<b>DATE</b>	<b>EVENT/ACTIVITY RELATIVE TO THE INTENDED CSP</b>
12 January 2022	FRECOR 8 member electric cooperatives (including LEYECO V) conduct their first meeting in relation to their intended CSP.
8-9 February 2022	FRECOR 8 member electric cooperatives (including LEYECO V) finalize the relevant Plant Cost Data, Demand Allocation, and Transaction Schedule relevant to the conduct of the intended CSP.
21-24 February 2022	FRECOR 8 starts preparing its Instruction to Bidders ("ITB") and Terms of Reference ("TOR"), among others, for its intended CSP.
15 February 2022	FRECOR 8 member electric cooperatives (including LEYECO V) jointly sign the <i>Memorandum of Agreement</i> for the conduct of the CSP for their collective demand



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DATE	EVENT/ACTIVITY RELATIVE TO THE INTENDED CSP
18 March 2022	FRECOR 8 member electric cooperatives (including LEYECO V) sign the <i>Memorandum of Agreement</i> for the aggregation of their collective demand (the “ <i>Aggregation MOA</i> ”). <b>On the same day</b> , FRECOR 8 submits to the DOE the relevant EVOSS application, the respective Board Resolutions from the FRECOR 8 member electric cooperatives, and the <i>Aggregation MOA</i> .
25 April 2022	The DOE approves FRECOR 8’s Third Party Bids and Awards Committee (“TPBAC”) Selection Process for its intended CSP.
6-10 June 2022	FRECOR 8, <i>after initial drafting, revision in coordination with the NEA</i> , submit its ITB and TOR for its intended CSP (pending approval of FRECOR 8’s member electric cooperatives’ respective PSPPs for the year 2022).
14 November 2022	FRECOR 8 receive a reply from the NEA in reply to its submitted TOR ( <b>which it has, at this point, submitted four [4] times after revisions</b> ) ask for FRECOR 8’s final Demand Requirement for the intended CSP.
15 November 2022	FRECOR 8 transmits to the NEA its final demand requirement for its intended CSP.
19 December 2022	FRECOR 8 sends a follow-up letter to the NEA.
10 February 2022	FRECOR 8 receives the NEA’s comments on its submitted TOR.
27 February 2023	FRECOR 8 submits its Technical Working Group’s (“TWG”) revised TOR based on the NEA’s recommendations.
7 March 2023	FRECOR 8 presents its TOR to the DOE.
8-9 March 2023	FRECOR 8 meets with the NEA to discuss its TOR, as well as to discuss FRECOR 8’s member electric cooperatives’ respective 2023 PSPPs.
15 March 2023	The NEA endorses the FRECOR 8’s member electric cooperatives’ respective 2023 PSPPs to the DOE.
26 March 2023	FRECOR 8 submits to the NEA the revised ITB and TOR.
2 May 2023	The DOE approves and posts all of FRECOR 8’s member electric cooperatives’ respective 2023 PSPPs (since 15 March 2023). <b>On the same day</b> , FRECOR 8 submits to the NEA the TOR and ITB after the DOE’s approval of the relevant Distribution Development Plan (“DDP”) and PSPP.
10 May 2023	FRECOR 8 receives the NEA’s comments on its recently submitted TOR.

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<b>DATE</b>	<b>EVENT/ACTIVITY RELATIVE TO THE INTENDED CSP</b>
12 May 2023	FRECOR 8 replies to the NEA regarding the latter's most recent comments on its TOR.
17 May 2023	FRECOR 8 attends an online meeting with the NEA for clarification of the latter's comments on the former's TOR.
18 May 2023	FRECOR 8 submits its revised TOR based on its meeting with the NEA <i>the day prior</i> .
25 May 2023	FRECOR 8 follows up with the NEA on its submitted TOR.
5 June 2023	NEA endorses FRECOR 8's TOR to the DOE.
6 June 2023	FRECOR 8 submits to the NEA its intended Invitation to Bid.
24 July 2023 to 4 August 2023	FRECOR 8 <i>finally</i> is able to conduct, and in fact conducts, its intended CSP which includes, among others, the following incidents: <i>(i)</i> posting of the Invitation to Bid in the DOE's CSP portal and NEA website; <i>(ii)</i> publication of the Invitation to Bid and the TOR; <i>(iii)</i> acceptance of letters of intent and bid participation fees; <i>(iv)</i> second publication; <i>(v)</i> issuance of bidding documents; and <i>(vi)</i> the conduct of the first (1 <sup>st</sup> ) Pre-Bid Conference.

18. LEYECO V was constrained to enter into two (2) separate EPSAs with Energy Development Corporation and Korea Electric Power Corporation for 2 MW and 7 MW contracted capacity, respectively, while FRECOR 8 conducted its CSP. These two (2) EPSAs would expire, and have since expired, on 25 August 2023.

19. Foreseeing that its intended CSP would not be concluded by 25 August 2023, LEYECO V entered into negotiations with FDCMPC for emergency power supply, and eventually executed the LEYECO V-FDCMPC EPSA subject of the instant Joint Application.

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

20. **LEYECO V Power Situation.** LEYECO V's peak demand for its Franchise Area is 49.77 MW for 2023 to 2024 as provided in its Supply-Demand Scenario.<sup>27</sup>

<sup>27</sup> See Annex "M" of the Joint Application.

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21. **Generation Facility.** The power to be provided to LEYECO V 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 baseload power to LEYECO V under the terms stipulated in the *LEYECO V-FDCMPC EPSA*.

22. **Salient Features of the EPSA.**

22.1. Term: The Term of the EPSA shall be one (1) year from delivery date, or 26 August 2023 to 25 August 2024.

22.2. Contract Type: Firm

22.3. Installed Capacity of the Power Plant: 405MW

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

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

	<b>FIRM</b>
Contracted Demand	9,000 kW
Contracted Energy (Annual)	78,840,000 kWh
Customer Load Factor Per Interval	at least 70%
Delivery Point	Plant Gate of the Power Plant
Voltage at the Plant Gate	138 kV

22.6. Outage Allowance:

Planned	15.4 days or 369.6 hours
Unplanned	16.9 days or 405.6 hours

It is LEYECO V's obligation to procure Replacement Power, at its own costs, during outage within the Outage Allowance. While FDCMPC shall exert best efforts to procure Replacement Power beyond the Outage Allowance.

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22.7. Billing and Settlement: FDCMPC shall provide a monthly Power Bill to LEYECO V that shall contain the volume of energy, and the amount of money (in Philippine Peso) due and payable by LEYECO V 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.

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

22.9. Prompt Payment Discount: FDCMPC shall grant a Prompt Payment Discount, provided that:

- (i) Payment is made on or before 11:00 am of the tenth (10th) day of the Payment Month; and
- (ii) LEYECO V has not incurred any delay in the payment of its bills for the past six (6) Payment Months.

The Prompt Payment Discount shall be applied in the immediately succeeding billing.

22.10. 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), Php/kW/month	452.09	0.6193	Contract Demand in kW
Variable O&M (VOM), Php/kWh		0.1907	Actual energy consumed in kWh or 70% of LF in kWh, whichever is higher

**Joint Application (LEYECO V-FDCMPC EPSA 9MWs)**

Fuel Cost (FC), Php/kWh	pass-through	Actual energy consumed in kWh
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**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 kg/kWh  
 0.75, 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

23. **Estimated Rate Impact.** The indicative rate impact on LEYECO V's overall generation rate with and without the additional supply from FDCMPC is as follows:<sup>28</sup>

**Generation Rate Impact of EPSA**

<sup>28</sup> See Annex "KK" of the Joint Application.

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(Weighted Average Rate)	
With FDCMPC	PhP 6.3354/kWh
Without FDCMPC	PhP 6.5934/kWh
Rate Impact	(PhP 0.2580/kWh)

24. **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>29</sup>

25. **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>30</sup>

26. **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>31</sup>

27. **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>32</sup>

28. **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. Finally, on 15 June 2023, the Honorable Commission issued a *Certification* that the PAO for the Power Plant is currently being evaluated. This *Certification* is valid for six (6) months from 15 June 2023 or until the resolution of its COC renewal application, whichever comes earlier.<sup>33</sup>

29. **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

<sup>29</sup> See Annex “I” of the *Joint Application*.

<sup>30</sup> See Annex “H” of the *Joint Application*.

<sup>31</sup> See Annexes “X” and “Y” of the *Joint Application*.

<sup>32</sup> See Annex “K” of the *Joint Application*.

<sup>33</sup> See Annexes “J” to “J-2” of the *Joint Application*.

**Joint Application (LEYECO V-FDCMPC EPSA 9MWs)**

through the National Grid Corporation of the Philippines' Villanueva Substation.

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

<b>Annex</b>	<b>Documents/Information</b>
<b>"A"</b>	LEYECO V-FDCMPC EPSA
<b>"B"</b> <b>"B-1"</b>	LEYECO V Articles of Incorporation and LEYECO V By-Laws
<b>"C"</b>	LEYECO V Certificate of Franchise
<b>"D"</b>	LEYECO V NEA Certificate of Registration of Articles of Incorporation
<b>"E"</b>	Verified Certification of LEYECO V List 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 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>	FDCMPC ERC COC No. 17-05-M-00108M; FDCMPC PAO valid until 16 October 2022; and FDCMPC PAO Certificate of Filing dated 15 June 2023
<b>"K"</b>	FDCMPC DOE Certificate of Endorsement

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<b>“L”</b> <b>“L-1”</b>	LEYECO V Power Supply Procurement Plan and LEYECO V Distribution Development Plan
<b>“M”</b>	LEYECO V Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, and Average Daily Load Curve
<b>“N”</b>	LEYECO V Single-line Diagram Connection
<b>“O”</b>	LEYECO V Performance Assessment
<b>“P”</b>	LEYECO V Potential for Load Reduction Due to Retail Competition
<b>“Q”and series</b>	LEYECO V Solicitation Letters to Generation Companies
<b>“R”</b>	FDCMPC Samuel R. Lamorena Verified Certification
<b>“S”</b> <b>“S-1”</b>	FDCMPC Transmission Service Agreement and FDCMPC Metering Services Agreement
<b>“T”</b>	LEYECO V-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; and FDCMPC Financial Model, Project Costs, and Breakdown of Costs
<b>“W”</b>	FDCMPC Cash Flow
<b>“X”</b> <b>“X-1”</b>	FDCMPC Fuel Supply Procurement Process and FDCMPC Certification on Spot Fuel Agreement
<b>“Y”</b>	FDCMPC Sworn Statement on Fuel Concerns
<b>“Z”</b>	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity;



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<b>"Z-1"</b>	FDCMPC Engineering, Procurement, and Construction Contract Certification; and
<b>"Z-2"</b>	FDCMPC Simulation of Operating Units to Meet Minimum Energy Off-Take
<b>"AA"</b>	FDCMPC 2022 Audited Financial Statements
<b>"BB"</b>	FDCMPC WESM Registration and
<b>"BB-1"</b>	LEYECO V WESM Registration
<b>"CC"</b>	FDCMPC Affidavit in Support of Prayer for Provisional Authority and
<b>"CC-1"</b>	LEYECO V Affidavit in Support of Prayer for Provisional Authority
<b>"DD"</b>	LEYECO V Board Resolution No. 101 series of 2023
<b>"EE"</b>	FDCMPC Secretary's Certificate
<b>"FF" and series</b>	LGU Certifications/ Affidavits of Service
<b>"GG"</b>	Affidavit of Publication
<b>"HH"</b>	ERC Advisory dated 07 June 2023
<b>"II"</b>	ERC Advisory dated 23 June 2023
<b>"JJ"</b>	Explanation for Non-Applicability of Documents
<b>"KK"</b>	Estimated Rate Impact

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

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

32. Under Sections 2.3 and 2.3.5 of DOE 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.

32.1. In an Advisory dated 31 August 2023, the DOE directed that "[a]ll EPSAs intended to be executed before the effectivity of the ERC Guidelines pursuant to DC No. DC2023-06-0021 shall be directly

**Joint Application (LEYECO V-FDCMPC EPSA 9MWs)**

filed with the ERC for its approval... ." To date, the Honorable Commission has not yet issued its CSP guidelines pursuant to DC No. DC2023-06-0021.

32.2. As exhaustively discussed above, the Force Majeure Events prompting LEYECO V to enter into an EPSA falls within the definitions found in Sections 3.7<sup>34</sup> and 3.8<sup>35</sup> of DOE DC2023-06-0021. Thus, pursuant to Section 2.3.5 of DOE DC2023-06-0021, LEYECO V can validly enter into an EPSA with FDCMPC *sans* the conduct of the CSP.

33. Moreover, in an *Advisory* dated 07 June 2023,<sup>36</sup> as amended by another *Advisory* dated 23 June 2023,<sup>37</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**

34. 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.

35. 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 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

<sup>34</sup> **Emergency Power** refers to the power required by the DU in the event that its actual power supply falls below its load demand due to Force Majeure or Fortuitous Events that are beyond the control of the DU, subject to the final determination by the ERC.

<sup>35</sup> **Force Majeure or Fortuitous Event** refers to any extraordinary event not foreseeable or avoidable, or to an event that could not be foreseen, or which, though foreseen, is inevitable and independent of human will or the DU's participation, whether by active intervention, neglect or failure to act.

This further refers to an event or circumstance generally caused: (1) by nature, such as, but not limited to, fires, floods, typhoons or other catastrophes, or acts of God; and/or (2) by the acts of man, such as, but not limited to, war, national emergencies, revolution, riot, insurrection, civil unrest, or any other similar violent or threatening actions.

<sup>36</sup> See Annex "HH" of the *Joint Application*.

<sup>37</sup> See Annex "II" of the *Joint Application*.

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<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

36. 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.

37. In the case *Air Philippines Corporation vs. Pennswell Inc.*,<sup>38</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 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

<sup>38</sup> G. R. No. 172835, 13 December 2007.

or specialized customer list. It is indubitable that trade secrets constitute proprietary rights.”

38. 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.

39. The interest of LEYECO V’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.

40. 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**

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

42. Consequently, LEYECO V was compelled to enter into the LEYECO V-FDCMPC EPSA to ensure an adequate power supply at a rate advantageous to its consumers. In order to ensure the sustainability of their operations, LEYECO V should be permitted to collect the rates, fees, and charges provided in the LEYECO V-FDCMPC EPSA from its customers, as accordingly charged by FDCMPC against LEYECO V pursuant to the same agreement. Any rate lower than the one specified in the LEYECO V-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.

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

**Joint Application (LEYECO V-FDCMPC EPSA 9MWs)**

44. The Affidavits of Juan Eugenio L. Roxas, President and CEO of FDCMPC, and Jannie Ann J. Dayandayan, General Manager of LEYECO V, 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".

45. 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 **LEYTE V ELECTRIC COOPERATIVE, INC.** and **FDC MISAMIS POWER CORPORATION** 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", and "Z-1" 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 LEYECO V-FDCMPC EPSA and allow LEYECO V 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 LEYECO V; and
4. After due notice and hearing, **ISSUE A DECISION** (i) approving the instant *Joint Application in toto* which will thereby allow/authorize LEYECO V 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 *LEYECO V-FDCMPC EPSA* be retroactively applied for the entire term of the EPSA.

**Joint Application (LEYECO V-FDCMPC EPSA 9MWs)**

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

Quezon City for Pasig City, 29 November 2023.

**ONGCHUAN JAVELOSA LAW OFFICES**

*Counsel for FDC Misamis Power Corporation and*

*Leyte V Electric Cooperative, Inc.*

3 Hilltop St., Horseshoe, Quezon City, 1112

Tel. No.: (02)77968273

By:



**MARY FELICIA B. ONGCHUAN**

Roll of Attorneys No. 65610

PTR No. 3481507 – 01/31/2023 – Quezon City

IBP No. 198452 – 01/11/2022 – Quezon City

MCLE Compliance No. VII-0030311 – 04/14/2025

E-mail: fbongchuan@ojlawoffices.com

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

**VERIFICATION AND CERTIFICATION**  
**AGAINST FORUM SHOPPING**

I, **JANNIE ANN J. DAYANDAYAN**, of legal age, Filipino, with office address at Brgy. San Pablo, Ormoc City, after having been duly sworn to in accordance with law, do hereby depose and state for Leyte V Electric Cooperative, Inc., that:

1. I am currently the General Manager of Leyte V Electric Cooperative, Inc. ("LEYECO V") 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 LEYECO V and FDC Misamis Power Corporation, 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 LEYECO V;
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 LEYECO V 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 LEYECO V 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 JUN 05 2024 Ormoc City.

  
JANNIE ANN J. DAYANDAYAN

*Affiant* *ja.* *mm*

SUBSCRIBED and SWORN TO before me this day of JUN 05 2024,  
with affiant having presented to me her PRC ID No. 0096842, issued at Tacloban City,  
valid until April 20, 2025, as competent and reliable evidence of his identity.

Doc No. 50;  
Page No. 10;  
Book No. 00;  
Series of 2024.

  
Atty. ARI G. LARRAZABAL

Notary Public for Leyte

Until December 31, 2024

Notarial Commission No. OPM-22-11-41-NC

PTR No. 7872773, 01/02/2024, Ormoc City

Roll No. 3267

IBP No. 654778, 01/18/00, Leyte

MCE Compliance No. V11-0016371, Apr.06, 2022

2<sup>nd</sup> Floor Modesta Bldg.

Ormoc City, Leyte, Philippines



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 Leyte V Electric Cooperative, Inc. ("LEYECO V") 9MW 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.

MAY 29 2024


IN WITNESS WHEREOF, I have hereunto affixed my signature this day  
of \_\_\_\_\_ at QUEZON CITY Metro Manila.

  
**JUAN EUGENIO L. ROXAS**  
*Affiant*

MAY 29 2024

**SUBSCRIBED and SWORN TO** before me this day of \_\_\_\_\_,  
with affiant having presented to me his Passport ID No. P007571B, issued at  
DFA Manila on December 20, 2018, valid until December 19, 2028, as  
competent and reliable evidence of his identity.

Doc. No. 154  
Page No. 3;  
Book No. XVIII  
Series of 2024.

  
**ATTY. FELIZARDO M. IBARRA**  
Notary Public for C.O. until Dec. 31, 2024  
ROLL No. 10035  
PTR No. 54501041 (Jan. 02, 2024/Q.C.)  
IBP No. 254784 (2022-2024) Q.C.  
MCLE Comp. No. VIII-0000373 (04/15/2022-04/14/2025)  
Admin Matter No. NP-223 (2023-2024)  
Quirino Highway, Brgy. Kaligayahan Q.C.