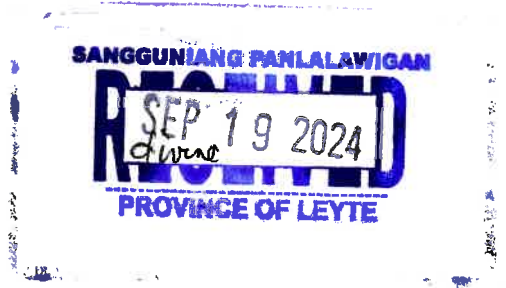


21

Item No.: 21
Date: 25 2024 SEP

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
JADE DRIVE, 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.

x-----x

JOINT PRE-TRIAL BRIEF

Applicants **ENERGY DEVELOPMENT CORPORATION (“EDC”) AND LEYTE V ELECTRIC COOPERATIVE, INC. (“LEYECO V”)**, by and through their respective undersigned counsel, and unto this Honorable Commission, respectfully submit the following Joint Pre-Trial Brief in connection with the above-captioned Application:

I.

PROPOSED STIPULATION OF FACTS

Applicants propose the following stipulations by the parties:

1. Applicant LEYECO V is an 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. It is the exclusive franchise holder to own and operate a system for the distribution of electricity in the Cities/Municipalities of Merida, Isabel, Palompon, Villaba, Tabango, San Isidro, Calubi-an, Leyte, Matag-ob, Kananga, Albuera, Ormoc City, all in the Province of Leyte.

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. It owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte.

3. LEYECO V is in immediate need of a 2MW contracted capacity for around one (1) year. 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.

4. 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.

5. 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”).

6. 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.

7. 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.

8. 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 V.

9. 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.

10. 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.

II.

ISSUES TO BE RESOLVED

- i. Whether the Honorable Commission should treat Annexes “**T**”, “**S**”, “**T**”, “**U**”, “**V**”, and “**W**” as confidential in perpetuity, directing their non-disclosure to persons other than the officers and staff of the Honorable Commission, perpetually protecting the said information from public disclosure by maintaining the same separate and apart from the records of the case, and ensuring that these are not divulged to unauthorized persons, pursuant to Rule 4 of its Rules of Practice and Procedure; and
- ii. Whether the Honorable Commission, after hearing on the merits, should approve the Joint Application and EPSA between EDC and LEYECO V, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the EPSA, and authorize LEYECO V to charge and collect such rates, fees, charges, and tariff adjustments therein from its customers reckoned from the start of the supply by EDC to LEYECO V under the EPSA.

III.

DOCUMENTS TO BE PRESENTED

11. Applicants will present the following documentary evidence as part of the testimonies of Applicants' witnesses, as evidence in support of the Joint Application, and for the purposes indicated below:

Joint presentation

EXH.	PARTICULARS	PURPOSE
A	Articles of Incorporation and By-laws of LEYECO V	To show the following: a) LEYECO V's legal personality and capacity in contracting the obligations under the EPSA; and b) Compliance with the ERC's documentary requirements in filing the Joint Application.
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 authorizing Emmanuel S. Arpon to sign the Verification and Certification of Non-forum Shopping	
B-2	Board Resolution authorizing counsel to file Application	
C-series	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws	To show the following: a) EDC's legal personality and capacity in contracting the obligations under the EPSA; and b) Compliance with the ERC's documentary requirements in filing the Joint Application.
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	To show the following: a) that EDC is a holder of Certificate of Registration from BOI for its Power Plant; and b) compliance with the ERC's documentary requirements in filing the Joint Application.

F	Environmental Compliance Certificate	To show the following: a) that the DENR issued an ECC for EDC's Power Plant; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
G-series	Certificate of Compliance or Provisional Authority to Operate	To show the following: a) that ERC issued a COC and/or PAO to EDC; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
H-series	DOE Certificates of Endorsement	To show the following: a) that DOE issued COE to EDC; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
I*	Renewable Energy Service Contracts	To show EDC's compliance with the ERC's documentary requirements in filing the Joint Application.
J	Certificate of Registration or Certificate of Commerciality	
K	Rate Impact	To show the following: a) the Rate Impact of the EPSA; and b) compliance with the ERC's documentary requirements in filing the Joint Application.

L	Single Line Diagram Connection	To show the following: a) LEYECO V's Single-Line Diagram Connection; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
M	Emergency Power Supply Agreement between LEYECO V and EDC	To show the following: a) the existence and due execution of the EPSA entered into by and between EDC and LEYECO V, and to prove the terms and conditions thereof; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
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	To show the following: a) that the DOE issued to LEYECO V a Certificate of Exemption exempting it from the conduct of the Competitive Selection Process for negotiated procurement of the EPSA with EDC; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
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	To show EDC's compliance with the ERC's documentary requirements in filing the Joint Application.

P	NGCP Certification on Service Agreements	To show the following: a) LEYECO V's Transmission Service Agreement with NGCP; b) compliance with the ERC's documentary requirements in filing the Joint Application.
Q	Write up on TSC	To show EDC's compliance with the ERC's documentary requirements in filing the Joint Application.
Q-1	NGCP Certificate of Adequate Capacity	
R	Executive Summary of EPSA	To show the following: a) summary of the terms of the EPSA between EDC and LEYECO V; b) compliance with the ERC's documentary requirements in filing the Joint Application.
S*	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses	To show the following: a) EDC's sources of funds, generation rate and derivation, cash flow, and procurement process; and relevant technical and economic characteristics of generation capacity installed capacity, dependable capacity, and outages; b) support the Payment Structure of the PSA; and c) compliance with the ERC's documentary requirements in filing the Joint Application.
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	To show the following: a) LEYECO V's Supply and Estimation of Potential for Reduction in Load; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
Y	Estimation of Potential for Reduction in Load	
Z	Latest Audited Financial Statements	To show the following: a) EDC's latest audited financial statements; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
AA	Certification of net heat rate	To show the following: a) EDC's net heat rate; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
B	WESM Registration	To show the following: a) EDC's and LEYECO V's WESM Registration; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
CC	Write-up on non-applicable items	To show the following: a) that

CC-1	LEYECO V Write-up on Demand Side Management	certain documentary requirements are not applicable in the instant Joint Application; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
CC-2	EDC Sample OR	To show EDC's compliance with the ERC's documentary requirements in filing the Joint Application.
DD	Water Permits from NWRB	To show the following: a) EDC's Water Permit from the NWRB; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
EE	LEYECO V's Reliability Indices	To show EDC's compliance with the ERC's documentary requirements in filing the Joint Application.
FF	PSPP and DDP	To show the following: a) LEYECO V's PSPP and DDP; and b) compliance with the ERC's documentary requirements in filing the Joint Application.
GG to GG-3	Affidavits of Service or Certifications issued by the Sanggunian and Office of the Mayor of Ormoc City and the Sanggunian and Office of the Governor of Leyte showing receipt of the Application and its annexes	To show compliance with ERC's pre-filing requirements

HH	Certification from the Office of the Mayor of Pasig City showing receipt of the Application and its annexes	-same-
HH-1	Certification from the Sangguniang Panlungsod of Pasig City showing receipt of the Application and its annexes	
HH-2	Certification from the Office of the Mayor of Kananga showing receipt of the Application and its annexes	
HH-3	Certification from the Sangguniang Bayan of Kananga showing receipt of the Application and its annexes	
II	Affidavit of Publication showing that the Application was published in 1 January 2024 issue of The Manila Times	To show, among others, compliance with the Order dated 1 July 2024, particularly the jurisdictional requirements
JJ	Complete copy of the 1 January 2024 issue of The Manila Times	
KK	Affidavit of Publication showing that the Notice of Virtual Hearing dated 1 July 2024 was published in the July 10, 2024 and July 18, 2024 issues of "Business Mirror"	
LL	Complete Copy of the July 10, 2024 issue of "Business Mirror"	
LL-1	The Notice of Virtual Hearing appearing in the July 10, 2024 issue of "Business Mirror"	
MM	Complete Copy of the July 18, 2024 issue of "Business Mirror"	
MM-1	The Notice of Virtual Hearing appearing in the July 18, 2024 issue of "Business Mirror"	
NN	Affidavit of Publication showing that the Notice of Virtual Hearing dated 1 July 2024 was published in the July 10, 2024 and July 18, 2024 issues of "The Manila Times"	

OO	Complete Copy of the July 10, 2024 issue of "The Manila Times"	-same-
OO-1	The Notice of Virtual Hearing appearing in the July 10, 2024 issue of "The Manila Times"	
PP	Complete Copy of the July 18, 2024 issue of "The Manila Times"	
PP-1	The Notice of Virtual Hearing appearing in the July 18, 2024 issue of "The Manila Times"	
QQ	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated 1 July 2024 with a request for posting on their respective bulletins board were sent to the Office of the Governor and Sangguniang Panlalawigan of Leyte, and Office of the Mayor and Sanggunian of Albuera, Calubi-an, Isabel, Kananga, Leyte, Matag-ob, Merida, Ormoc City, Palompon, San Isidro, Tabango, and Villaba	
RR	Certification from Office of the Governor of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the provincial bulletin board of the Province of Leyte	
SS	Certification from Sangguniang Panlalawigan of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of the Province of Leyte	
TT	Certification from Office of the Mayor of Albuera showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Albuera	

UU	Certification from Sangguniang Bayan of Albuera showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Albuera	-same-
VV	Certification from Office of the Mayor of Calubi-an showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Calubi-an	
WW	Certification from Sangguniang Bayan of Calubi-an showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Calubi-an	
XX	Certification from Office of the Mayor of Isabel showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Isabel	
YY	Certification from Sangguniang Bayan of Isabel showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Isabel	
ZZ	Certification from Office of the Mayor of Kananga showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Kananga	
AAA	Certification from Sangguniang Bayan of Kananga showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Kananga	

BBB	Certification from Office of the Mayor of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Leyte	-same-
CCC	Certification from Sangguniang Bayan of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Leyte	
DDD	Certification from Office of the Mayor of Matag-ob showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Matag-ob	
EEE	Certification from Sangguniang Bayan of Matag-ob showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Matag-ob	
FFF	Certification from Office of the Mayor of Merida showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Merida	
GGG	Certification from Sangguniang Bayan of Merida showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Merida	
HHH	Certification from Office of the Mayor of Ormoc showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the city bulletin board of Ormoc	

III	Certification from Sangguniang Bayan of Ormoc showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Ormoc	-same-
JJJ	Certification from Office of the Mayor of Palompon showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Palompon	
KKK	Certification from Sangguniang Bayan of Palompon showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Palompon	
LLL	Certification from Office of the Mayor of San Isidro showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of San Isidro	
MMM	Certification from Sangguniang Bayan of San Isidro showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of San Isidro	
NNN	Certification from Office of the Mayor of Tabango showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Tabango	
OOO	Certification from Sangguniang Bayan of Tabango showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Tabango	

PPP	Certification from Office of the Mayor of Villaba showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Villaba	
QQQ	Certification from Sangguniang Bayan of Villaba showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Villaba	
RRR	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated 1 July 2024 with a request for posting on their respective bulletins board were sent to the Office of the Mayor and the Sangguniang Panlungsod of Pasig City	-same-
SSS	Certification from the Office of the Mayor of Pasig City showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the city bulletin board of Pasig City	
TTT	Certification from the Sangguniang Panlungsod of Pasig City showing that the Order and Notice of Virtual Hearing dated 1 July was posted on the sangguniang bulletin board of Pasig City	
UUU	Affidavit of Posting from LEYECO V showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted at the company's website and/or Facebook page To show a) compliance with the Order dated 1 July 2024; and b) the other means undertaken by the Applicants EDC and LEYECO V to inform their consumers within their franchise area/area of the Joint Application, its reasons for filing, and the scheduled hearings.	-same-

<p>VVV</p>	<p>Affidavit of Posting from EDC showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted at the company's website and Facebook page</p>	
<p>WWW to WWW-3</p>	<p>Letters showing that a complete copy of the Application and the Order and Notice of Virtual Hearing dated 1 July 2024 were sent to and duly received by:</p> <ul style="list-style-type: none"> a) Office of the Solicitor General; b) Commission on Audit; c) Committee on Energy, House of Representatives; and d) Committee on Energy, Senate of the Philippines 	<p>To show a) compliance with the Order dated 1 July 2024; and b) that the i) Office of the Solicitor General; ii) Commission on Audit; iii) Committee on Energy of the House of Representatives; and iv) Committee on Energy of the Senate of the Philippines received a complete copy of the Application and the Order and Notice of Virtual Hearing dated 1 July 2024</p>
<p>XXX</p>	<p>Affidavit of Posting from LEYECO V showing that the Order and Notice of Virtual hearing dated 1 July 2024 and corresponding jurisdictional requirements were posted at the company's bulletin board</p>	<p>To show a) compliance with the Order dated 1 July 2024; and b) the other means undertaken by the Applicants EDC and LEYECO V to</p>
<p>YYY</p>	<p>Affidavit of Posting from EDC showing that the Order and Notice of Virtual Hearing dated 1 July 2024, along with all jurisdictional requirements, were posted at the company's bulletin board</p>	<p>inform their consumers within their franchise area/area of the Joint Application, its reasons for filing, and the scheduled hearings.</p>

ZZZ	<p>Judicial Affidavit of Roel C. Cabillo</p>	<p>The testimony of the witness is being offered for the following purposes: to prove that -</p> <ul style="list-style-type: none"> a) He is an employee of LEYECO V; b) He is the Power Supply and Energy Trading Section Head of LEYECO V; c) He will testify on the circumstances that lead to the emergency power situation and justification thereof for the issuance of the Certificate of Exemption by the DOE; d) The existence and details of the EPSA executed between LEYECO V and EDC on 7 November 2022; e) The necessity and approval of the EPSA to ensure continuous and reliable electricity for LEYECO V's member-consumer-owners (MCOs) during the said emergency power situation; f) The correctness and accuracy of the EPSA rate impact;
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		<p>g) LEYECO V's compliance with DOE DC2021-09-0030 ("DOE CSP Rules") particularly on the negotiated procurement of emergency power supply;</p> <p>h) He will testify that Board President Emmanuel S. Arpon was duly authorized by the Board of Directors of LEYECO V to file the instant application with the ERC;</p> <p>i) He caused the compliances to the jurisdictional requirements of the ERC;</p> <p>j) The witness will identify documents and testify on such other matters relevant and pertinent to this Joint Application;</p>
ZZZ-1	Signature of Roel C. Cabillo	To authenticate Exhibit "ZZZ"

<p style="text-align: center;">ZZZ-2</p>	<p>Judicial Affidavit of Atty. Jannie Ann J. Dayandayan, CPA</p>	<p>The testimony of the witness is being offered for the following purposes: to prove that -</p> <ul style="list-style-type: none"> a) She is the General Manager of LEYECO V; b) Board President Emmanuel S. Arpon was authorized by the Board of Directors of LEYECO V to file the instant Application for Approval of the EPSA between LEYECO V and EDC; c) The allegations in the application for approval of the EPSA between LEYECO V and EDC; d) The necessity and approval of the EPSA to ensure continuous and reliable electricity for LEYECO V's member-consumer-owners (MCOs) during the said emergency power situation; e) She caused the compliances to the jurisdictional requirements of the ERC; f) The witness will identify documents and
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		testify on such other matters relevant and pertinent to this Joint Application;
ZZZ-3	Signature of Atty. Jannie Ann J. Dayandayan, CPA	To authenticate Exhibit "ZZZ-2"

<p style="text-align: center;">AAAA</p>	<p>Judicial Affidavit of Mr. Bryan C. Carbajal</p>	<p>The testimony of the witness is being offered for the following purposes:</p> <ul style="list-style-type: none"> a) To testify on the allegations made in the Application, and that he participated in the preparation of the Application and some of the supporting documents; b) To identify the documentary evidence mentioned in his Affidavit in support of the Application; and c) To testify on the i) terms and conditions of the Emergency Power Supply Agreement (“EPSA”) entered into on 7 November 2022, and Amendment Agreement to the EPSA on 24 August 2023; ii) the basis of the tariff/fees under the EPSA and how they are computed; iii) the technical specifications of the power plant.
<p>AAAA-1</p>	<p>Signature of Mr. Bryan C. Carbajal</p>	<p>To authenticate Exhibit “AAAA”</p>

BBBB and BBBB-1	Hard copy of the expository presentations of EDC and LEYECO V	To a) show Compliance with the Order dated 1 July 2024 and b) explain in simple terms to the Applicant's consumers and other concerned parties what the Application is all about
CCCC and CCCC-1	Soft copy of the expository presentations of EDC and LEYECO V	

12. Applicants respectfully reserve the right to present additional documents, exhibits as shall become available for the purposes stated herein and/or for such other purposes necessary or proper in the course of trial or as the exigencies of the proceedings may require.

IV.

WITNESSES TO BE PRESENTED

A. Witness: Bryan C. Carbajal
Power Marketing Officer
First Gen Energy Solutions – Affiliate of EDC

Gist of Testimony

1. To testify on the allegations made in the Application, and that he participated in the preparation of the Application and some of the supporting documents;
2. To identify the documentary evidence mentioned in his Affidavit in support of the Application; and
3. To testify on the i) terms and conditions of the Emergency Power Supply Agreement (“EPSA”) entered into on November 7, 2022 and the Amendment Agreement to the EPSA on 24 August 2023; ii) the basis of the tariff/fees under the EPSA and how they are computed; iii) the technical specifications of the power plant.

B. Witness: Roel C. Cabillo
Power Supply and Energy Trading Section Head
LEYECO V

Gist of Testimony

1. To prove that:

- a. He is an employee of LEYECO V;
- b. He is the Power Supply and Energy Trading Section Head of LEYECO V;
- c. He will testify on the circumstances that lead to the emergency power situation and justification thereof for the issuance of the Certificate of Exemption by the DOE;
- d. The existence and details of the EPSA executed between LEYECO V and EDC on 7 November 2022;
- e. The necessity and approval of the EPSA to ensure continuous and reliable electricity for LEYECO V's member-consumer-owners (MCOs) during the said emergency power situation;
- f. The correctness and accuracy of the EPSA rate impact;
- g. LEYECO V's compliance with DOE DC2021-09-0030 ("DOE CSP Rules") particularly on the negotiated procurement of emergency power supply;
- h. He will testify that Board President Emmanuel S. Arpon was duly authorized by the Board of Directors of LEYECO V to file the instant application with the ERC;
- i. He caused the compliances to the jurisdictional requirements of the ERC;
- j. The witness will identify documents and testify on such other matters relevant and pertinent to this Joint Application;

C. Witness: Atty. Jannie Ann J. Dayandayan, CPA
General Manager
LEYECO V

Gist of Testimony

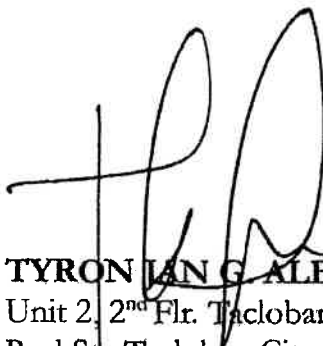
1. To prove that –

- a. She is the General Manager of LEYECO V;
- b. Board President Emmanuel S. Arpon was authorized by the Board of Directors of LEYECO V to file the instant Application for Approval of the EPSA between LEYECO V and EDC;
- c. The allegations in the application for approval of the EPSA between LEYECO V and EDC;
- d. The necessity and approval of the EPSA to ensure continuous and reliable electricity for LEYECO V's member-consumer-owners (MCOs) during the said emergency power situation;
- e. She caused the compliances to the jurisdictional requirements of the ERC;
- f. The witness will identify documents and testify on such other matters relevant and pertinent to this Joint Application;

RESPECTFULLY SUBMITTED.

Ormoc City and Pasig City for Pasig City, 7 August 2024.

Counsels for LEYECO V:



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Real St., Tacloban City 6500

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Email Address: attyteejalbao@gmail.com

Roll of Attorneys No. 66859

PTR No. 8949295 / 01-31-2024; Tac. City

IBP No. 432943 / 01-29-2024; Leyte Chapter

MCLE Compliance No. VII-0002803

Valid until 14 April 2025



PETER JOVEN Y. DE OÑO

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PTR No. 8481676 / 01-04-24; Tacloban City

IBP No. 398294 / 01-04-24; Leyte Chapter


MCLE Compliance No. VII-0001147


Valid until 14 April 2025

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ercfilings@qmlaw.com.ph

By:

MIGUEL K. MATHAY
ROLL OF ATTORNEYS NO. 43982
MCLE COMPLIANCE NO. VI-0010308; 4/14/2022
PTR NO. 0173785; 01/02/2024
PASIG CITY
IBP NO. 302181; 01/08/2024
RIZAL (RSM)


GIANNA MARIA C. COMSTI
ROLL OF ATTORNEYS NO. 63071
MCLE COMPLIANCE NO. VII-0015472; 4/14/2025
PTR NO. 0173730; 01/02/2024
PASIG CITY
IBP NO. 302158; 01/08/2024
RIZAL (RSM)


JOSE ANTONIO S. REYES
ROLL OF ATTORNEYS NO. 62581
MCLE COMPLIANCE NO. VII-0011907; 4/14/2025
PTR NO. 0173734; 01/02/2024
PASIG CITY
IBP Lifetime No. 011794; RSM

MERVIN KIM P. CAPILA
ROLL OF ATTORNEYS NO. 79616
ADMITTED TO THE BAR ON MAY 17, 2022
PTR NO. 0173779; 01/02/2024
PASIG CITY
IBP NO. 302162; 01/08/2024
QUEZON

EXPLANATION

Due to the volume of pleadings, motions and other correspondence filed/sent by the Firm daily, the Firm is constrained to cause the service of the copy of the foregoing pleading to the other parties by registered mail and/or electronic mail instead of by personal service.


JOSE ANTONIO S. REYES

Copy furnished:

Office of the Solicitor General (OSG)

134 Amorsolo Street, Legaspi Village
1229 City of Makati
docket@osg.gov.ph

Commission on Audit (COA)

Commonwealth Avenue
1121 Quezon City
citizensdesk@coa.gov.ph

Senate Committee on Energy

GSIS Building, Roxas Boulevard
1300 Pasay City
senateenergycommittee@gmail.com

House of Representatives Committee on Energy

Batasan Hills, 1126 Quezon City
committee.energy@house.gov.ph

Office of the Governor

Province of Leyte 6500

Office of the LGU Legislative Body

Province of Leyte 6500

Office of the Mayor

Albuera, 6542 Leyte

Office of the LGU Legislative Body

Albuera, 6542 Leyte

Office of the Mayor

Calubi-an, 6534 Leyte

Office of the LGU Legislative Body

Calubi-an, 6534 Leyte

Office of the Mayor

Isabel, 6539 Leyte

Office of the LGU Legislative Body

Isabel, 6539 Leyte

Office of the Mayor

Kananga, 6531 Leyte

Office of the LGU Legislative Body

Kananga, 6531 Leyte

Office of the Mayor

Leyte, 6533 Leyte

Office of the LGU Legislative Body

Leyte, 6533 Leyte

Office of the Mayor

Matag-ob, 6532 Leyte

Office of the LGU Legislative Body

Matag-ob, 6532 Leyte

Office of the Mayor

Merida, 6540 Leyte

Office of the LGU Legislative Body

Merida, 6540 Leyte

Office of the Mayor

Ormoc City, 6541 Leyte

Office of the LGU Legislative Body

Ormoc City, 6541 Leyte

Office of the Mayor

Palompon, 6538 Leyte

Office of the LGU Legislative Body

Palompon, 6538 Leyte

Office of the Mayor

San Isidro, 6535 Leyte

Office of the LGU Legislative Body

San Isidro, 6535 Leyte

Office of the Mayor
Tabango, 6536 Leyte

Office of the LGU Legislative Body
Tabango, 6536 Leyte

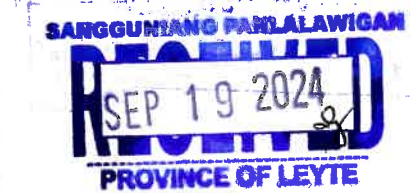
Office of the Mayor
Villaba, 6537 Leyte

Office of the LGU Legislative Body
Villaba, 6537 Leyte

Regulatory Operations Service
Energy Regulatory Commission,
14th Floor, Exquadra Tower
Jade Drive, 1600 Pasig City

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
JADE DRIVE, 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.

x-----x

**JUDICIAL AFFIDAVIT OF
BRYAN C. CARBAJAL**

The following is the testimony of **BRYAN C. CARBAJAL**, of legal age, Filipino, with office address at 7/F TGU Tower, Cebu I.T. Park, Lahug, Cebu City 6000.

Atty. Mervin Kim P. Capila, of legal age, Filipino, with office address at 21st Floor Robinsons-Equitable Tower, 4 ADB Avenue, Ortigas Center, Pasig City, conducted and supervised the examination of the witness through remote communication.

Atty. Capila made clear to me that I am answering the questions under oath and that I may face criminal liability for false testimony or perjury.

Offer of Testimony: The testimony of the witness is being offered for the following purposes:

1. To testify on the allegations made in the Application, and that he participated in the preparation of the Application and some of the supporting documents;
2. To identify the documentary evidence mentioned in his Affidavit in support of the Application; and
3. To testify on the i) terms and conditions of the Emergency Power Supply Agreement ("EPSA") entered into on 7 November 2022 and

the Amendment Agreement to the EPSA on 24 August 2023; ii) the basis of the tariff/fees under the EPSA and how they are computed; iii) the technical specifications of the power plant.

Testimony of BRYAN C. CARBAJAL

I, Bryan C. Carbajal, of legal age, Filipino, with office address at 7/F TGU Tower, Cebu I.T. Park, Lahug, Cebu City 6000, after having been duly sworn in accordance with law, hereby depose and state: That –

1. Q: Please state your name and personal circumstances.

A: My name is Bryan C. Carbajal. I am of legal age, Filipino, and with office address at 7/F TGU Tower, Cebu I.T. Park, Lahug, Cebu City 6000. I am the Power Marketing Officer of First Gen Energy Solutions (“FGES”), an affiliate of Applicant Energy Development Corporation.

2. Q: As Power Marketing Officer, what are your duties and responsibilities?

A: As Power Marketing Officer, my duties and responsibilities involve, among others, marketing and contracting of the capacity of power plants of the affiliates of FGES under the First Gen portfolio – including EDC’s power generation units -- to offtakers, by participating and preparing bid offers in the Competitive Selection Process of Distribution Utilities for their energy supply, as well as the negotiation, execution and implementation of the power supply agreements with said offtakers.

3. Q: Are you aware of ERC Case No. 2024-045 RC, 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”, where EDC is one of the Applicants?

A: Yes.

4. Q: Why are you aware of the Application?

A: I was involved in the preparation of the EPSA that was entered into on 7 November 2022, which is the subject matter of the Application. I was also involved in the preparation of the Amendment Agreement to the EPSA on 24 August 2023

I also participated in the preparation and/or review of the Application and some of its supporting documents that EDC supplied in connection with the Application.

5. Q: What are the salient terms of the EPSA?

- A: The salient features of the EPSA, which are in conformity with the Certificate of Exemption issued by the Department of Energy (“DOE”), are as follows:
- 1.1 **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.
 - 1.2 **Purchase of Electricity** – LEYECO V is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
 - 1.3 **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.
 - 1.4 **Electricity Fees** – Electricity fees shall refer to 5.8798 PhP/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by LEYECO V.
6. Q: Could you also enumerate the various supporting documents that were submitted as part of the Application that were supplied by EDC?
- A: The following documents were supplied by EDC from its records and attached to the Application:

ANNEX	DOCUMENTS
C-series	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws
C-1	Latest Amended Articles of Incorporation of EDC
C-2	Latest Amended By-laws of EDC
D	General Information Sheet of EDC
D-1	Secretary's Certificate of EDC
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificate of Compliance or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement
I*	Renewable Energy Service Contract
J	Certificate of Registration or Certificate of Commerciality
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
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

Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-2	EDC Sample OR
DD	Water Permit from NWRB
HH	Certification from the Office of the Mayor of Pasig City showing receipt of the Application and its annexes
HH-1	Certification from the Sangguniang Panlungsod of Pasig City showing receipt of the Application and its annexes
HH-2	Certification from the Office of the Mayor of Kananga showing receipt of the Application and its annexes
HH-3	Certification from the Sangguniang Bayan of Kananga showing receipt of the Application and its annexes
II	Affidavit of Publication showing that the Application was published in 1 January 2024 issue of The Manila Times
JJ	Complete copy of the 1 January 2024 issue of The Manila Times

7. Q: If you are shown the above-mentioned documents, will you be able to identify them?

A: Yes.

8. Q: I am showing you the above-mentioned documents, as attached to and submitted with the Joint Application, marked as marked above. Are these the same documents to which you were referring?

A: These are the same documents.

9. Q: Do you attest to the truth and veracity of your statements in this Judicial Affidavit?

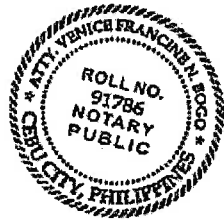
A: Yes, I do.


FURTHER AFFIANT SAYETH NAUGHT.


BRYAN C. CARBAJAL
Affiant

SUBSCRIBED AND SWORN to before me this 3rd day of July 2024 at Cebu City, affiant known to me personally, exhibited to me his Philippine Passport P7754771A expiring on 29 June 2028 as competent evidence of identity

Doc. No. 69 ;
Page No. 15 ;
Book No. 1 ;
Series of 2024.




ATTY. VENICE FRANCOINE N. BOGO
Notary Public for Cebu City
Notarial Commission No. 031-24 until Dec. 31, 2025
8/F HM Tower W. Geonzon St. Cebu IT Park, Philippines
Roll of Attorneys No. 91786
PTR No. 1241763 / January 24, 2024 / Cebu
IBP No. 410125 paid on January 8, 2024
MCLE Compliance Exempt Pursuant to
MCLE Governing Board Order No. 1, series of 2008

ATTESTATION


I, **MERVIN KIM P. CAPILA**, of legal age, with office address at 21st Floor, Robinsons-Equitable Tower, 4 ADB Avenue corner Poveda Street, Ortigas Center, Pasig City, attest under oath that:

1. I personally conducted the examination of the witness for the above-captioned case;
2. I made clear to the witness that he is answering the questions under oath and that he may face criminal liability for false testimony or perjury;
3. I faithfully recorded the questions I asked him and the corresponding answers he gave me; and
4. Neither I nor any other person present or assisting coached the witness regarding the latter's answers.

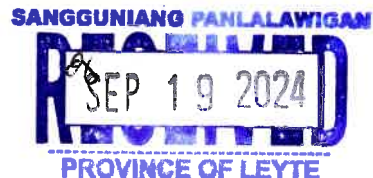

MERVIN KIM P. CAPILA
Counsel

SUBSCRIBED AND SWORN to before me this 3rd day of July 2024 at Pasig City, affiant known to me personally, exhibited to me his Passport P0372265C expiring on June 2, 2032 as competent evidence of identity.

Doc. No. 026;
Page No. 7;
Book No. 11;
Series of 2024.


ALEXANDRA CHELSEA L. ANTONIO
NOTARY PUBLIC
FOR AND IN THE CITY OF PASIG AND SAN JUAN
AND IN THE MUNICIPALITY OF PATEROS
UNTIL DECEMBER 31, 2024
PTR NO. 0173780; 01/02/2024; PASIG CITY
IBP NO. 302168; 01/08/2024; QUEZON CITY
ROLL NO. 80402/APPOINTMENT NO. 191 (2023-2024)
1/F Robinsons-Equitable Tower, 4 ADB Ave. cor. Poveda St.
Ortigas Center, Pasig City

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Jade Drive, Pasig City



IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER
SUPPLY AGREEMENT
(EPSA) BETWEEN ENERGY
DEVELOPMENT
CORPORATION AND
LEYTE V ELECTRIC
COOPERATIVE (LEYECO V)
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.

x-----x

JUDICIAL AFFIDAVIT
(of Roel C. Cabillo)

Purposes of the Testimony:

The testimony of the witness is being offered for the following purposes:

To prove that:

1. He is an employee of the Leyte V Electric Cooperative, Inc. (LEYECO V);

ERC Case No. 2024-045 RC
Judicial Affidavit of Roel C. Cabillo

2. He is the Power Supply and Energy Trading Section Head of LEYECO V;
3. He will testify on the circumstances that lead to the emergency power situation and justification thereof for the issuance of the Certificate of Exemption by the Department of Energy ("DOE");
4. The existence and details of the Emergency Power Supply Agreement ("EPSA") executed between LEYECO V and EDC on 7 November 2022 ("Emergency Power Sales Agreement");
5. The necessity and approval of the emergency power supply agreement between LEYECO V and EDC to ensure continuous and reliable electricity for LEYECO V's member-consumer-owners (MCOs) during the said emergency power situation;
6. The correctness and accuracy of the EPSA rate impact;
7. LEYECO V's compliance with DOE Department Circular No. DC2021-09-0030 ("DOE CSP Rules") particularly on the negotiated procurement of emergency power supply;
8. He will testify that Board President Emmanuel S. Arpon was duly authorized by the Board of Directors of LEYECO V to file the instant application with the Honorable Commission;
9. He caused the compliances to the jurisdictional requirements of the Honorable Commission;
10. The witness will identify documents and testify on such other matters relevant and pertinent to this Joint Application;

I, **ROEL C. CABILLO**, a Filipino, of legal age, with office address at LEYECO V Main Office, San Pablo, Ormoc City, Leyte, after having been duly sworn to in accordance with law, do hereby depose and say, as follows:

That, I hereby certify under oath that I was examined by Atty. Tyron Jan Albao at our office in LEYECO V Main Office, San Pablo, Ormoc City, Leyte on 2 August 2024; that the questions asked of me are in English, a language known to me and to the said lawyer; that I answered the questions truthfully; that I am fully conscious that I am

ERC Case No. 2024-045 RC
Judicial Affidavit of Roel C. Cabillo

under oath; and with full knowledge that I may face criminal liability for false testimony or perjury; and that the following are the questions asked of me with answers, to wit:

1. Q: Please state your name and personal circumstances

A: I am Roel C. Cabillo, of legal age, married, Filipino, with office address at LEYECO V Main Office, San Pablo, Ormoc City, Leyte. I am the Power Supply and Energy Trading Section Head of LEYECO V.

2. Q: You said that you are the Power Supply and Energy Trading Section Head of LEYECO V. What are your duties and responsibilities as such?

A: As Power Supply and Energy Trading Section Head of LEYECO V, my duties and responsibilities includes the following:

a. I was principally involved in the preparation of the technical evaluation and financial evaluation of LEYECO V's application for the approval of the emergency power sales agreement with EDC;

b. I am in-charge in preparing monthly operating report for transmission and distribution system; and

c. Perform other tasks that may be assigned to me from time to time by the General Manager;

3. Q: What is your proof, if any, of LEYECO V's legal existence?

A: I have here LEYECO V's Articles of Incorporation and By-Laws marked as Exhibit "A" and series.

4. Q: How are these Articles of Incorporation and By-Laws related to the documents attached as Annex "A" and series in the Joint Application filed with the Honorable Commission?

A: These are the same Articles of Incorporation and By-Laws.

5. Q: Can you briefly discuss LEYECO V as an entity?

A: LEYECO V is a non-stock, non-profit electric cooperative organized and existing under and by virtue of PD No. 269, as amended, with principal address at San Pablo, Ormoc City, Leyte. LEYECO V has a franchise to distribute electricity in the City of Ormoc and the Municipalities of Albuera, Calubi-an, Isabel, Kananga, Leyte-Leyte, Matag-ob, Merida, Palompon, San Isidro, Tabango and Villaba, all in the Province of Leyte.

6. **Q:** Can you briefly describe the power supply and demand situation in LEYECO V's franchise area?

A: In 2021 the power requirement of LEYECO V was 44.08 MW. This was being supplied exclusively by PSALM pursuant to the CSEE effective from December 26, 2020 to December 25, 2021. In the last quarter of 2021, LEYECO V joined the Region 8 Electric Cooperatives in preparing for the conduct of CSP for its short term - baseload and RPS requirement.

Last December 26, 2021, GNPD commenced supply of 31MW only.

Considering that the 31MW GNPD supply is deficient of 13.08 MW to meet the 44.08MW demand of LEYECO V, last June 26, 2019 LEYECO V sent a request for extension of the CSEE from December 26, 2020 to July 25, 2022 for the meantime that LEYECO V is undergoing CSP for its power supply requirement.

In January 23, 2020, PSALM commenced to re-supply the requested extension of 17MW for CY 2021 and 19MW for CY 2022. However, they supplied only until July 2022.

7. **Q:** What is your proof of the demand and supply scenario of LEYECO V?

A: I have here the LEYECO V Certification for Non-Applicability of Demand Side Management, LEYECO V Supply Demand Scenario which are marked as Exhibit "CC-1" and "X" and series, respectively.

I also have here other technical documents that illustrate the entire electric distribution operation of LEYECO V.

8. **Q:** What are those documents?

A: I have here the LEYECO V's Single Line Diagram Connection marked as Exhibit "L" and the LEYECO V's PSPP and DDP marked as Exhibit "FF" and series, LEYECO V's Reliability Indices marked as Exhibit "EE", LEYECO V's Write up on TSC marked as Exhibit "Q", LEYECO V's Estimation of Potential for Reduction in Load marked as Exhibit "Y" and LEYECO V's WESM Registration marked as Exhibit "BB" and series.

9. **Q: On account of the impending emergency power situation, what did LEYECO V do?**

A: On June 23, 2022, LEYECO V wrote a letter to DOE and requested for the issuance of Certificate of Exemption pursuant to DOE Department Circular No. DC2018-02-0003, as amended by DC2021-09-0030.

10. **Q: Were you issued with a Certificate of Exemption?**

A: Yes sir. I have here the Certificate of Exemption No. COE-CSP-2022-08-031 dated August 31, 2022 issued by the DOE marked as Exhibit "N".

11. **Q: What is the relation of these documents attached as Annex "N" in the Joint Application filed with the Honorable Commission?**

A: These are the same documents.

12. **Q: After you secured the COE, what did you do next?**

A: LEYECO V and EDC executed the emergency power supply agreement and a side letter agreement executed between LEYECO V and EDC.

13. **Q: Have you come across the EPSA subject of the present Joint Application?**

A: Yes sir. I have here the EPSA executed between LEYECO V and EDC marked as Exhibit "M"

14. Q: What is the relation of this document attached as Annex "M" in the Joint Application filed with the Honorable Commission?

A: It is the same document.

15. Q: How about the side letter agreement executed between LEYECO V and EDC that you mentioned, how you come across the same?

A: Yes sir. I have also here the side letter agreement executed between LEYECO V and EDC marked as Exhibit "M-1" and series.

16. Q: Who was authorized to sign the EPSA?

A: It was our Board President Joselito P. Yap who was authorized to sign the EPSA.

17. Q: On page 25 of the EPSA, there is a signature on top of the name Joselito S. Yap. This signature has been pre-marked as Exhibit "M-1" on the copy of the EPSA. Are you familiar with the said signature?

A: Yes sir. That is the signature of LEYECO V's Board President at that time during the execution of the EPSA, Joselito P. Yap.

18. Q: Why do you know that it is his signature?

A: Because I have come across many documents signed by him in my many years with LEYECO V. I was also present when he affixed that signature.

19. Q: What are the salient features of the EPSA?

A: The following are the salients features of the EPSA:

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.

- 1.1 **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.**
- 1.2 **Purchase of Electricity - LEYECO V is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.**
- 1.3 **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.**
- 1.4 **Electricity Fees - Electricity fees shall refer to 5.8798 PhP/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by LEYECO V.**

20. Q: After execution of the EPSA, what did you do next?
- A: LEYECO V and EDC prepared for the pre-filing requirements in compliance with the ERC Rules and wrote a
21. Q: And then, what happened next?
- A: Prior to the expiration of the EPSA, since EDC only commenced to supply LEYECO V of the contracted capacity only on December 26, 2022, LEYECO V requested for the amendment of the validity period of the aforementioned COE. Subsequently, we were issued Amended Certification No. COE-CSP-2023-07-032 dated August 17, 2023 issued by the DOE marked as Exhibit "N-2" which amended the validity period instead of "August 26, 2022 to August 25, 2023" to "December 26, 2022 to December 25, 2023."
22. Q: In the filing of the instant Joint Application for the approval of the emergency power supply agreement before the Energy Regulatory Commission, who was authorized to do so?
- A: It was our new Board President Emmanuel S. Arpon who was authorized to file the instant Joint Application.
23. Q: If you know, who authorized him?
- A: It was the Board of Directors of LEYECO V.
24. Q: What is your proof that he was authorized to file the instant Joint Application?
- A: I have here LEYECO V Secretary's Certificate dated June 2, 2023 issued to that effect and was marked as Exhibit "B-1".
25. Q: What is the relation of this document to the one submitted during the pre-filing of the instant Joint Application with the Honorable Commission?
- A: It is the same document.
26. Q: And then, what happened next?

A: LEYECO V wrote a Notice to Commence Power Delivery to EDC to request the start of the power delivery the soonest time possible upon submission of the documents to the ERC for the pre-filing application for the approval of the EPSA which is marked as Exhibit "N-1".

27. **Q:** Did you proceed with pre-filing application of the EPSA?

A: Yes sir.

28. **Q:** You mentioned that you proceeded with the pre-filing application of the EPSA, what are those documents that were required of you to be filed with the Honorable Commission?

A: The following are the documents that were required during the pre-filing:

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
H-series	DOE Certificates of Endorsement
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J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line Diagram Connection
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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
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N-2	DOE Amended Certificate of Exemption
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P	NGCP Certification on Service Agreements
Q	Write up on TSC
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R	Executive Summary of EPSA
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T*	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U*	Bank Certifications
V*	Sworn statement on fuel procurement
W*	Relevant technical and economic characteristics of generation capacity

X	Supply Demand Scenario
Y	Estimation of Potential for Reduction in Load
Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	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

29. Q: After having complied with the pre-filing requirements, what did you do next?

A: After EDC paid for the necessary legal fees with the Honorable Commission, we were issued with the corresponding docket number of the Joint Application.

30. Q: And then, what happened next?

A: Last July 4, 2024, we received an Order and Notice of Virtual Hearing both promulgated on July 1, 2024.

31. Q: If you know, when is the hearing before the Honorable Commission of this Joint Application?

A: The hearing will be on August 8, 2024.

32. Q: Was there a requirement that LEYECO V should do before the said hearing?

A: Yes, we were required to comply with several Jurisdictional Requirements.

33. Q: Have you been able to comply with the Jurisdictional Requirements?

A: Yes.

34. Q: What are those jurisdictional requirements that you said you complied?

A: First is the publication of the Order and Notice of Virtual Hearing in two (2) newspapers for two (2) consecutive weeks in a newspaper of nationwide circulation in the Philippines with the date of publication to be made not later than ten (10) days before the date of the scheduled initial hearing.

35. Q: What is your proof that you complied with the publication in the first newspaper?

A: I have here the Affidavit of Publication dated 18 July 2024 executed by Aldwin M. Tolosa marked as Exhibit "KK".

I have here a copy of the complete issue of the Business Mirror of the 10 July 2024 issue marked as Exhibit "LL". The published Order and Notice of Virtual Hearing is found on Page A17 marked as Exhibit "LL-1".

I have also here a copy of the complete issue of the Business Mirror of the 18 July 2024 issue marked as Exhibit "MM". The published Order and Notice of Virtual Hearing is found on Page A5 marked as Exhibit "MM-1".

36. Q: How about for the second newspaper?

A: I have here the Affidavit of Publication dated 18 July, 2024 executed by Eden F. Del Rosario marked as Exhibit "NN".

I have here a copy of the complete issue of The Manila Times of the 10 July 2024 issue marked as Exhibit "OO". The published Order and Notice of Virtual Hearing is found on Page D1 marked as Exhibit "OO-1".

I have also here a copy of the complete issue of the The Manila Times of the 18 July 2024 issue marked as Exhibit "PP". The published Order and Notice of Virtual Hearing is found on Page B7 marked as Exhibit "PP-1".

37. Q: What else, if any, did you do in compliance with the jurisdictional requirements?

A: Copies of the Order and Notice of Virtual Hearing were furnished to the offices of the Governor and Vice Governor for the Province of Leyte, Mayors and Vice Mayors of the Municipalities of Albuera, Calubi-an, Isabel, Kananga, Leyte-Leyte, Matag-ob, Merida, Palompon, San Isidro, Tabango and Villaba, all in the Province of Leyte, and the City of Ormoc, for the purpose of posting at their respective bulletin boards.

38. Q: What is your proof that copies of the Order and Notice of Virtual Hearing were furnished to their offices for posting?

A: On the front page of these Order and Notice of Virtual Hearing are the marks, date and initials of the staff who received the copies.

39. Q: Where are those documents?

A: These are the documents as follows:

<p style="text-align: center;">QQ</p>	<p>Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated 1 July 2024 with a request for posting on their respective bulletins board were sent to the Office of the Governor and Sangguniang Panlalawigan of Leyte, and Office of the Mayor and Sanggunian of Albuera, Calubi-an, Isabel, Kananga, Leyte, Matag-ob, Merida, Ormoc City, Palompon, San Isidro, Tabango, and Villaba</p>
<p style="text-align: center;">QQ-1</p>	<p>Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated 1 July 2024 with a request for posting on their respective bulletins board were sent to the Office of the Governor and Sangguniang Panlalawigan of Leyte, and Office of the Mayor and Sanggunian of Kananga and Ormoc City</p>
<p style="text-align: center;">RR</p>	<p>Certification from Office of the Governor of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the provincial bulletin board of the Province of Leyte</p>
<p style="text-align: center;">SS</p>	<p>Certification from Sangguniang Panlalawigan of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of the Province of Leyte</p>
<p style="text-align: center;">TT</p>	<p>Certification from Office of the Mayor of Albuera showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Albuera</p>
<p style="text-align: center;">UU</p>	<p>Certification from Sangguniang Bayan of Albuera showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Albuera</p>
<p style="text-align: center;">VV</p>	<p>Certification from Office of the Mayor of Calubi-an showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Calubi-an</p>

WW	Certification from Sangguniang Bayan of Calubi-an showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Calubi-an
XX	Certification from Office of the Mayor of Isabel showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Isabel
YY	Certification from Sangguniang Bayan of Isabel showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Isabel
ZZ	Certification from Office of the Mayor of Kananga showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Kananga
AAA	Certification from Sangguniang Bayan of Kananga showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Kananga
BBB	Certification from Office of the Mayor of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Leyte
CCC	Certification from Sangguniang Bayan of Leyte showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Leyte
DDD	Certification from Office of the Mayor of Matag-ob showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Matag-ob
EEE	Certification from Sangguniang Bayan of Matag-ob showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Matag-ob

FFF	Certification from Office of the Mayor of Merida showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Merida
GGG	Certification from Sangguniang Bayan of Merida showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Merida
HHH	Certification from Office of the Mayor of Ormoc showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the city bulletin board of Ormoc
III	Certification from Sangguniang Bayan of Ormoc showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Ormoc
JJJ	Certification from Office of the Mayor of Palompon showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Palompon
KKK	Certification from Sangguniang Bayan of Palompon showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Palompon
LLL	Certification from Office of the Mayor of San Isidro showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of San Isidro
MMM	Certification from Sangguniang Bayan of San Isidro showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of San Isidro
NNN	Certification from Office of the Mayor of Tabango showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Tabango

OOO	Certification from Sangguniang Bayan of Tabango showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Tabango
PPP	Certification from Office of the Mayor of Villaba showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the municipal bulletin board of Villaba
QQQ	Certification from Sangguniang Bayan of Villaba showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the sangguniang bulletin board of Villaba
RRR	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated 1 July 2024 with a request for posting on their respective bulletins board were sent to the Office of the Mayor and the Sangguniang Panlungsod of Pasig City
SSS	Certification from the Office of the Mayor of Pasig City showing that the Order and Notice of Virtual Hearing dated 1 July 2024 were posted on the city bulletin board of Pasig City
TTT	Certification from the Sangguniang Panlungsod of Pasig City showing that the Order and Notice of Virtual Hearing dated 1 July was posted on the sangguniang bulletin board of Pasig City

40. Q: Where else were the copies of the Order and Notice of Virtual Hearing posted, if any?

A: At the Bulletin Board of LEYECO V main office. It was also posted on LEYECO V Facebook Account to ensure a wide dissemination of the Order and Notice of Virtual Hearing. In fact, we also posted the jurisdictional requirements, newspaper publications and certifications issued by the LGUs at the Bulletin Board of LEYECO V.

41. Q: What is your proof?

ERC Case No. 2024-045 RC
Judicial Affidavit of Roel C. Cabillo

A: I have here a copy of the Affidavit of Posting executed by one Elvira M. Baluyo in the Bulletin Board, Facebook page and Website was issued by LEYECO V marked as Exhibit "UUU".

42. Q: What else, if any, did you do in order to inform consumers within the franchise area?

A: We inform consumers through radio broadcasts within the franchise area.

43. Q: What is your proof that you have done a radio broadcast?

A: I have here a Certification issued by Jessa C. Juntilla of DYRG 101.5 Blue Radio and Certification issued by Arwe K. Lam of Radio Natin 107.1 - Ormoc marked as Exhibit "UUU-2" and "UUU-1", respectively.

44. Q: Who signed the verification of the instant Joint Application?

A: It was our Board President who signed the instant Joint Application.

45. Q: How did you know that it was him who signed the instant Joint Application?

A: I was present when he signed the Verification and Certification of Non-forum Shopping of the instant Joint Application.

46. Q: If you know, who else checked and verified the veracity of the allegations of the application and the attachments?

A: I also helped verify the veracity of the allegations and documentary attachments of the instant Joint Application.

47. Q: How will the EPSA impact on the rates of LEYECO V?

A: Based on the rate impact analysis marked as Exhibit "K", the EPSA with EDC will result in a Php0.2164 decrease as shown below: (Attached as ANNEX "K" in the Joint Application)



LEYTE V ELECTRIC COOPERATIVE, INC.

8122 San Pablo, Ormoc City, Leyte
Telephone Nos. (053) 561-4279 to 4275
Cellular Phone Nos. Cebu City, Smart: (096) 684 3804 Cebu: (0917) 8-88 3085
Website: www.lveco.com.ph Email: lveco@lveco-v.com.ph



RATE IMPACT ANALYSIS

Without EDC

Power Supplier	Average Quantity (kWh)	Amount (Php.)	Percent Share (%)	Average Rate (P/kWh)	Generation Mix
Supplier 1	16,740,000	155,290,742.01	78.11%	9.2766	9.4178
Supplier 2	2,866,500	29,634,656.69	13.38%	10.3383	
WESM	1,823,490	16,898,281.93	8.51%	9.2670	
TOTAL	21,429,990	201,823,681	100%		

With EDC

Power Supplier	Average Quantity (kWh)	Amount (Php.)	Percent Share (%)	Average Rate (P/kWh)	Generation Mix
Supplier 1	16,740,000	155,290,742.01	78.11%	9.2766	9.2014
Supplier 2	2,866,500	29,634,656.69	13.38%	10.3383	
EDC	1,488,000	9,151,348.80	6.94%	6.1501	
WESM	335,490	3,108,986	1.57%	9.2670	
TOTAL	21,429,990	197,185,733.32	100.00%		

GENERATION RATE IMPACT	(0.2164)
-------------------------------	-----------------

48. Q: So do you confirm and affirm the truthfulness of the allegations in the Joint Application and the authenticity of the attachments or annexes?

A: Yes.

49. Q: Was there any person who requested from your office for a copy of the Joint Application or the Order and Notice of Virtual Hearing?

A: There was none.

50. Q: Do you have anything else to add on your statements?

A: None as of the moment.

NO FURTHER QUESTION.

x----- End of Inquiry -----x

Republic of the Philippines)
Province of Leyte) S.S.
City of Tacloban)

AFFAINT'S OATH AND ATTESTATION

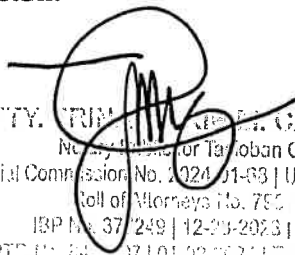
I, **ROEL C. CABILLO**, of legal age, with legal capacity and competence to comprehend without any vice of consent, hereby attest to have voluntarily and truthfully made the answers to the foregoing questions.

IN WITNESS WHEREOF, I have hereunto set my hand this day,
07 AUG 2024, in Tacloban City, Philippines.


ROEL C. CABILLO
Affiant

07 AUG 2024 SUBSCRIBED AND SWORN to before me this day,
07 AUG 2024 in Tacloban City, Philippines. Affiant is personally known to the undersigned.

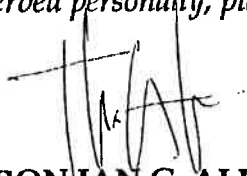
Doc No. 453
Page No. 92
Book No. IV
Series of 2024


ATTY. **TRIXIE M. GANDEZA**
Notary Public for Tacloban City
Notarial Commission No. 1024-01-03 | Until 12-31-2025
Roll of Attorneys No. 750
IBP No. 37/249 | 12-29-2023 | Leyte
PTC No. 840-07-01-02-0021 | Tacloban City
REYES & COMPANY
Justice Road, Tacloban City

Copy furnished:

WRITTEN EXPLANATION

Copy of the foregoing **JUDICIAL AFFIDAVIT** was sent by registered mail with return card due to distance and lack of messengerial service. *(If served personally, please disregard explanation.)*


TYRON JAN G. ALBAO

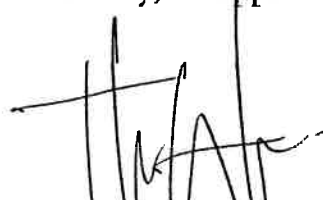
Republic of the Philippines)
City of Tacloban) S.S.

EXAMINING LAWYER'S ATTESTATION

I, **TYRON JAN G. ALBAO**, Filipino, of legal age, married and a resident of V&G Subdivision, Tacloban City, after having been duly sworn to in accordance with law, do hereby depose and say:

1. That I am the lawyer who conducted and supervised the examination of the witness **ROEL C. CABILLO**;
2. That I faithfully recorded or caused to be recorded the questions asked and the corresponding answers that the witness/es gave;
3. That neither I nor any person then present or assisting me coached the witness/es regarding the latter's answer;
4. That any false attestation shall subject this counsel disciplinary action, including disbarment;
5. That this attestation is prepared in compliance with A.M. 12-8-8-SC on Judicial Affidavit Rule.

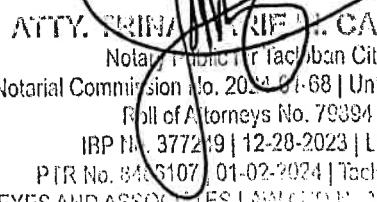
07 AUG 2024 **IN WITNESS WHEREOF**, I have hereunto set my hand this _____ in Tacloban City, Philippines.



TYRON JAN G. ALBAO
Roll of Attorneys No. 66859

SUBSCRIBED AND SWORN to before me, a notary public in the City of Tacloban, this 07 AUG 2024. Affiant personally came and appeared with IBP ID as competent proof of his identity, known to me as the same person who personally signed the foregoing instrument before me and avowed under the penalty of law to the whole truth of the contents of said instrument.

Doc. No. 454;
Page No. 92;
Book No. N;
Series of 2024.



ATTY. PRINA M. RIFE M. CANDAZA
Notary Public for Tacloban City
Notarial Commission No. 2024-01-68 | Until 12-31-2025
Roll of Attorneys No. 79394
IBP No. 377249 | 12-28-2023 | Leyte
PTR No. 8405107 | 01-02-2024 | Tacloban City
REYES AND ASSOCIATES LAW OFFICE
Justice Remacle St. corner Sta. ... City

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER
SUPPLY AGREEMENT
BETWEEN ENERGY
DEVELOPMENT
CORPORATION AND
LEYTE V ELECTRIC
COOPERATIVE, WITH
MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION,

ERC CASE NO. 2024- 045 RC

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

Applicants.

X-----X

JUDICIAL AFFIDAVIT
OF ATTY. JANNIE ANN J. DAYANDAYAN, CPA

Purposes of the Testimony:

The testimony of the witness is being offered for the following purposes:

1. To prove that she is the General Manager of Leyte V Electric Cooperative, Inc. or LEYECO V with office address at LEYECO V Main Office, San Pablo, Ormoc City, Leyte
2. To prove that Board President Emmanuel S. Arpon was authorized by the Board of Directors of LEYECO V to file the Instant

Application for Approval of the Emergency Power Supply Agreement between LEYECO V and EDC;

3. To prove the allegations in the application for approval of the Emergency Power Supply Agreement (EPSA) between LEYECO V and EDC;
4. To prove the necessity and approval of the Emergency Power Supply Agreement between LEYECO V and EDC to ensure continuous and reliable electricity for LEYECO V's member-consumer-owners (MCOs) during the said emergency power situation;
5. To prove that she caused the compliances to the jurisdictional requirements of the Honorable Commission;
6. The witness will likewise identify documents and testify on such other matters relevant and pertinent to this Joint Application.

I, **ATTY. JANNIE ANN J. DAYANDAYAN, CPA**, Filipino, of legal age, with office address at LEYECO V Main Office, San Pablo, Ormoc City, Leyte, after having been duly sworn to in accordance with law, do hereby depose and say, as follows:

That, I hereby certify under oath that I was examined by Atty. Tyron Jan Albao at our office in LEYECO V Main Office, San Pablo, Ormoc City, Leyte on August 2, 2024; that the questions asked of me are in English, a language known to me and to the said lawyer; that I answered the questions truthfully; that I am fully conscious that I am under oath; and with full knowledge that I may face criminal liability for false testimony or perjury; and that the following are the questions asked of me with answers, to wit:

1. Q: Please state your name and other personal circumstances.

A: I am Atty. Jannie Ann J. Dayandayan, CPA, of legal age, Filipino, with office address at LEYECO V Main Office, San Pablo, Ormoc City, Leyte. I am currently the General Manager of Leyte V Electric Cooperative, Inc. or LEYECO V.

2. Q: Why are you here in this office?

Judicial Affidavit
Atty. Dayandayan

A: I am here to execute my judicial affidavit in relation to the application for approval of the Emergency Power Supply Agreement between LEYECO V and EDC.

3. **Q:** What is your purpose in giving this testimony?

A: To substantiate the allegations in the said application for approval of the Emergency Power Supply Agreement (EPSA) between LEYECO V and EDC.

4. **Q:** In your personal circumstances, you mentioned that you are the General Manager of LEYECO V, what is your proof to that?

A: I have here my company ID where it states that I am the General Manager of LEYECO V.

(Witness handed to this representation his company ID issued by LEYECO V indicating that he is the General Manager.)

5. Being the General Manager of LEYECO V, what is your proof, if any, of LEYECO V's legal existence?

A: I have here a copy of LEYECO V Articles of Incorporation and By-Laws.

(Witness handed to this Representation a Certified True Copy of the Articles of Incorporation and By-Laws of LEYECO V.)

MANIFESTATION: The Certified True Copy of the Articles of Incorporation and By-Laws of LEYECO V are requested to be marked as **Exhibit "A and series"**, respectively, for the applicants.

6. **Q:** What is the nature and area of operation of LEYECO V, if you can recall?

A: LEYECO V is non-stock, non-profit Electric Cooperative duly organized and existing under and by virtue of Presidential Decree 269, as amended, and is a holder of an exclusive franchise issued by the National Electrification Administration (NEA) to operate and engage in the distribution of electricity within its franchise areas in Leyte, Philippines, particularly within Ormoc City and the Municipalities of Albuera, Calubian, Isabel, Kananga,

Leyte-Leyte, Matag-ob, Merida, Palompon, San Isidro, Tabango and Villaba, all in the Province of Leyte.

7. Q: You said that you are the General Manager of LEYECO V. What are your duties and responsibilities as such?

A: Among my duties and responsibilities as the General Manager is to manage the day-to-day operations of the cooperative, ensure the viability and reliability of the supply of electric power to our franchise area, and to represent LEYECO V in all its business and legal affairs.

8. Q: Earlier you mentioned an Application for Approval of the Emergency Power Supply Agreement (EPSA) between LEYECO V and EDC. I am showing you a document denominated as "In The Matter Of The Joint Application For Approval Of The Emergency Power Supply Agreement Between Energy Development Corporation And Leyte V Electric Cooperative, With Motion For Confidential Treatment Of Information" filed jointly by Energy Development Corporation (EDC) and Leyte V Electric Cooperative (LEYECO V), what is the relation of this application to the one you just mentioned?

A: This is the same application I was referring to where LEYECO V is one of the co-applicants together with EDC.

9. Q: In the Joint Verification and Certification of Non-Forum Shopping found on page 12 of the Application, there is a signature on top of the name "Emmanuel S. Arpon". Whose signature is that, Madame Witness?

A: That is the signature of our former Board President, Dir. Emmanuel S. Arpon.

10. Q: Why do you say that it is his signature?

A: Because I am familiar with Dir. Arpon's signature having come across several documents signed by him, being that he was our former Board President. Also, I personally witnessed him signing the said document, so I am very familiar with it.

11. Q: Who was authorized to file this application, if you know?

A: It was our former Board President, Emmanuel S. Arpon, who was authorized by the Board of Directors of LEYECO V through a board resolution to file this application and to represent the cooperative in all stages of the proceedings. Also, our legal counsels for the cooperative were authorized by the board, also through the same board resolution, to file the documents to the ERC as well.

12. **Q:** You said that Emmanuel S. Arpon is the former Board President of LEYECO V. Who is the current Board President of LEYECO V?

A: **Dir. Paulito A. Cotiangco.**

13. **Q:** If Mr. Arpon is no longer the Board President of LEYECO V, why is he the one authorized to file this application, if you know?

A: That is because when we started the pre-filing stage of this application, Dir. Emmanuel Arpon was still our Board President. That's why he was the one authorized to sign the Verification and Certification of Non-Forum Shopping and to file this application before the ERC. Our new Board President assumed the position after this application had already been filed.

14. **Q:** What is your proof that Board President Emmanuel S. Arpon was authorized by the Board of Directors of LEYECO V to file the application?

A: I have here copies of the Secretary's Certificate dated June 2, 2023 and Board Resolution No. 73, Series of 2023 dated May 29, 2023 appointing Emmanuel S. Arpon, being the Board President, as authorized representative of LEYECO V.

(Witness handed to this Representation copies of Secretary's Certificate dated June 2, 2023 and Board Resolution No. 73, Series of 2023 dated May 29, 2023 issued by the Board of Directors of LEYECO V.)

MANIFESTATION: The Certified True Copy of Secretary's Certificate dated June 2, 2023 and Board Resolution No. 73, Series of 2023 dated May 29, 2023 is requested to be marked as **Exhibit "B-1 and B-2"**, respectively.)

15. Q: You likewise mentioned legal counsels authorized by the Board to file this application as well as the annexes attached thereto and to represent LEYECO V. Who are these legal counsels you mentioned?

A: Atty. Tyron Jan G. Albao and Atty. Peter Joven Y. De Oño.

16. Q: What is your proof that Attys. Tyron Jan Albao and Peter Joven De Oño are authorized to file the instant application and to represent LEYECO V as its legal counsels?

A: I have here Board Resolution No. 162, Series of 2022 dated October 14, 2022 authorizing Atty. Tyron Jan Albao and Atty. Peter Joven De Oño to represent LEYECO V in all stages of the proceedings in relation to the Joint Application for Approval of the EPSA between LEYECO V and EDC.

(Witness handed to this Representation Board Resolution No. 162, Series of 2022 dated October 14, 2022 issued by the Board of Directors of LEYECO V.)

MANIFESTATION: The Board Resolution No. 162, Series of 2022 dated October 14, 2022 issued by the Board of Directors of LEYECO V is requested to be marked as **Exhibit "B-3"** for the applicants, Your Honor.

17. Q: Who were the members of the Board of Directors of LEYECO V then when this EPSA was executed in 2022, if you can recall?

A: The members of the Board of Directors in 2022 when the EPSA was executed were Joselito P. Yap as Board President; Anthony P. Herrera as Vice-President; Ronamary R. Lequin as Board Secretary; Marcos S. Cuizon as Treasurer; Emmanuel S. Arpon as Member; Claire R. Diaz as Member; Daniel E. Capuy, Jr. as Member; and I, being the current General Manager, as Ex-officio Member.

18. Q: What is your proof that indeed these persons comprised the Board of Directors of LEYECO V in 2022?

A: I have here a Verified Certification issued by LEYECO V showing the list of names comprising the Board of Directors of the cooperative in 2022.

(Witness handed to this Representation a Verified Certification dated October 25, 2022 issued by LEYECO V.)

MANIFESTATION: The Verified Certification dated October 25, 2022 issued by LEYECO V is requested to be marked as **Exhibit "B"** for the applicants, Your Honor.

19. Q: What was your participation in this application for approval of the Emergency Power Supply Agreement, if any?

A: As the General Manager, together with our team, I facilitated the production of documents needed for the application of approval of the EPSA. I am also one of the witnesses in the execution of the EPSA between LEYECO V and EDC.

20. Q: And who are the members of this team that you mentioned?

A: The team was composed of selected electric cooperative personnel, one of which is Roel C. Cabillo, who is our Power Supply and Energy Trading Section Head.

21. Q: What was the participation of Roel C. Cabillo, if any?

A: He was principally involved in the preparation of the technical evaluation and financial evaluation of LEYECO V's application for the approval of the emergency power sales agreement with EDC. He also verified the documents which were submitted to ERC for the approval of the EPSA.

22. Q: In this application for EPSA approval, why was there a need to execute an EPSA between LEYECO V and EDC, if you know?

A: This was due to the fact that LEYECO V experienced unanticipated delays in its Competitive Selection Process or CSP activities caused by the COVID-19 pandemic and government restrictions that were implemented. Because of that, we had very limited time available until our Power Supply Agreement expires. That's why we had to resort to different remedies available.

23. Q: And what remedy did you resort to, if any?

A: On June 23, 2022, I, as the General Manager of LEYECO V, wrote a letter to the Department of Energy requesting for an exemption from the CSP requirement. The Letter expressed LEYECO V's urgent need for supply of electricity due to circumstances beyond control of the electric cooperative.

24. **Q:** What situation would warrant an exemption to the conduct of Competitive Selection Process (COE-CSP) from the DOE, if you know?

A: According to Section 2.2.1.2 of Department of Energy Department Circular No. DC 2021-09-0030 or the DOE Amended CSP Circular, in case of negotiated procurement of emergency power supply wherein the cooperation period of the corresponding Emergency Power Supply Agreement (EPSA) shall not exceed one (1) year, it shall warrant a Certificate of Exemption from the conduct of Competitive Selection Process. That was the situation in this case.

25. **Q:** What happened after you wrote that letter to the DOE?

A: We were granted a Certificate of Exemption with No. COE-CSP-2022-08-031 dated August 31, 2022 by the DOE. However, considering that EDC there was a change in the validity period of the EPSA from August 26, 2022-August 25, 2023 to December 26, 2022-December 25, 2023, we requested and were granted an Amended Certificate of Exemption with No. COE-CSP-2023-07-032 in order to reflect such change in the validity period.

26. What is your proof to that, if any?

A: I have here copies of DOE Certificate of Exemption No. COE-CSP-2022-08-031 dated August 31, 2022 and Amended Certificate of Exemption with No. COE-CSP-2023-07-032 dated August 17, 2023.

(Witness handed to this Representation DOE Certificate of Exemption No. COE-CSP-2022-08-031 dated August 31, 2022 and Amended Certificate of Exemption with No. COE-CSP-2023-07-032 dated August 17, 2023.)

MANIFESTATION: The DOE Certificate of Exemption No. COE-CSP-2022-08-031 dated August 31, 2022 and Amended Certificate of Exemption with No. COE-CSP-2023-07-032 dated August 17, 2023 are

requested to be marked as **Exhibit “N” and “N-2”**, respectively, for the applicants, Your Honor.

27. Q: Now, you mentioned that you requested for an Amended Certificate of Exemption from the DOE for the reason that there was a change in the validity period in the EPSA. Why is that?

A: Actually, based on the EPSA, EDC was supposed to start the supply of power on August 26, 2022. However, that did not push through for the reason that EDC wanted the application for approval of the EPSA to commence its filing before they start to supply power. If I recall correctly, this case started its pre-filing stage sometime in November or December 2022 that’s why both parties agreed for EDC to commence its supply of power to LEYECO V around that time. In order to maintain the 12-month validity period under the EPSA, EDC and LEYECO V agreed through a side-letter agreement to change the validity period from August 26, 2022-August 25, 2023 to December 26, 2022-December 25, 2023.

28. Q: What happened next, if any?

A: After DOE favorably issued a Certificate of Exemption exempting LEYECO V from the conduct of CSP, LEYECO V and EDC executed an Emergency Power Supply Agreement, which is the subject of this case.

29. Q: What proof do you have that indeed LEYECO V and EDC executed an Emergency Power Supply Agreement?

A: I have here a copy of the said agreement.

(Witness handed to this Representation a copy of the Emergency Power Supply Agreement between LEYECO V and EDC dated 07 November 2022.)

MANIFESTATION: The Emergency Power Supply Agreement dated 07 November 2022 between LEYECO V and EDC is requested to be marked as **Exhibit “M and series”** for the applicant, Your Honor.

30. Q: If you know, who signed this Emergency Power Supply Agreement on behalf of LEYECO V?

A: It was our then Board President, Dir. Joselito P. Yap, who was authorized by our Board of Directors to sign the EPSA on behalf of LEYECO V.

31. Q: Why do you say that Dir. Joselito P. Yap was authorized to sign the EPSA for LEYECO V?

A: Because I saw the board resolution authorizing him to sign the EPSA. Also, I was one of the witnesses who signed the EPSA, being the General Manager of LEYECO V.

32. Q: By the way, earlier you mentioned that the person authorized to file this case for approval of the EPSA was your former Board President Emmanuel S. Arpon and the person authorized to sign the EPSA was then-Board President Joselito P. Yap. How did this happen, if you know?

A: That is because the term of Dir. Joselito Yap ended sometime after the signing of the EPSA. As such, there was a sudden change of Board Presidents after the time of the signing of the EPSA until this case was filed before the ERC, which is why it was Dir. Emmanuel Arpon who was authorized in filing this case.

33. Q: Do you know the contents of this Agreement?

A: Yes because as I previously mentioned, I was one of the witnesses who signed this contract and I read it before affixing my signature.

34. Q: What are the features of this Emergency Power Supply Agreement, if you can recall?

A: Based on the EPSA, EDC will supply a 2MW baseload per month to LEYECO V for a period of 12 months, which shall commence on the Effective Date and end on the Scheduled Termination Date on the following day of the last day of the 12-month period as stated in the agreement.

35. Q: After the execution of the EPSA, what happened next, if any?

A: After the execution of the EPSA, we started preparing the pre-filing requirements to be submitted to the ERC as mandated by the Rules.

36. Q: What are these pre-filing requirements that you mentioned that you needed to submit to the ERC, if you can recall?

A: Based on ERC's pre-filing checklist, on the part of LEYECO V, some of the documents we were required to submit included the Articles of Incorporation and By-Laws of LEYECO V, a Verified Certification listing our Board of Directors, and other technical documents like the Supply-Demand Scenario, Performance

Assessments, DDP and PPSP, Rate Impact Analysis, among others.

37. Q: If you know, was LEYECO V and EDC able to comply with the pre-filing requirements?

A: Yes. The necessary documents included in the pre-filing requirements were duly submitted to ERC by LEYECO V and EDC as annexes to the application.

38. Q: What is your proof to that?

A: I have here the ROS Certification issued by the ERC Regulatory Operations Service and the duly-accomplished LS Checklist from the ERC Legal Service as proof that all documents included in the Pre-filing Checklist were complete and submitted to the ERC.

(Witness handed to this Representation a copy of the ROS Certification and LS Checklist from ERC.)

39. Q: After you complied with the pre-filing requirements, what happened next, if any?

A: After EDC paid the corresponding filing fees, we were issued a docket number. After that, we were also required to comply with the jurisdictional requirements.

40. Q: What were the jurisdictional requirements that you had to comply with, if any?

A: It included broadcasting and publication of the ERC Order and Notice of Virtual Hearing, both dated July 1, 2023, as well as furnishing copies of the same to the LGU where LEYECO V was operating. We also had to post the said notice and order in our bulletin board, website and facebook page, among others.

41. Q: And were you able to comply with the jurisdictional requirements?

A: Yes, we were able to comply.

42. Q: What is your proof to that?

A: On the part of LEYECO V, I have here copies of the Affidavits of Posting of the Order and Notice of Virtual Hearing, both dated July 1, 2023, on the bulletin board, website and facebook page of LEYECO V. I also have here Certifications from

Pacific Broadcasting and Promotions, which is operating 107.1 FM Radio Natin-Ormoc, and Wave Network Incorporated, which is operating DYRG 101.5 FM Blue Radio, stating that the ERC Order and Notice of Virtual Hearing were broadcasted and aired in its daily radio programs. With respect to the publication of the notice and order, it was EDC who undertook the same.

(Witness handed to this representation Affidavit of Posting dated July 22, 2024, Affidavit of Posting dated July 29, 2024, Certification dated July 22, 2024 issued by Pacific Broadcasting and Promotions, Certification dated July 23, 2024 issued by Wave Network Inc., Affidavit of Service dated July 22, 2024 with attached with attached Transmittal Letter, 1st page of ERC Order and Notice of Virtual Hearing with receipt stamp.)

MANIFESTATION: The Affidavit of Posting dated July 22, 2024, Affidavit of Posting dated July 29, 2024, Certification dated July 22, 2024 issued by Pacific Broadcasting and Promotions, Certification dated July 23, 2024 issued by Wave Network Inc., Affidavit of Service dated July 22, 2024 with attached with attached Transmittal Letter, 1st page of ERC Order and Notice of Virtual Hearing with receipt stamp have already been pre-marked during Pre-Trial Conference, Your Honor, we would like to retain the said markings.

43. Q: Madame Witness, what, if any, is the importance of the approval of the EPSA subject of this case?

A: The approval of the EPSA is important to ensure the stability of power supply within our franchise area at a reasonable minimum cost for the paramount interest of our member-consumers. If we do not procure our shortfall in power supply through an EPSA, LEYECO V will be exposed to volatile market prices which will result in higher pass-on charges which will ultimately be charged to our member-consumers. Basically, it will be our member-consumers who will suffer and we want to avoid that.

44. Q: Why would exposure to the market be deemed as not reasonable, if you know?

A: Because resorting to this option would result in the increase in our electricity rates and would run contrary to the mandate enshrined in Section 23 of Republic Act 9136 or the Electric Power Industry Reform Act of 2001 - that a distribution utility shall "supply electricity in the least cost manner to its captive market".

45. Q: What else, if any?

A: Furthermore, the DOE DC 2021-09-0030 provides that the generation tariff in the EPSA should be equivalent or lower than

the ERC approved rates. This clearly indicates that rate options resorted to by an EC in the event of an emergency situation should be below the ERC approved rates.

46. Q: What do you want the Honorable Commission to do in this case then?

A: We pray that the Emergency Power Supply Agreement between LEYECO V and EDC be approved in order to ensure the stability of our power supply within our franchise at a reasonable minimum cost for the paramount interest of its member consumers. Our desire to enter into an EPSA is not driven by an intention to escape the requirements of the law but rather to remain faithful to its spirit. We cannot remain dormant while the prices of electricity continue to increase while our consumers suffer its devastating effects. At this time of national emergency, we are obligated all the more to resort to solutions that will benefit the public.

47. Q: Do you have anything more to add to your statement?

A: None, as of the moment.

48. Q: Do you affirm and confirm the truthfulness and veracity of your answers to my questions earlier?

A: Yes.

NO FURTHER QUESTIONS.

x----- End of Inquiry -----x

Republic of the Philippines)
Province of Leyte) S.S.
City of Tacloban)

AFFAINT'S OATH AND ATTESTATION

I, **ATTY. JANNIE ANN J. DAYANDAYAN, CPA**, of legal age, with legal capacity and competence to comprehend without any vice of consent, hereby attest to have voluntarily and truthfully made the answers to the foregoing questions.

IN WITNESS WHEREOF, I have hereunto set my hand this day,
07 AUG 2024, in Tacloban City, Philippines.

ATTY. JANNIE ANN J. DAYANDAYAN, CPA
Affiant

SUBSCRIBED AND SWORN to before me this day,
07 AUG 2024, in Tacloban City, Philippines. Affiant is personally known to the undersigned.

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Book No. 11
Series of 2024

ATTY. MAE KRISTINE A. CONDE
Notary Public for Tacloban City
Notarial Commission No. 2023-02-96 | Until 12-31-2024
Roll of Attorneys No. 75312
IBP CR No. 382685 | 12-31-2023 | Leyte
PTR No. 8472594 | 01-02-2024 | Tacloban City
REYES AND ASSOCIATES LAW AND NOTARIAL OFFICE
Justice Romualdez St., corner Sto Niño St., Tacloban City

Copy furnished:

WRITTEN EXPLANATION

Copy of the foregoing **JUDICIAL AFFIDAVIT** was sent by registered mail with return card due to distance and lack of messengerial service. *(If served personally, please disregard explanation.)*

TYRON JAN G. ALBAO

Republic of the Philippines)
City of Tacloban) S.S.

EXAMINING LAWYER'S ATTESTATION

I, **TYRON JAN G. ALBAO**, Filipino, of legal age, married and a resident of V&G Subdivision, Tacloban City, after having been duly sworn to in accordance with law, do hereby depose and say:

1. That I am the lawyer who conducted and supervised the examination of the witness **ATTY. JANNIE ANN J. DAYANDAYAN**;
2. That I faithfully recorded or caused to be recorded the questions asked and the corresponding answers that the witness/es gave;
3. That neither I nor any person then present or assisting me coached the witness/es regarding the latter's answer;
4. That any false attestation shall subject this counsel disciplinary action, including disbarment;
5. That this attestation is prepared in compliance with A.M. 12-8-8-SC on Judicial Affidavit Rule.

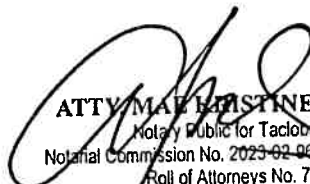
IN WITNESS WHEREOF, I have hereunto set my hand this 07 AUG 2024 in Tacloban City, Philippines.



TYRON JAN G. ALBAO
Roll of Attorneys No. 66859

SUBSCRIBED AND SWORN to before me, a notary public in the City of Tacloban, this 07 AUG 2024. Affiant personally came and appeared with IBP ID as competent proof of his identity, known to me as the same person who personally signed the foregoing instrument before me and avowed under the penalty of law to the whole truth of the contents of said instrument.

Doc. No. 419 ;
Page No. 85 ;
Book No. IV ;
Series of 2024.



ATTY. MA KRISTINE A. CONDE
Notary Public for Tacloban City
Notarial Commission No. 2023-02-06 | Until 12-31-2024
Roll of Attorneys No. 75342
IBP OR No. 382685 | 12-31-2023 | Leyte
PTR No. 8472594 | 01-02-2024 | Tacloban City
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