



LEYTE V ELECTRIC COOPERATIVE, INC.

Brgy. San Pablo, Ormoc City, Leyte
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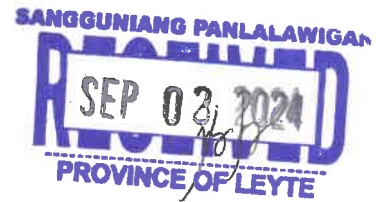


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Date: 11 2024 SEP

Reference No. 2024-09-700

September 2, 2024



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

Subject: **ERC CASE NO. 2024-054 RC, LEYTE V ELECTRIC COOPERATIVE, INC. (LEYECO V) AND GNPOWER DINGININ LTD. CO. (GNPD), APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN LEYTE V ELECTRIC COOPERATIVE, INC. (LEYECO V) AND GNPOWER DINGININ LTD. CO., WITH PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION**

Dear Honorable Vice-Governor Javier:

Greetings from LEYECO V!

In compliance with the directives of the Energy Regulatory Commission (ERC) in connection with the above application, we are furnishing this Honorable Office the following:

1. ERC Order dated August 15, 2024
2. ERC Notice of Virtual Hearing dated August 15, 2024

In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the **Bulletin Board of the Sangguniang Panlalawigan** and thereafter, a **Certification** (Please see attached suggested format) bearing the official **Dry Seal** of your Office be issued as proof of posting.

Thank you very much.

Very truly yours,


ATTY. JANNIE ANN J. DAYANDAYAN, CPA
General Manager

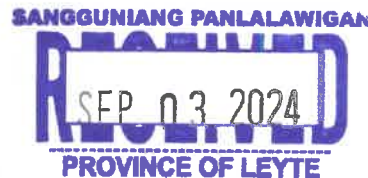
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<p>Executive Secretary: 206 InfoTech & Comm. Services: 216-218, 509 Institutional Services Dept.: 401 Public Relations: 214 Clinic: 209 Membership Division Chief: 403 Membership: 404 Housewiring: 407 Customer Welfare Desk: 200-205 Motorpool: 406 ODM: 409 Human Resources: 402, 210 GSD Chief: 408 Warehouse: 405 Corporate Planning & Energy Trading Dept.: 219, 221, 223</p>	<p>Technical Services Dept.: 801,802 Engineering: 803 Line Construction: 804 Internal Audit Dept.: 701 Auditors: 702 Finance Services Dept.: 501 Cashiering: 502 Collection: 503-504 Accounting: 505 Consumer Accts: 506 Meter Reading & Billing: 507, 508 & 510</p>
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Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN LEYTE V ELECTRIC COOPERATIVE, INC. AND GNPOWER DINGININ LTD. CO., WITH PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION



ERC CASE NO. 2024-054 RC

LEYTE V ELECTRIC COOPERATIVE, INC. (LEYECO V) AND GNPOWER DINGININ LTD. CO. (GNPD),

Applicants.

X-----X

Promulgated:
August 15, 2024

ORDER

On 12 April 2024, Leyte V Electric Cooperative, Inc. (“LEYECO V”) and GNPower Dinginin Ltd. Co. (“GNPD”) filed their *Joint Application for Approval of Emergency Power Supply Agreement (With Prayer for Confidential Treatment of Information)* dated 07 March 2024 (Joint Application), seeking the Commission’s approval of their Emergency Power Supply Agreement (EPSA), with prayer for confidential treatment of information.

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

The Parties

1. LEYECO V is a non-stock and non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay San Pablo, Ormoc City. LEYECO V operates an electric light and power distribution service, for which it was issued an exclusive franchise by the National Electrification Commission, in Ormoc City, and the

municipalities of Albuera, Calubian, Isabel, Kananga, Leyte, Matag-ob, Merida, Palompon, San Isidro, Tabango, and Villaba, all in the Province of Leyte.

2. GNPD is a limited partnership duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at GNPower Energy Complex, Sitio Dinginin, Barangay Alas-asin, Municipality of Mariveles, Province of Bataan. GNPD owns and operates a 1,336-megawatt ("MW") coal-fired power plant (the "Plant") which it uses to supply power to its customers.
3. The Applicants may be served with notices, orders, and processes of the Honorable Commission through their respective counsels at the addresses indicated below.

Statement of Facts

4. On May 3, 2019, the Supreme Court promulgated its decision in *Alyansa Para Sa Bagong Pilipinas, Inc. v. Energy Regulatory Commission ("Alyansa Ruling")*,¹ which declared that power supply agreements ("PSAs") submitted to the Honorable Commission on or after June 30, 2015 were required to undergo the competitive selection process ("CSP") prescribed by the Honorable Commission's issuances.
5. On August 10, 2023, this Honorable Commission issued an Advisory (the "August 10 Advisory") informing all Distribution Utilities ("DUs") with PSAs affected by the Alyansa Ruling "that the Commission has approved a Transition Period to allow the DUs the opportunity to source their power supply requirements through an Emergency Power Supply Agreement (EPSA). The Transition Period will be counted from the day after the DU receives the ERC's Order or Decision implementing the Alyansa Ruling and until the date the DU executes an EPSA or thirty (30) days, whichever is earlier."
6. One of the PSAs affected by the Alyansa Ruling was the Applicants' Power Purchase Supply Agreement (the "PPSA"). At the time the Alyansa Ruling was issued, the application for approval of the PPSA was docketed as ERC Case No. 2016-057 RC and was pending with this Honorable Commission (the "PPSA Application").
7. On August 22, 2023, LEYECO V received this Honorable Commission's Order dated April 19, 2023 (the "Dismissal Order"), which: (a) dismissed with prejudice the PPSA Application, (b) terminated the provisional authority for the implementation of the PPSA, and (c) directed the Applicants to stop implementing their PPSA immediately upon receipt of the order. In compliance with the Dismissal Order, the Applicants stopped implementing their PPSA on 22 September 2023 which resulted in a supply deficit.

¹ G.R. No. 227670, May 3, 2019.

8. Because of the deficit caused by the cessation of supply, LEYECO V needed to source enough capacity to meet the demands of its captive market. Pursuant to this Honorable Commission's Advisory dated June 7, 2023, based on the DOE Advisory entitled "Moratorium on the Issuance of a Certificate of Exemption from the Conduct of the Competitive Selection Process Under Section 2. 2.1.2 and the Review of the Terms of Reference for Unsolicited Proposals under DC2021-09-0030" dated April 3, 2023, LEYECO V sent letter-invitations to various generation companies ("GenCos") soliciting offers for a contracted capacity of 20 MW. GNPD was one of the GenCos that submitted an offer to LEYECO V.
9. After careful consideration of the offers received, LEYECO V found GNPD's offer as the most advantageous for its customers. Thus, within transition period stated in the August 10 Advisory, the Applicants executed the Emergency Power Supply Agreement dated September 21, 2023 (the "EPSA"). A copy of the EPSA is attached as Annex A.
10. The Applicants filed this Joint Application to seek the approval of the EPSA.

Salient Features of the EPSA

11. The duly executed EPSA contains the following salient provisions:
 - (a) **TERM AND CONTRACTED CAPACITY.** The EPSA shall commence from the Operations Effective Date (i.e., September 22, 2023 or any date as agreed by the Applicants) and shall expire twelve (12) months from the Operations Effective Date, unless terminated earlier in accordance with the terms of the EPSA. The contracted capacity under the EPSA is 20 MW. Schedule 1 of the EPSA provides:
 - 1.3 **Term of Agreement**
 - 1.3.1 **Effective Date:** The date of execution of this Agreement.
 - 1.3.2 **Operations Effective Date:** The date specified in the Commencement Date Notice.
 - 1.3.3 **Scheduled Termination Date:** 12 months from the Operations Effective Date.
 - (b) **CONTRACT PRICE.** The Contract Price shall be composed of Capacity Fee, Energy Fee, and Governmental Charges.
 - (c) **CAPACITY FEE.** The Capacity Fee is based on the Capacity Utilization Factor ("CUF"). The Capacity Fee corresponding to each CUF is listed in Schedule 1 of the EPSA. The EPSA defines the CUF as *"the Capacity Utilization Factor between 70% and 100%, provided that if the actual CUF is below the MEOT provided in Schedule I, the Capacity Price shall be*

calculated based on the Capacity Fee and quantity associated with the MEOT." The CUF is determined as follows:

$$CUF = \frac{AE}{CC * 24 * [BPD - (SOT_m + FOT_m + FMT_m)]}$$

Where:

- AE** = The actual energy delivered for the billing period within the contracted capacity
- CC** = The Contract Capacity, in kW, as set forth in the Delivery Schedule
- BPD** = The number of Billing Period Days in the relevant Billing Period
- SOT_m** = The Full Load Equivalent Scheduled Outage Taken for the relevant Billing Period calculated in accordance with
- FOT_m** = The Full Load Equivalent Forced Outage Days Taken for the relevant Billing Period calculated in accordance with
- FMT_m** = The Full Load Equivalent Force Majeure Days Taken for the relevant Billing Period calculated in accordance with

(d) **ENERGY FEE.** *The Energy Fee is computed as follows:*

$$Energy\ Fee = IEF \times \left[\frac{CIF_n}{CIF_0} \right] \times MAE$$

Where:

- IEF** = Initial Energy Fee equal to \$0.0328 / kWh
CIF_n = CIF Cost of Fuel for Billing Period n

Where:

"CIFn Cost of Fuel for the Billing Period" means (i) the blended price of the invoiced cost of coal from each supplier for the relevant period and for that portion of such supplier's coal consumed during the Billing Period plus (ii) the

additional costs for insurance, freight and other fuel-related governmental charges to deliver the coal to the Facility

CIF₀ = Base CIF Cost of Fuel equal to \$10.2514 / million kcal
MAE = monthly actual energy, in kWh, or max (MEOT, AE)

Where:

MEOT = 70% * Contracted Capacity * BPD * 24, in kWh
AE = actual energy delivered, in kWh

12. Because of the dismissal of the PPSA Application, LEYECO V is currently in need of 27.77 MW to address its demand for the period covered by the EPSA, which is expected to reach a peak of up to 50.68 MW. Even if the EPSA is implemented, LEYECO V still expects deficits of up to 14.07 MW during the EPSA's term. A copy of LEYECO V's supply-demand scenario is attached as Annex E.
13. The indicative rate impact on LEYECO V's overall generation rate with and without the additional supply from GNPD are as follows:

Generation Rate without GNPD 20MW	PhP7.4830/kWh
Generation Rate with GNPD 20MW	PhP6.3354/kWh
Generation Rate Impact	(PhP1.1476/kWh)

A copy of the Rate Impact Analysis is attached as Annex F.

14. In support of the Joint Application, copies of the following documents and/or information are attached herein as annexes:

Description of Document	Annex
EPSA	A
LEYECO V's Documents	
<i>Articles of Incorporation</i> dated December 21, 1977	B
<i>By-laws</i> dated December 15, 1977	B-1
<i>Certification</i> dated September 22, 2023 (non-availability of an alternative Demand-Side Management program)	C
Distribution Development Plan for the years 2023 to 2031	D
<i>Supply-Demand Scenario</i> with average daily load curve, forecasted daily load curve, and forecasted peak demand	E

ERC CASE NO. 2024-054 RC
ORDER/ 15 AUGUST 2024
PAGE 6 OF 17

Description of Document	Annex
<i>Monthly Supply-Demand Scenario (August 2023-September 2024)</i>	E-1
<i>Rate Impact Analysis</i>	F
System reliability metrics (e.g., System Average Interruption Duration Index and System Average Interruption Frequency Index)	G
<i>Estimated Load of Qualified Contestable Customers under RCOA</i>	H
<i>LEYECO-V Substation Single Line Diagram dated October 7, 2022</i>	I
Letter-invitations to bid issued by LEYECO V	J
<i>Board Resolution No. 126 Series of 2023 dated September 12, 2023 (Authorizing LEYECO V to enter into the EPSA with GNPD and authorizing Mr. Emmanuel S. Arpon and Atty. Janine Ann J. Dayandayan to execute the verification and certification against forum shopping, among other things)</i>	K
<i>Board Resolution No. 127 Series of 2023 dated September 12, 2023 (Authorizing the Dechavez Larios-Amboy and Evangelista Law Offices [(“DLE Law”)] to act as LEYECO V’s counsel and authorizing any lawyer from DLE Law to execute the verification and certification against forum shopping, among other things)</i>	L
<i>Notice of Award dated September 13, 2023</i>	M
<i>Secretary’s Certificate dated November 16, 2023 (Board Resolution No. 122, authorizing the management of LEYECO V to award the EPSA to GNPD, among others)</i>	N
<i>Secretary’s Certificate dated November 16, 2023 (Board Resolution No. 126)</i>	O
<i>Secretary’s Certificate dated November 16, 2023 (Board Resolution No. 127)</i>	P
<i>Metering Service Agreement and Transmission Service Agreement dated October 18, 2018</i>	Q
<i>Transmission Service Agreement dated October 18, 2018</i>	Q-1
<i>Write-up on Non-Availability of Certification by NPC of Transition Supply Contract and Energy Availability</i>	R
<i>Certification dated September 26, 2023 (Composition of LEYECO V’s Board of Directors)</i>	S

ERC CASE NO. 2024-054 RC
ORDER/ 15 AUGUST 2024
PAGE 7 OF 17

Description of Document	Annex
Certificate of Membership in the Wholesale Electricity Spot Market (" WESM ")	T
GNPD's Documents	
<i>Articles of Partnership</i> dated May 21, 2014	U
<i>Amended Articles of Partnership</i> dated February 18, 2022	V
<i>Certificate</i> dated February 1, 2023 (Certifying GNPD's information sheet)	W
<i>GNPD Project Ownership Structure Chart</i> dated August 31, 2021	X
<i>Certificate of Registration No. 2022-058</i> and <i>Certificate of Entitlement to Tax Incentives</i> dated December 29, 2021 issued by the Authority of the Freeport Area of Bataan (" FAB ")	Y
<i>Environmental Compliance Certificate No. ECC-CO-1406-0012</i> dated November 10, 2015	Z
<i>Certificate of Compliance No. 22-10-M-00203L</i> dated October 11, 2022	AA
<i>Amended Certificate of Endorsement No. 2021-08-172</i> dated August 3, 2021	BB
<p>Write-up on the non-applicability of the following requirements to GNPD:</p> <ul style="list-style-type: none"> • Shareholders' agreement; • By-laws; • Renewable energy service/operating contract and Certificate of Registration or Certification of Commerciality from the Department of Energy; • Distribution wheeling service agreement; • Water permit from the National Water Resources Board; • Copy of related agreements (<i>i.e.</i>, transmission wheeling contract, independent power producer administrators agreement, engineering, procurement, and construction contract, operation and maintenance contract, wholesale aggregator agreement, project feasibility study, etc.); • Documents for new application; • Analysis of inconsistencies in documents presented; and • Potential cost of ancillary services. 	CC
<i>Verified Certification</i> dated September 29, 2023 stating that the Facility is ready to deliver power to address the emergency situation of LEYECO V and that the rates being	DD

Description of Document	Annex
charged are no more than the latest rate approved by the ERC for the same or relevant technology in the area	
This Honorable Commission's <i>Decision</i> dated 06 November 2020 in ERC Case No. 2019-004 MC entitled <i>In the Matter of the Application for the Approval of the Authority to Develop, Own, and Operate Dedicated Point-to-Point Limited Transmission Facilities with Motions for Provisional Authority and Confidential Treatment of Information, GNPow er Diginin Ltd. Co. (GNPD), Applicant.</i>	EE
Executive summary of the EPSA	FF
[Confidential] <i>Sources of Funds</i>	GG
[Confidential] <i>Certification</i> dated March 25, 2022 (Financing arrangements)	HH
[Confidential] <i>Generation Rate and Derivation</i>	II
[Confidential] Financial model	JJ
[Confidential] <i>Cash Flow</i>	KK
[Confidential] <i>Sworn Statement</i> dated November 23, 2023 (Fuel procurement process)	LL
[Confidential] <i>Executive Summary</i> dated June 22, 2022 (Heat rate certification and test results)	MM
Technical and economic characteristics of the Plant	NN
Audited Financial Statements for the year 2022	OO
WESM registration information	PP
GNPD's single-line diagram	QQ
<i>Certification on Partnership Agreement</i> dated February 6, 2023	RR
<i>Simulation of the no. of operating units necessary to meet the MEOT and/or additional energy/demand requirements of the DU</i>	SS

Allegations to Support the Motion for Confidential Treatment of Information

- Section 1, Rule 4 of the *Revised Rules of Practice and Procedure of the Energy Regulatory Commission ("Revised ERC Rules")* provides that a party to any proceeding before this Honorable Commission may request that documents and/or information in

CP

this Honorable Commission's possession be treated as confidential and not be disclosed.

16. In line with this, GNPD prays that Annexes GG, HH, II, JJ, KK, LL, and MM (collectively, the "*Confidential Documents*") and the information contained therein be treated as confidential and not be disclosed to any persons other than the officers and staff of this Honorable Commission.
17. The foregoing documents contain information and data involving GNPD's power rate calculations and financial model, as well as how these are derived. They are not generally available to the public, are proprietary, privileged, and confidential in nature, and should be protected as trade secrets. In *Air Philippines Corporation vs. Pennswell, Inc.*,² the Supreme Court held that:

A trade secret may consist of any formula, pattern, device, or compilation of information that: (1) is used in one's business; and (2) gives the employer an opportunity to obtain an advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous use in the operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information "in confidence" or through a "confidential relationship." American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:

(1) the extent to which the information is known outside of the employer's business;

(2) the extent to which the information is known by employees and others involved in the business;

(3) the extent of measures taken by the employer to guard the secrecy of the information;

(4) the value of the information to the employer and to competitors;

(5) the amount of effort or money expended by the company in developing the information; and

² G.R. No. 172835, December 13, 2007.

(6) the extent to which the information could be easily or readily obtained through an independent source.³

18. In the *Decision* in ERC Case No. 2015-111 RC dated May 30, 2017 entitled *In the Matter of the Application for Approval of the Power Supply Agreement Between Nueva Ecija II Electric Cooperative, Inc.-Area 2 (NEECO II – Area 2) and PNOC Renewables Corporation (PNOC RC)*, this Honorable Commission categorically stated that formulas and pricing structures of a GenCo must be treated as confidential and may not be publicly disclosed, thus:

“In the case of PNOC RC, the documents sought to be protected from disclosure contain formula and pricing structures used in arriving at their proposed tariff. In fact, all three (3) documents were used by the Commission in evaluating the reasonableness of the proposed rate. In the electric power industry w(h)ere prices is [sic] a major consideration in selecting one’s supplier, it is apparent that the assumptions used in arriving at one’s proposed tariff is considered a competitive leverage by one player against its competitors.

Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed.”⁴

19. Thus, this Honorable Commission has recognized the importance of maintaining pricing structures as confidential to ensure the competitiveness of the generation sector. Such information, which falls within the definition of a trade secret as defined by jurisprudence, is clearly information that merits the confidential treatment provided for under Rule 4 of the Revised ERC Rules.
20. The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the EPSA by this Honorable Commission, without the need to disclose the contents of Confidential Documents. The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of GNPD’s operating costs and expenses.
21. Further, if the Confidential Documents and the information contained therein are leaked to GNPD’s competitors, they will gain undue advantage and could use such information and documents in their operations. Furthermore, the negotiating power of GNPD with parties it plans to contract with or with whom it is currently doing business, will be impeded if it is compelled to disclose such information.
22. Accordingly, one (1) copy each of the Confidential Documents is placed in a sealed envelope, with the said envelope and each page of the documents stamped with the word “*Confidential*.”^{ap}

³ *Emphasis and underscoring supplied.*

⁴ *Emphasis supplied.*

PRAYER

WHEREFORE, the Applicants respectfully pray that this Honorable Commission:

- (a) **GRANT** the Applicants' Motion for Confidential Treatment of Information and **DECLARE** as confidential the information contained in the Confidential Documents (**Annexes GG, HH, II, JJ, KK, LL, and MM**);
- (b) **ISSUE** a Protective Order treating the Confidential Documents (**Annexes GG, HH, II, JJ, KK, LL, and MM**) as confidential information in accordance with Rule 4 of the ERC Rules and prescribing guidelines for their protection;
- (c) **ISSUE** a Decision **GRANTING** the Joint Application and **APPROVING** the EPSA, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the EPSA, and authorizing LEYECO V to charge and collect the fees therein from its customers reckoned from the start of power supply by GNPD to LEYECO V under the EPSA.

Other just and equitable reliefs are likewise prayed for.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁵ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure):⁶

Date	Platform	Activity
19 September 2024 (Thursday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams Application	Determination of compliance with the jurisdictional requirements and expository presentation
26 September 2024 (Thursday) at two o'clock in the afternoon (2:00 PM)		Pre-Trial Conference and presentation of evidence

⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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

RELATIVE THERETO, GNPD and LEYECO V are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial virtual hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governors, the Mayors and the Local Government Unit (LGU) legislative bodies, where GNPD and LEYECO V principally operate;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Joint Application*, their reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearings; and
- 5) Furnish with copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

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

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by GNPD and LEYECO V to inform the consumers affected by the filing of the *Application*, their reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, GNPD and LEYECO V are hereby required to post on their respective bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by concerned Offices of the Governors, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

GNPD and LEYECO V, and all interested parties are also required to submit via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-Trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-Trial Brief.

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

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

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

Applicants GNPD and LEYECO V are hereby directed to file a copy of their Expository Presentation via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. GNPD and LEYECO V shall also be required, upon the request of any stakeholder,

to provide an advance copy of their expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.

Applicants GNPD and LEYECO V are further directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-Trial Brief, and Judicial Affidavits of witnesses, **within five (5) working days** from the date the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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

SO ORDERED.

Pasig City, 15 August 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:

Medimalanta

MONALISA C. DIMALANTA

Chairperson and CEO

LS: JPM/MGC/KTB

ERC

Office of the Chairperson and CEO



MCD2024-019060

ERC CASE NO. 2024-054 RC
ORDER/ 15 AUGUST 2024
PAGE 16 OF 17

Copy Furnished:

1. Leyte V Electric Cooperative, Inc. (LEYECO V)
Applicant
Brgy. San Pablo, Ormoc City
2. GNPowder Dinginin Ltd. Co. (GNPD)
Applicant
GNPower Energy Complex
Sitio Dinginin, Barangay Alas-asin
Mariveles, Bataan
3. Dechavez Lerios-Amboy and Evangelista Law Offices
Counsel for Applicant LEYECO V
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Email address: powerlawfirm@gmail.com
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Email address: docket@osg.gov.ph
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
Email address: citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
Email address: senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
Email address: committee.energy@house.gov.ph
9. Office of the Governor
Province of Leyte
10. Office of the LGU Legislative Body
Province of Leyte
11. Office of the City Mayor
City of Ormoc, Leyte
12. Office of the Sangguniang Panlungsod
City of Ormoc, Leyte
13. Office of the Municipal Mayor
Albuera, Leyte
14. Office of the Sangguniang Bayan
Albuera, Leyte
15. Office of the Municipal Mayor
Kananga, Leyte
16. Office of the Sangguniang Bayan
Kananga, Leyte

ERC CASE NO. 2024-054 RC
ORDER/ 15 AUGUST 2024
PAGE 17 OF 17

17. Office of the Municipal Mayor
Matag-ob, Leyte
18. Office of the Sangguniang Bayan
Matag-ob, Leyte
19. Office of the Municipal Mayor
Villaba, Leyte
20. Office of the Sangguniang Bayan
Villaba, Leyte
21. Office of the Municipal Mayor
Tabango, Leyte
22. Office of the Sangguniang Bayan
Tabango, Leyte
23. Office of the Municipal Mayor
San Isidro, Leyte
24. Office of the Sangguniang Bayan
San Isidro, Leyte
25. Office of the Municipal Mayor
Leyte, Leyte
26. Office of the Sangguniang Bayan
Leyte, Leyte
27. Office of the Municipal Mayor
Palompon, Leyte
28. Office of the Sangguniang Bayan
Palompon, Leyte
29. Office of the Municipal Mayor
Isabel, Leyte
30. Office of the Sangguniang Bayan
Isabel, Leyte
31. Office of the Municipal Mayor
Calubian, Leyte
32. Office of the Sangguniang Bayan
Calubian, Leyte
33. Office of the Municipal Mayor
Merida, Leyte
34. Office of the Sangguniang Bayan
Merida, Leyte
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Ortigas Center San Antonio, Pasig City
Email: ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN LEYTE V ELECTRIC COOPERATIVE, INC. AND GNPOWER DINGININ LTD. CO., WITH PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION



ERC CASE NO. 2024-054 RC

LEYTE V ELECTRIC COOPERATIVE, INC. (LEYECO V) AND GNPOWER DINGININ LTD. CO. (GNPD),

Applicants.

X-----X

Promulgated:
August 15, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 12 April 2024, Leyte V Electric Cooperative, Inc. ("LEYECO V") and GNPower Dinginin Ltd. Co. ("GNPD") filed their *Joint Application for Approval of Emergency Power Supply Agreement (With Prayer for Confidential Treatment of Information)* dated 07 March 2024 (Joint Application), seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with prayer for confidential treatment of information.

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

The Parties

1. LEYECO V is a non-stock and non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay San Pablo, Ormoc City. LEYECO V operates an electric light and power distribution.

service, for which it was issued an exclusive franchise by the National Electrification Commission, in Ormoc City, and the municipalities of Albuera, Calubian, Isabel, Kananga, Leyte, Matag-ob, Merida, Palompon, San Isidro, Tabango, and Villaba, all in the Province of Leyte.

2. GNPD is a limited partnership duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at GNPower Energy Complex, Sitio Dinginin, Barangay Alas-asin, Municipality of Mariveles, Province of Bataan. GNPD owns and operates a 1,336-megawatt ("MW") coal-fired power plant (the "Plant") which it uses to supply power to its customers.
3. The Applicants may be served with notices, orders, and processes of the Honorable Commission through their respective counsels at the addresses indicated below.

Statement of Facts

4. On May 3, 2019, the Supreme Court promulgated its decision in *Alyansa Para Sa Bagong Pilipinas, Inc. v. Energy Regulatory Commission ("Alyansa Ruling")*,¹ which declared that power supply agreements ("PSAs") submitted to the Honorable Commission on or after June 30, 2015 were required to undergo the competitive selection process ("CSP") prescribed by the Honorable Commission's issuances.
5. On August 10, 2023, this Honorable Commission issued an Advisory (the "August 10 Advisory") informing all Distribution Utilities ("DUs") with PSAs affected by the Alyansa Ruling "that the Commission has approved a Transition Period to allow the DUs the opportunity to source their power supply requirements through an Emergency Power Supply Agreement (EPSA). The Transition Period will be counted from the day after the DU receives the ERC's Order or Decision implementing the Alyansa Ruling and until the date the DU executes an EPSA or thirty (30) days, whichever is earlier."
6. One of the PSAs affected by the Alyansa Ruling was the Applicants' Power Purchase Supply Agreement (the "PPSA"). At the time the Alyansa Ruling was issued, the application for approval of the PPSA was docketed as ERC Case No. 2016-057 RC and was pending with this Honorable Commission (the "PPSA Application").
7. On August 22, 2023, LEYECO V received this Honorable Commission's Order dated April 19, 2023 (the "Dismissal Order"), which: (a) dismissed with prejudice the PPSA Application, (b) terminated the provisional authority for the implementation of the PPSA, and (c) directed the Applicants to stop implementing their PPSA immediately upon receipt of the order. In compliance with the Dismissal Order, the Applicants

¹ G.R. No. 227670, May 3, 2019.

stopped implementing their PPSA on 22 September 2023 which resulted in a supply deficit.

8. Because of the deficit caused by the cessation of supply, LEYECO V needed to source enough capacity to meet the demands of its captive market. Pursuant to this Honorable Commission's Advisory dated June 7, 2023, based on the DOE Advisory entitled "Moratorium on the Issuance of a Certificate of Exemption from the Conduct of the Competitive Selection Process Under Section 2. 2.1.2 and the Review of the Terms of Reference for Unsolicited Proposals under DC2021-09-0030" dated April 3, 2023, LEYECO V sent letter-invitations to various generation companies ("GenCos") soliciting offers for a contracted capacity of 20 MW. GNPD was one of the GenCos that submitted an offer to LEYECO V.
9. After careful consideration of the offers received, LEYECO V found GNPD's offer as the most advantageous for its customers. Thus, within transition period stated in the August 10 Advisory, the Applicants executed the Emergency Power Supply Agreement dated September 21, 2023 (the "EPSA"). A copy of the EPSA is attached as Annex A.
10. The Applicants filed this Joint Application to seek the approval of the EPSA.

Salient Features of the EPSA

11. The duly executed EPSA contains the following salient provisions:
 - (a) **TERM AND CONTRACTED CAPACITY.** The EPSA shall commence from the Operations Effective Date (i.e., September 22, 2023 or any date as agreed by the Applicants) and shall expire twelve (12) months from the Operations Effective Date, unless terminated earlier in accordance with the terms of the EPSA. The contracted capacity under the EPSA is 20 MW. Schedule 1 of the EPSA provides:
 - 1.3 Term of Agreement
 - 1.3.1 Effective Date: The date of execution of this Agreement.
 - 1.3.2 Operations Effective Date: The date specified in the Commencement Date Notice.
 - 1.3.3 Scheduled Termination Date: 12 months from the Operations Effective Date.
 - (b) **CONTRACT PRICE.** The Contract Price shall be composed of Capacity Fee, Energy Fee, and Governmental Charges.
 - (c) **CAPACITY FEE.** The Capacity Fee is based on the Capacity Utilization Factor ("CUF"). The Capacity Fee corresponding to each CUF is listed in Schedule 1 of the EPSA. The EPSA.

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defines the CUF as “the Capacity Utilization Factor between 70% and 100%, provided that if the actual CUF is below the MEOT provided in Schedule I, the Capacity Price shall be calculated based on the Capacity Fee and quantity associated with the MEOT.” The CUF is determined as follows:

$$CUF = \frac{AE}{CC * 24 * [BPD - (SOT_m + FOT_m + FMT_m)]}$$

Where:

AE = The actual energy delivered for the billing period within the contracted capacity

CC = The Contract Capacity, in kW, as set forth in the Delivery Schedule

BPD = The number of Billing Period Days in the relevant Billing Period

SOT_m = The Full Load Equivalent Scheduled Outage Taken for the relevant Billing Period calculated in accordance with

FOT_m = The Full Load Equivalent Forced Outage Days Taken for the relevant Billing Period calculated in accordance with

FMT_m = The Full Load Equivalent Force Majeure Days Taken for the relevant Billing Period calculated in accordance with

(d) ENERGY FEE. The Energy Fee is computed as follows:

$$Energy\ Fee = IEF * \left[\frac{CIF_n}{CIF_0} \right] * MAE$$

Where:

IEF = Initial Energy Fee equal to \$0.0328 / kWh

CIF_n = CIF Cost of Fuel for Billing Period n

Where:

“CIF_n Cost of Fuel for the Billing Period” means (i) the blended price of the invoiced cost of coal from each supplier for the relevant period and for that portion of such supplier’s

ERC CASE NO. 2024-054 RC
NOTICE OF VIRTUAL HEARING/15 AUGUST 2024
PAGE 5 OF 13

coal consumed during the Billing Period plus (ii) the additional costs for insurance, freight and other fuel-related governmental charges to deliver the coal to the Facility

CIF₀ = Base CIF Cost of Fuel equal to \$10.2514 / million kcal

MAE = monthly actual energy, in kWh, or max (MEOT, AE)

Where:

MEOT = 70% * Contracted Capacity * BPD * 24, in kWh

AE = actual energy delivered, in kWh

12. Because of the dismissal of the PPSA Application, LEYECO V is currently in need of 27.77 MW to address its demand for the period covered by the EPSA, which is expected to reach a peak of up to 50.68 MW. Even if the EPSA is implemented, LEYECO V still expects deficits of up to 14.07 MW during the EPSA's term. A copy of LEYECO V's supply-demand scenario is attached as Annex E.
13. The indicative rate impact on LEYECO V's overall generation rate with and without the additional supply from GNPD are as follows:

Generation Rate without GNPD 20MW	PhP7.4830/kWh
Generation Rate with GNPD 20MW	PhP6.3354/kWh
Generation Rate Impact	(PhP1.1476/kWh)

A copy of the Rate Impact Analysis is attached as Annex F.

14. In support of the Joint Application, copies of the following documents and/or information are attached herein as annexes:

Description of Document	Annex
EPSA	A
LEYECO V's Documents	
<i>Articles of Incorporation</i> dated December 21, 1977	B
<i>By-laws</i> dated December 15, 1977	B-1
<i>Certification</i> dated September 22, 2023 (non-availability of an alternative Demand-Side Management program)	C
Distribution Development Plan for the years 2023 to 2031	D
<i>Supply-Demand Scenario</i> with average daily load curve, forecasted daily load curve, and forecasted peak demand	E

ERC CASE NO. 2024-054 RC
NOTICE OF VIRTUAL HEARING/15 AUGUST 2024
PAGE 6 OF 13

Description of Document	Annex
<i>Monthly Supply-Demand Scenario (August 2023-September 2024)</i>	E-1
<i>Rate Impact Analysis</i>	F
System reliability metrics (e.g., System Average Interruption Duration Index and System Average Interruption Frequency Index)	G
<i>Estimated Load of Qualified Contestable Customers under RCOA</i>	H
<i>LEYECO-V Substation Single Line Diagram</i> dated October 7, 2022	I
Letter-invitations to bid issued by LEYECO V	J
<i>Board Resolution No. 126 Series of 2023</i> dated September 12, 2023 (Authorizing LEYECO V to enter into the EPSA with GNPD and authorizing Mr. Emmanuel S. Arpon and Atty. Janine Ann J. Dayandayan to execute the verification and certification against forum shopping, among other things)	K
<i>Board Resolution No. 127 Series of 2023</i> dated September 12, 2023 (Authorizing the Dechavez Lerios-Amboy and Evangelista Law Offices [{" DLE Law "}] to act as LEYECO V's counsel and authorizing any lawyer from DLE Law to execute the verification and certification against forum shopping, among other things)	L
<i>Notice of Award</i> dated September 13, 2023	M
<i>Secretary's Certificate</i> dated November 16, 2023 (Board Resolution No. 122, authorizing the management of LEYECO V to award the EPSA to GNPD, among others)	N
<i>Secretary's Certificate</i> dated November 16, 2023 (Board Resolution No. 126)	O
<i>Secretary's Certificate</i> dated November 16, 2023 (Board Resolution No. 127)	P
<i>Metering Service Agreement and Transmission Service Agreement</i> dated October 18, 2018	Q
<i>Transmission Service Agreement</i> dated October 18, 2018	Q-1
<i>Write-up on Non-Availability of Certification by NPC of Transition Supply Contract and Energy Availability</i>	R
<i>Certification</i> dated September 26, 2023 (Composition of LEYECO V's Board of Directors)	S

ERC CASE NO. 2024-054 RC
NOTICE OF VIRTUAL HEARING/15 AUGUST 2024
PAGE 7 OF 13

Description of Document	Annex
Certificate of Membership in the Wholesale Electricity Spot Market (" WESM ")	T
GNPD's Documents	
<i>Articles of Partnership</i> dated May 21, 2014	U
<i>Amended Articles of Partnership</i> dated February 18, 2022	V
<i>Certificate</i> dated February 1, 2023 (Certifying GNPD's information sheet)	W
<i>GNPD Project Ownership Structure Chart</i> dated August 31, 2021	X
<i>Certificate of Registration No. 2022-058</i> and <i>Certificate of Entitlement to Tax Incentives</i> dated December 29, 2021 issued by the Authority of the Freeport Area of Bataan (" FAB ")	Y
<i>Environmental Compliance Certificate No. ECC-CO-1406-0012</i> dated November 10, 2015	Z
<i>Certificate of Compliance No. 22-10-M-00203L</i> dated October 11, 2022	AA
<i>Amended Certificate of Endorsement No. 2021-08-172</i> dated August 3, 2021	BB
Write-up on the non-applicability of the following requirements to GNPD: <ul style="list-style-type: none"> • Shareholders' agreement; • By-laws; • Renewable energy service/operating contract and Certificate of Registration or Certification of Commerciality from the Department of Energy; • Distribution wheeling service agreement; • Water permit from the National Water Resources Board; • Copy of related agreements (i.e., transmission wheeling contract, independent power producer administrators agreement, engineering, procurement, and construction contract, operation and maintenance contract, wholesale aggregator agreement, project feasibility study, etc.); • Documents for new application; • Analysis of inconsistencies in documents presented; and • Potential cost of ancillary services. 	CC
<i>Verified Certification</i> dated September 29, 2023 stating that the Facility is ready to deliver power to address the	DD

ERC CASE NO. 2024-054 RC
NOTICE OF VIRTUAL HEARING/15 AUGUST 2024
PAGE 8 OF 13

Description of Document	Annex
emergency situation of LEYECO V and that the rates being charged are no more than the latest rate approved by the ERC for the same or relevant technology in the area	
This Honorable Commission's <i>Decision</i> dated 06 November 2020 in ERC Case No. 2019-004 MC entitled <i>In the Matter of the Application for the Approval of the Authority to Develop, Own, and Operate Dedicated Point-to-Point Limited Transmission Facilities with Motions for Provisional Authority and Confidential Treatment of Information, GNPow er Diginin Ltd. Co. (GNPD), Applicant.</i>	EE
Executive summary of the EPSA	FF
[Confidential] <i>Sources of Funds</i>	GG
[Confidential] <i>Certification</i> dated March 25, 2022 (Financing arrangements)	HH
[Confidential] <i>Generation Rate and Derivation</i>	II
[Confidential] Financial model	JJ
[Confidential] <i>Cash Flow</i>	KK
[Confidential] <i>Sworn Statement</i> dated November 23, 2023 (Fuel procurement process)	LL
[Confidential] <i>Executive Summary</i> dated June 22, 2022 (Heat rate certification and test results)	MM
Technical and economic characteristics of the Plant	NN
Audited Financial Statements for the year 2022	OO
WESM registration information	PP
GNPD's single-line diagram	QQ
<i>Certification on Partnership Agreement</i> dated February 6, 2023	RR
<i>Simulation of the no. of operating units necessary to meet the MEOT and/or additional energy/demand requirements of the DU</i>	SS

Allegations to Support the Motion for Confidential Treatment of Information

15. Section 1, Rule 4 of the *Revised Rules of Practice and Procedure of the Energy Regulatory Commission ("Revised ERC Rules")* provides that a party to any proceeding before this Honorable

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Commission may request that documents and/or information in this Honorable Commission's possession be treated as confidential and not be disclosed.

16. In line with this, GNPD prays that Annexes GG, HH, II, JJ, KK, LL, and MM (collectively, the "*Confidential Documents*") and the information contained therein be treated as confidential and not be disclosed to any persons other than the officers and staff of this Honorable Commission.
17. The foregoing documents contain information and data involving GNPD's power rate calculations and financial model, as well as how these are derived. They are not generally available to the public, are proprietary, privileged, and confidential in nature, and should be protected as trade secrets. In *Air Philippines Corporation vs. Pennswell, Inc.*,² the Supreme Court held that:

A trade secret may consist of any formula, pattern, device, or compilation of information that: (1) is used in one's business; and (2) gives the employer an opportunity to obtain an advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous use in the operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information "in confidence" or through a "confidential relationship." American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:

- (1) the extent to which the information is known outside of the employer's business;
- (2) the extent to which the information is known by employees and others involved in the business;
- (3) the extent of measures taken by the employer to guard the secrecy of the information;
- (4) the value of the information to the employer and to competitors;
- (5) the amount of effort or money expended by the company in developing the information; and

² G.R. No. 172835, December 13, 2007.

(6) the extent to which the information could be easily or readily obtained through an independent source.³

18. In the *Decision* in ERC Case No. 2015-111 RC dated May 30, 2017 entitled *In the Matter of the Application for Approval of the Power Supply Agreement Between Nueva Ecija II Electric Cooperative, Inc.-Area 2 (NEECO II – Area 2) and PNOC Renewables Corporation (PNOC RC)*, this Honorable Commission categorically stated that formulas and pricing structures of a GenCo must be treated as confidential and may not be publicly disclosed, thus:

“In the case of PNOC RC, the documents sought to be protected from disclosure contain formula and pricing structures used in arriving at their proposed tariff. In fact, all three (3) documents were used by the Commission in evaluating the reasonableness of the proposed rate. In the electric power industry w(h)ere prices is [sic] a major consideration in selecting one’s supplier, it is apparent that the assumptions used in arriving at one’s proposed tariff is considered a competitive leverage by one player against its competitors.

Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed.”⁴

19. Thus, this Honorable Commission has recognized the importance of maintaining pricing structures as confidential to ensure the competitiveness of the generation sector. Such information, which falls within the definition of a trade secret as defined by jurisprudence, is clearly information that merits the confidential treatment provided for under Rule 4 of the Revised ERC Rules.

20. The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the EPSA by this Honorable Commission, without the need to disclose the contents of Confidential Documents. The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of GNPD’s operating costs and expenses.

21. Further, if the Confidential Documents and the information contained therein are leaked to GNPD’s competitors, they will gain undue advantage and could use such information and documents in their operations. Furthermore, the negotiating power of GNPD with parties it plans to contract with or with whom it is currently doing business, will be impeded if it is compelled to disclose such information.

22. Accordingly, one (1) copy each of the Confidential Documents is placed in a sealed envelope, with the said envelope and each page of the documents stamped with the word “Confidential.”⁵

³ *Emphasis and underscoring supplied.*

⁴ *Emphasis supplied.*

PRAYER

WHEREFORE, the Applicants respectfully pray that this Honorable Commission:

- (a) **GRANT** the Applicants' Motion for Confidential Treatment of Information and **DECLARE** as confidential the information contained in the Confidential Documents (**Annexes GG, HH, II, JJ, KK, LL, and MM**);
- (b) **ISSUE** a Protective Order treating the Confidential Documents (**Annexes GG, HH, II, JJ, KK, LL, and MM**) as confidential information in accordance with Rule 4 of the ERC Rules and prescribing guidelines for their protection;
- (c) **ISSUE** a Decision **GRANTING** the Joint Application and **APPROVING** the EPSA, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the EPSA, and authorizing LEYECO V to charge and collect the fees therein from its customers reckoned from the start of power supply by GNPD to LEYECO V under the EPSA.

Other just and equitable reliefs are likewise prayed for.

The Commission hereby sets the instant *Joint Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁵ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure):⁶

Date	Platform	Activity
19 September 2024 (Thursday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams Application	Determination of compliance with the jurisdictional requirements and expository presentation
26 September 2024 (Thursday) at two o'clock in the afternoon (2:00 PM)		Pre-Trial Conference and presentation of evidence

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⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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

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

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at docket@erc.ph, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene at **least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

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

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

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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

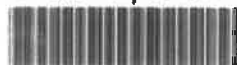
Finally, all interested persons may be allowed to join the scheduled initial virtual hearings by providing the Commission, through legal.virtualhearings@erc.ph, their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access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

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 15th day of August 2024 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO


LS: JPM/MCC/KTB

ERC
Office of the Chairperson and CEO



MCD2024-019060