



# LEYTE V ELECTRIC COOPERATIVE, INC.

Brgy. San Pablo, Ormoc City, Leyte  
Telephone Nos.: PLDT: (053) 839-3920 to 3921 / Globe: (053) 561-4466  
Cellular Phone Nos. Calls Only: Smart: 0998-964-3804; Globe: 0917-836-3895  
Website: www.leyeco-v.com.ph eMail Address: info@leyeco-v.com.ph

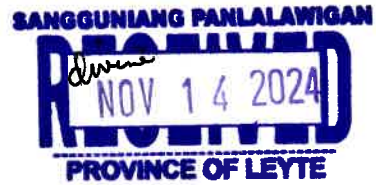


23

2024 NOV

Reference No. 2024-11-847

November 11, 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. 2024-106 RC: "IN THE MATTER OF THE JOINT APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT ENTERED INTO BY AND BETWEEN LEYTE V ELECTRIC COOPERATIVE, INC. AND FDC MISAMIS POWER CORPORATION WITH PRAYER FOR PROVISIONAL AUTHORITY AND CONFIDENTIAL TREATMENT OF INFORMATION"**

**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-entitled Joint Application, we are furnishing this Honorable Office the following:

1. ERC Order dated November 4, 2024
2. ERC Notice of Virtual Hearing dated November 4, 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

*ap/rvc/mfg*

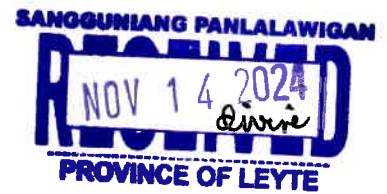
*pb*

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

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City



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



**ERC CASE NO. 2024-106 RC**

**LEYTE V ELECTRIC  
COOPERATIVE, INC. AND FDC  
MISAMIS POWER  
CORPORATION,**

*Applicants.*

X-----X

**Promulgated:  
November 04, 2024**

**NOTICE OF VIRTUAL HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 04 September 2024, Leyte V Electric Cooperative, Inc. (LEYECO V) and FDC Misamis Power Corporation (FDCMPC) filed their *Joint Application (With Prayer for Provisional Authority and Confidential Treatment of Information)* dated 29 November 2023, seeking the Commission's approval of the Emergency Power Supply Agreement (EPSA) between LEYECO V and FDCMPC, with prayer for provisional authority and confidential treatment of information.

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

**THE JOINT APPLICANTS**

1. **LEYECO V** is a non-stock, non-profit electric cooperative, duly organized and existing under and by virtue of the laws of the Philippines, with principal office address at Brgy. San Pablo, Ormoc City. LEYECO V serves the power requirements of the Municipalities of Merida, Isabel, Palompon, Villaba, Tabango, San Isidro, Calubi-an, Leyte, Matag-ob, Kananga, Albuera, and the City of Ormoc, all in the Province of Leyte (collectively, the “Franchise Area”). For purposes of this *Joint Application*, LEYECO V is represented herein by its Board President **MR. EMMANUEL S. ARPON** and General Manager **ATTY. JANNIE ANN J. DAYANDAYAN**, duly authorized by LEYECO V’s Board of Directors.<sup>1</sup>
2. **FDCMPC** is a corporation duly organized and existing under and by the laws of the Republic of the Philippines, with principal office address at the PHIVIDEC Industrial Estate, Villanueva, Misamis Oriental 9002. For purposes of this *Joint Application*, FDCMPC is represented by its President and Chief Executive Officer (“CEO”), **MR. JUAN EUGENIO L. ROXAS**, duly authorized for the purpose by virtue of Secretary Certificate No. 202308-09.<sup>2</sup>
3. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their undersigned counsel at the address indicated herein.

**NATURE OF THE APPLICATION**

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

---

<sup>1</sup> See Annex “**DD**” of the *Joint Application*.

<sup>2</sup> See Annex “**EE**” of the *Joint Application*.

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

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

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

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

5. In compliance with Section 2, Rule 6 of the *ERC Revised Rules of Practice and Procedure*, a copy of the instant *Joint Application* (with all its annexes and accompanying documents, except those subject of a motion for confidential treatment of information) was furnished to the following offices:<sup>7</sup>
  - a. Office of the Mayor of the City of Ormoc;
  - b. Office of the Presiding Officer of the *Sangguniang Panlungsod* of the City of Ormoc;
  - c. Office of the Governor of the Province of Leyte; and
  - d. Office of the Presiding Officer of the *Sangguniang Panlalawigan* of the Province of Leyte.
  - e. Office of the Mayor of the Municipality of Villanueva;
  - f. Office of the Presiding Officer of the *Sangguniang Bayan* of the Municipality of Villanueva;
  - g. Office of the Governor of the Province of Misamis Oriental;
  - h. Office of the Presiding Officer of the *Sangguniang Panlalawigan* of the Province of Misamis Oriental.
6. Further, this *Joint Application* was also published in a newspaper of general circulation.<sup>8</sup>

#### **STATEMENT OF FACTS**

7. **Necessity for Power Supply:** LEYECO V belongs to the Federation of Rural Electric Cooperatives in Region 8 (“FRECOR 8”), a regional association composed of non-stock, non-profit electric cooperatives located within Region VIII of the Philippines. In 2019, FRECOR 8 agreed in principle to conduct an aggregated Competitive Selection Process (“CSP”) for all electric cooperatives belonging thereto to take advantage of a lower price for electricity resulting from “economies of scale.” This CSP was to be conducted at the start of the year 2020. However, several unfortunate and unforeseen incidents occurring between 2019 until 2022 completely prevented FRECOR 8 from conducting the intended CSP.
8. In 2019, more particularly on Christmas Eve of the same year, the Province of Leyte was heavily hit by Typhoon Ursula, with it being reported that the Province of Leyte was subjected to winds of up to 170 km/h.<sup>9</sup> Thus, LEYECO V, as was the entire “energy family” and the Department of Energy (“DOE”) *Task Force on Energy Resiliency*, was forced to focus on the

---

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

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

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

- immediate full restoration of distribution services in the affected areas,<sup>10</sup> which would extend well into 2020.
- 8.1. It bears further emphasis that the destruction to infrastructure resulting from Typhoon Ursula included the impairment of mobile and internet services.<sup>11</sup> In fact, it was still being reported as of 03 January 2020 that mobile, phone, and electricity services were still being gradually restored in affected communities.<sup>12</sup> Thus, taking into consideration the events discussed below, FRECOR 8 (which includes LEYECO V) could not practically and properly conduct even an *online* CSP.
9. While still reeling from the effects of Typhoon Ursula, in January 2020, the Philippines would record its first confirmed case of the COVID-19 virus,<sup>13</sup> signaling the entry of the pandemic into the country. The Office of the President of the Philippines would then issue *Proclamation* No. 929 dated 16 March 2020 (“Proclamation No. 929”),<sup>14</sup> which declared a nationwide State of Calamity throughout the Philippines, and imposed an Enhanced Community Quarantine (“ECQ”). The ECQ imposed stringent limitations on movement and transportation of people as well as the strict regulation of operating industries, among others.<sup>15</sup>
10. The Province of Leyte would soon locally impose its own community quarantine guidelines likewise resulting in travel restrictions therein.<sup>16</sup> It bears stressing that the Province of Leyte, **even as of December 2020**, would still report high spikes of confirmed cases of COVID-19, thus being labelled, at the very least as a “province of concern.”<sup>17</sup> Relevantly, **2020**

---

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

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

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

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

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

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

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

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

onwards to 2021, even the smaller towns within the Province of Leyte also declared their own lockdowns.<sup>18</sup>

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

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

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

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

---

<sup>18</sup> See “Leyte town locks down community over Covid-19 fear”, available at <https://www.pna.gov.ph/articles/1106267>; see also “Leyte, Pangasinan villages on lockdown”, available at <https://www.philstar.com/nation/2020/06/05/2018775/leyte-pangasinan-villages-lockdown>; see also “9 Leyte villages put on lockdown due to mounting COVID-19 cases”, available at <https://www.philstar.com/nation/2020/06/05/2018775/leyte-pangasinan-villages-lockdown>; see also “COVID-19 prevention: Leyte bans return of stranded people until the end of 2020, available at <https://newsinfo.inquirer.net/1372528/covid-19-prevention-leyte-bans-return-of-stranded-people-until-end-of-2020>.

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

<sup>20</sup> See SitRep No. 44 for Typhoon Odette (2021) dated 7 February 2022, copy available at [https://monitoring-dashboard.ndrrmc.gov.ph/assets/uploads/situations/SitRep\\_No\\_44\\_for\\_Typhoon\\_ODET\\_TE\\_20211.pdf](https://monitoring-dashboard.ndrrmc.gov.ph/assets/uploads/situations/SitRep_No_44_for_Typhoon_ODET_TE_20211.pdf).

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

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

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

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

*allowing the procurement of Emergency Power*

12. Section 2.3.5. of the DOE's *Department Circular* No. DC2023-06-0021 allows for the negotiated procurement of Emergency Power supply in the event that a distribution utility's power supply falls below its low demand due to Force Majeure or Fortuitous Events that are beyond its control.<sup>25</sup> Force Majeure or Fortuitous Event is likewise defined as follows, to wit:

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

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

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

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

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

---

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

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

13.2. **Second**, equally extraordinary, unforeseeable, and unavoidable were the circumstances brought about by the COVID-19 Pandemic. The pandemic was categorized as a national emergency and imposed several logistical restrictions, which extended to an unprecedented scale (and exponentially affected by the still lingering effects of Typhoons Ursula and Odette at the time). These circumstances effectively prevented FRECOR 8 (including LEYECO V) from properly conducting its aggregated CSP.

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

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

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

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

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

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



**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 8 OF 21**

---

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

DATE	EVENT/ACTIVITY RELATIVE TO THE INTENDED CSP
	others, the following incidents: <b>(i)</b> posting of the Invitation to Bid in the DOE’s CSP portal and NEA website; <b>(ii)</b> publication of the Invitation to Bid and the TOR; <b>(iii)</b> acceptance of letters of intent and bid participation fees; <b>(iv)</b> second publication; <b>(v)</b> issuance of bidding documents; and <b>(vi)</b> the conduct of the first (1 <sup>st</sup> ) Pre-Bid Conference.

18. LEYECO V was constrained to enter into two (2) separate EPSAs with Energy Development Corporation and Korea Electric Power Corporation for 2 MW and 7 MW contracted capacity, respectively, while FRECOR 8 conducted its CSP. These two (2) EPSAs would expire, and have since expired, on 25 August 2023.
19. Foreseeing that its intended CSP would not be concluded by 25 August 2023, LEYECO V entered into negotiations with FDCMPC for emergency power supply, and eventually executed the LEYECO V-FDCMPC EPSA subject of the instant Joint Application.

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

20. **LEYECO V Power Situation.** LEYECO V’s peak demand for its Franchise Area is 49.77 MW for 2023 to 2024 as provided in its Supply-Demand Scenario.<sup>27</sup>
21. **Generation Facility.** The power to be provided to LEYECO V will be sourced from FDCMPC’s 3 x 135 MW circulating fluidized bed coal fired thermal power plant in the PHIVIDEC Industrial Estate, in Villanueva, Misamis Oriental, with a rated capacity of 405 MW and net dependable capacity of 369 MW (the “Power Plant”). FDCMPC shall supply baseload power to LEYECO V under the terms stipulated in the *LEYECO V-FDCMPC EPSA*.
22. **Salient Features of the EPSA.**
  - 22.1. Term: The Term of the EPSA shall be one (1) year from delivery date, or 26 August 2023 to 25 August 2024.
  - 22.2. Contract Type: Firm
  - 22.3. Installed Capacity of the Power Plant: 405MW
  - 22.4. Net Dependable Capacity of the Power Plant: 369MW

---

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

**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 10 OF 21**

---

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

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

22.6. Outage Allowance:

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

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

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

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

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

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

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

**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 11 OF 21**

---

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

22.10. Generation Charge:

<b>BASELOAD (FIRM):</b>	<b>RATE IN PHP/KW/MONTH</b>	<b>RATE IN PHP/KWH</b>	<b>BILLING DETERMINANT(BD)</b>
Capital Recovery Fee (CRF), Php/kW/month	1,095.00	1.5000	Contract Demand in kW
Fixed O&M (FOM), Php/kW/month	452.09	0.6193	Contract Demand in kW
Variable O&M (VOM), Php/kWh	0.1907		Actual energy consumed in kWh or 70% of LF in kWh, whichever is higher
Fuel Cost (FC), Php/kWh	pass-through		Actual energy consumed in kWh

**BASELOAD (FIRM)**

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

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

Where:

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

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

Indexation:

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

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

<p><b>Generation Rate Impact of EPSA</b>                  (Weighted Average Rate)</p>
---

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

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

24. **Environmental Compliance Certificate.** The Department of Environment and Natural Resources – Environmental Management Bureau (“DENR-EMB”) issued the *Environmental Compliance Certificate* No. ECC-CO-1304-0012 covering the Power Plant.<sup>29</sup>
25. **Board of Investments (“BOI”) Certificate.** The Power Plant is registered with the BOI. A *Certificate of Registration* No. 213-177 was issued by the BOI to this effect.<sup>30</sup>
26. **Fuel Supply.** In order to ensure the supply of fuel for the operations of the Power Plant, FDCMPC solicited offers from reputable suppliers, and has contracted with the supplier that offered the best terms.<sup>31</sup>
27. **DOE Certification.** The DOE has certified that the Power Plant is consistent with the Power Development Plan. A *Certificate of Endorsement* No. 2015-03-010 was issued by the DOE to this effect.<sup>32</sup>
28. **Provisional Authority to Operate (“PAO”).** The Honorable Commission has issued a *Certificate of Compliance* No. 17-05-M-00108M (“COC”) for the Power Plant, which expired. On 28 October 2021, the Honorable Commission issued a PAO for the Power Plant for a period of one (1) year until 16 October 2022. Finally, on 15 June 2023, the Honorable Commission issued a *Certification* that the PAO for the Power Plant is currently being evaluated. This *Certification* is valid for six (6) months from 15 June 2023 or until the resolution of its COC renewal application, whichever comes earlier.<sup>33</sup>
29. **Point-to-Point Application.** In an application docketed as ERC Case No. 2015-054 MC, FDCMPC secured the authority from this Honorable Commission to develop, own, and operate dedicated point-to-point limited transmission facilities connecting the Power Plant to the Mindanao grid through the National Grid Corporation of the Philippines’ Villanueva Substation.

---

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

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

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

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

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

**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 13 OF 21**

---

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

<b>Annex</b>	<b>Documents/Information</b>
<b>"A"</b>	LEYECO V-FDCMPC EPSA
<b>"B"</b> <b>"B-1"</b>	LEYECO V Articles of Incorporation and LEYECO V By-Laws
<b>"C"</b>	LEYECO V Certificate of Franchise
<b>"D"</b>	LEYECO V NEA Certificate of Registration of Articles of Incorporation
<b>"E"</b>	Verified Certification of LEYECO V List of Directors
<b>"F"</b> <b>"F-1"</b> <b>"F-2"</b> <b>"F-3"</b>	FDCMPC Amended Articles of Incorporation; FDCMPC Amended By-Laws; FDCMPC Amended General Information Sheet for 2023; and FDCMPC Verified Certification on Parent, Subsidiaries, and Affiliates Board of Directors
<b>"G"</b> <b>and series</b>	FDCMPC SEC Certificate of Registration with Amendments and Shareholders' Agreement
<b>"H"</b>	FDCMPC BOI Certificate of Registration with attached Terms and Conditions
<b>"I"</b>	FDCMPC DENR-EMB ECC
<b>"J"</b> <b>"J-1"</b>  <b>"J-2"</b>	FDCMPC ERC COC No. 17-05-M-00108M; FDCMPC PAO valid until 16 October 2022; and FDCMPC PAO Certificate of Filing dated 15 June 2023
<b>"K"</b>	FDCMPC DOE Certificate of Endorsement
<b>"L"</b> <b>"L-1"</b>	LEYECO V Power Supply Procurement Plan and LEYECO V Distribution Development Plan
<b>"M"</b>	LEYECO V Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, and Average Daily Load Curve
<b>"N"</b>	LEYECO V Single-line Diagram Connection
<b>"O"</b>	LEYECO V Performance Assessment
<b>"P"</b>	LEYECO V Potential for Load Reduction Due to Retail Competition
<b>"Q"and series</b>	LEYECO V Solicitation Letters to Generation Companies
<b>"R"</b>	FDCMPC Samuel R. Lamorena Verified Certification
<b>"S"</b> <b>"S-1"</b>	FDCMPC Transmission Service Agreement and FDCMPC Metering Services Agreement
<b>"T"</b>	LEYECO V-FDCMPC EPSA Executive Summary
<b>"U"</b> <b>"U-1"</b>	FDCMPC Sources of Funds and Financial Plans and FDCMPC Bank Certifications
<b>"V"</b> <b>"V-1"</b>	FDCMPC Generation Rate and Derivation; FDCMPC Basis of Other Charges; and

**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 14 OF 21**

---

<b>“V-2”</b>	FDCMPC Financial Model, Project Costs, and Breakdown of Costs
<b>“W”</b>	FDCMPC Cash Flow
<b>“X”</b> <b>“X-1”</b>	FDCMPC Fuel Supply Procurement Process and FDCMPC Certification on Spot Fuel Agreement
<b>“Y”</b>	FDCMPC Sworn Statement on Fuel Concerns
<b>“Z”</b> <b>“Z-1”</b> <b>“Z-2”</b>	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity; FDCMPC Engineering, Procurement, and Construction Contract Certification; and FDCMPC Simulation of Operating Units to Meet Minimum Energy Off-Take
<b>“AA”</b>	FDCMPC 2022 Audited Financial Statements
<b>“BB”</b> <b>“BB-1”</b>	FDCMPC WESM Registration and LEYECO V WESM Registration
<b>“CC”</b> <b>“CC-1”</b>	FDCMPC Affidavit in Support of Prayer for Provisional Authority and LEYECO V Affidavit in Support of Prayer for Provisional Authority
<b>“DD”</b>	LEYECO V Board Resolution No. 101 series of 2023
<b>“EE”</b>	FDCMPC Secretary’s Certificate
<b>“FF” and series</b>	LGU Certifications/ Affidavits of Service
<b>“GG”</b>	Affidavit of Publication
<b>“HH”</b>	ERC Advisory dated 07 June 2023
<b>“II”</b>	ERC Advisory dated 23 June 2023
<b>“JJ”</b>	Explanation for Non-Applicability of Documents
<b>“KK”</b>	Estimated Rate Impact

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

31. LEYECO V need not undergo a CSP prior to execution of the *LEYECO V-FDCMPC EPSA*. Moreover, the *LEYECO V-FDCMPC EPSA* is immediately implementable upon its execution consistent with prevailing regulations of the Honorable Commission and the DOE.
32. Under Sections 2.3 and 2.3.5 of DOE DC2023-06-0021, the conduct of a CSP is not required for the negotiated procurement of emergency power supply, and the filing of an emergency power supply agreement with the Honorable Commission does not need any prior clearance or certification from the DOE.
  - 32.1. In an Advisory dated 31 August 2023, the DOE directed that “[a]ll EPSAs intended to be executed before the effectivity of the ERC Guidelines pursuant to DC No. DC2023-06-0021 shall be directly filed with the ERC for

its approval...” To date, the Honorable Commission has not yet issued its CSP guidelines pursuant to DC No. DC2023-06-0021.

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

33. Moreover, in an *Advisory* dated 07 June 2023,<sup>36</sup> as amended by another *Advisory* dated 23 June 2023,<sup>37</sup> the Honorable Commission stated that an emergency power supply agreement shall be immediately implementable upon its execution, and the rates to be charged shall be capped at the latest ERC-approved generation tariff for the same technology in comparable areas.

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

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

35. Pursuant thereto, FDCMPC prays that the information contained in the documents enumerated below be treated as *CONFIDENTIAL* and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission (collectively referred to as “Confidential Documents”):

<b>Annex</b>	<b>Documents/Information</b>
“U”	FDCMPC Sources of Funds and Financial Plans
“U-1”	FDCMPC Bank Certifications
“V”	FDCMPC Generation Rate and Derivation

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

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

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

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

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



**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 16 OF 21**

---

"V-1"	FDCMPC Basis of Other Charges
"V-2"	FDCMPC Financial Model, Project Costs, and Breakdown of Costs
"W"	FDCMPC Cash Flow
"X"	FDCMPC Fuel Supply Procurement Process
"X-1"	FDCMPC Certification on Spot Fuel Agreement
"Z"	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity
"Z-1"	FDCMPC Engineering, Procurement, and Construction Contract Certification

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

37. In the case *Air Philippines Corporation vs. Pennswell Inc.*,<sup>38</sup> the Supreme Court defined "trade secret" as follows:

"A trade secret is defined as a plan or process, tool, mechanism, or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having commercial value. A trade secret may consist of any formula, pattern, device, or compilation of information that (1) is used in one's business; and (2) gives the employer an opportunity to obtain advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights."

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

---

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

39. The interest of LEYECO V's consumers is sufficiently protected by the review and evaluation of the rates under the EPSA by the Honorable Commission, without the need to disclose the contents of the Confidential Documents.
40. Given the foregoing, the Confidential Documents qualifies as "confidential information" and FDCMPC respectfully moves for the issuance of a Protective Order to this effect.

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

41. The Joint Applicants recognize the importance of the continued operation of LEYECO V and its ability to continuously supply electricity to the consumers within its franchise area. While LEYECO V intends to account for the deficit supply, this process will take time and LEYECO V's consumers will need the assurance of seamless, stable and reliable power while it prepares for the CSP.
42. Consequently, LEYECO V was compelled to enter into the LEYECO V-FDCMPC EPSA to ensure an adequate power supply at a rate advantageous to its consumers. In order to ensure the sustainability of their operations, LEYECO V should be permitted to collect the rates, fees, and charges provided in the LEYECO V-FDCMPC EPSA from its customers, as accordingly charged by FDCMPC against LEYECO V pursuant to the same agreement. Any rate lower than the one specified in the LEYECO V-FDCMPC EPSA is not economically feasible and goes against the regulatory principle of enabling generation companies to recover fair and reasonable costs along with a reasonable return.
43. The provisional approval of the EPSA will enable both LEYECO V and FDCMPC to fulfill their obligations without compromising the viability of their operations.
44. The Affidavits of Juan Eugenio L. Roxas, President and CEO of FDCMPC, and Jannie Ann J. Dayandayan, General Manager of LEYECO V, attesting to the truth of the above matters and in support of the prayer for provisional authority are attached as Annexes "CC" and "CC-1".
45. Pursuant to the *ERC Rules of Practice and Procedure*, the Honorable Commission may exercise its discretion by granting a provisional authority or an Interim Relief prior to a final decision. It is understood that the provisional authority or Interim Relief sought by the Joint Applicants shall be subject to adjustments and other conditions that the Honorable Commission may impose.

**PRAYER**

**WHEREFORE**, premises considered, Joint Applicants **LEYTE V ELECTRIC COOPERATIVE, INC.** and **FDC MISAMIS POWER CORPORATION** most respectfully pray that the Honorable Commission:

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

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

The Commission hereby sets the instant *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 2020<sup>39</sup> and Resolution No. 01, Series of 2021<sup>40</sup> (ERC Revised Rules of Practice and Procedure):

---

<sup>39</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

<sup>40</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 19 OF 21**

---

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>28 November 2024</b> (Thursday) at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams or Zoom Application</b>	Determination of compliance with jurisdictional requirements, and Expository Presentation
<b>05 December 2024</b> (Thursday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and Presentation of Evidence

LEYECO V and FDCMPC were directed to host the virtual hearings at **LEYECO V's principal office address at Brgy. San Pablo, Ormoc City**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO V and FDCMPC 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](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified **Petition to Intervene** at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating 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](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their **Opposition or Comment** at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

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

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard/printed copy/ies thereof either through personal service, registered 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 *Application* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

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

*(This space is intentionally left blank.)*

**ERC CASE NO. 2024-106 RC**  
**NOTICE OF VIRTUAL HEARING / 04 NOVEMBER 2024**  
**PAGE 21 OF 21**

---

**WITNESS**, the Honorable Chairperson **MONALISA C. DIMALANTA**, and Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 4<sup>th</sup> day of November 2024 in Pasig City.

**FOR AND BY AUTHORITY  
OF THE COMMISSION:**

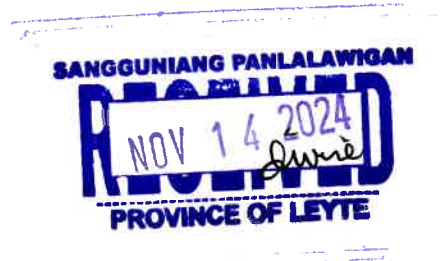
  
**ATTY. KRISHA MARIE T. BUELA**  
*Director III, Legal Service*

  
LS: KACF

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City



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



**ERC CASE NO. 2024-106 RC**

**LEYTE V ELECTRIC  
COOPERATIVE, INC. AND FDC  
MISAMIS POWER  
CORPORATION,**

*Applicants.*

X-----X

**Promulgated:  
November 04, 2024**

**ORDER**

On 04 September 2024, Leyte V Electric Cooperative, Inc. (LEYECO V) and FDC Misamis Power Corporation (FDCMPC) filed their *Joint Application (With Prayer for Provisional Authority and Confidential Treatment of Information)* dated 29 November 2023, seeking the Commission's approval of the Emergency Power Supply Agreement (EPSA) between LEYECO V and FDCMPC, with prayer for provisional authority and confidential treatment of information.

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

**THE JOINT APPLICANTS**

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

the Philippines, with principal office address at Brgy. San Pablo, Ormoc City. LEYECO V serves the power requirements of the Municipalities of Merida, Isabel, Palompon, Villaba, Tabango, San Isidro, Calubi-an, Leyte, Matag-ob, Kananga, Albuera, and the City of Ormoc, all in the Province of Leyte (collectively, the “Franchise Area”). For purposes of this *Joint Application*, LEYECO V is represented herein by its Board President **MR. EMMANUEL S. ARPON** and General Manager **ATTY. JANNIE ANN J. DAYANDAYAN**, duly authorized by LEYECO V’s Board of Directors.<sup>1</sup>

2. **FDCMPC** is a corporation duly organized and existing under and by the laws of the Republic of the Philippines, with principal office address at the PHIVIDEC Industrial Estate, Villanueva, Misamis Oriental 9002. For purposes of this *Joint Application*, FDCMPC is represented by its President and Chief Executive Officer (“CEO”), **MR. JUAN EUGENIO L. ROXAS**, duly authorized for the purpose by virtue of Secretary Certificate No. 202308-09.<sup>2</sup>
3. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their undersigned counsel at the address indicated herein.

#### **NATURE OF THE APPLICATION**

4. The instant *Joint Application* for approval of the *Emergency Power Supply Agreement* (“*EPSA*”) entered into by and between LEYECO V and FDCMPC dated 20 September 2023 (the “*LEYECO V-FDCMPC EPSA*”) is being submitted to the Honorable Commission for its review and approval pursuant to Sections 25<sup>3</sup> and 45(b)<sup>4</sup> of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (the “*EPIRA*”), Rule 20(B) of the Honorable Commission’s Resolution No. 01, Series of 2021<sup>5</sup> (the “*ERC Revised Rules of Practice and Procedure*”), and the Department of Energy’s (“*DOE*”) *Department Circular* No. 2023-06-0021 (the “*DC2023-06-0021*).<sup>6</sup>
5. In compliance with Section 2, Rule 6 of the *ERC Revised Rules of Practice and Procedure*, a copy of the instant *Joint Application* (with all its annexes and accompanying

---

<sup>1</sup> See Annex “**DD**” of the *Joint Application*.

<sup>2</sup> See Annex “**EE**” of the *Joint Application*.

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

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

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

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



documents, except those subject of a motion for confidential treatment of information) was furnished to the following offices:<sup>7</sup>

- a. Office of the Mayor of the City of Ormoc;
  - b. Office of the Presiding Officer of the *Sangguniang Panlungsod* of the City of Ormoc;
  - c. Office of the Governor of the Province of Leyte; and
  - d. Office of the Presiding Officer of the *Sangguniang Panlalawigan* of the Province of Leyte.
  - e. Office of the Mayor of the Municipality of Villanueva;
  - f. Office of the Presiding Officer of the *Sangguniang Bayan* of the Municipality of Villanueva;
  - g. Office of the Governor of the Province of Misamis Oriental;
  - h. Office of the Presiding Officer of the *Sangguniang Panlalawigan* of the Province of Misamis Oriental.
6. Further, this *Joint Application* was also published in a newspaper of general circulation.<sup>8</sup>

#### **STATEMENT OF FACTS**

7. **Necessity for Power Supply:** LEYECO V belongs to the Federation of Rural Electric Cooperatives in Region 8 (“FRECOR 8”), a regional association composed of non-stock, non-profit electric cooperatives located within Region VIII of the Philippines. In 2019, FRECOR 8 agreed in principle to conduct an aggregated Competitive Selection Process (“CSP”) for all electric cooperatives belonging thereto to take advantage of a lower price for electricity resulting from “economies of scale.” This CSP was to be conducted at the start of the year 2020. However, several unfortunate and unforeseen incidents occurring between 2019 until 2022 completely prevented FRECOR 8 from conducting the intended CSP.
8. In 2019, more particularly on Christmas Eve of the same year, the Province of Leyte was heavily hit by Typhoon Ursula, with it being reported that the Province of Leyte was subjected to winds of up to 170 km/h.<sup>9</sup> Thus, LEYECO V, as was the entire “energy family” and the Department of Energy (“DOE”) *Task Force on Energy Resiliency*, was forced to focus on the immediate full restoration of distribution services in the affected areas,<sup>10</sup> which would extend well into 2020.

---

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

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

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

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

- 8.1. It bears further emphasis that the destruction to infrastructure resulting from Typhoon Ursula included the impairment of mobile and internet services.<sup>11</sup> In fact, it was still being reported as of 03 January 2020 that mobile, phone, and electricity services were still being gradually restored in affected communities.<sup>12</sup> Thus, taking into consideration the events discussed below, FRECOR 8 (which includes LEYECO V) could not practically and properly conduct even an *online* CSP.
9. While still reeling from the effects of Typhoon Ursula, in January 2020, the Philippines would record its first confirmed case of the COVID-19 virus,<sup>13</sup> signaling the entry of the pandemic into the country. The Office of the President of the Philippines would then issue *Proclamation* No. 929 dated 16 March 2020 (“Proclamation No. 929”),<sup>14</sup> which declared a nationwide State of Calamity throughout the Philippines, and imposed an Enhanced Community Quarantine (“ECQ”). The ECQ imposed stringent limitations on movement and transportation of people as well as the strict regulation of operating industries, among others.<sup>15</sup>
10. The Province of Leyte would soon locally impose its own community quarantine guidelines likewise resulting in travel restrictions therein.<sup>16</sup> It bears stressing that the Province of Leyte, **even as of December 2020**, would still report high spikes of confirmed cases of COVID-19, thus being labelled, at the very least as a “province of concern.”<sup>17</sup> Relevantly, **2020 onwards to 2021**, even the smaller towns within the Province of Leyte also declared their own lockdowns.<sup>18</sup>

---

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

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

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

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

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

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

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

<sup>18</sup> See “Leyte town locks down community over Covid-19 fear”, available at <https://www.pna.gov.ph/articles/1106267>; see also “Leyte, Pangasinan villages on lockdown”, available at <https://www.philstar.com/nation/2020/06/05/2018775/leyte-pangasinan-villages-lockdown>; see also “9 Leyte villages put on lockdown due to mounting COVID-19 cases”, available at <https://www.philstar.com/nation/2020/06/05/2018775/leyte-pangasinan-villages-lockdown>; see also “COVID-19 prevention: Leyte bans return of stranded people until the end of 2020”, available at <https://newsinfo.inquirer.net/1372528/covid-19-prevention-leyte-bans-return-of-stranded-people-until-end-of-2020>.

- 10.1. It must be reiterated that FRECOR 8 (including LEYECO V), intended to **collectively** conduct their CSP for their total aggregated demand requirement, to take advantage of a lower price arising from the “economies of scale.” Logically, this required the complete coordination of **all said electric cooperatives**. However, a collective CSP became impractical, if not impossible, at the time due to each individual electric cooperative having to deal with their own localized concerns.
- 10.2. It was only on **21 July 2023, or more than three (3) years after Proclamation No. 929**, did the Office of the President of the Philippines finally lift the State of Public Health Emergency throughout the country.<sup>19</sup>
11. On 16 December 2021, Typhoon Odette, the second costliest typhoon in Philippine history with damage estimated at around USD1.02 Billion,<sup>20</sup> hit the province of Leyte<sup>21</sup> resulting in a state of calamity being declared by the Provincial Government.<sup>22</sup> Given the immense damage to the Province’s power infrastructure, *Task Force Kapatid* was formed by various ECs including those belonging to FRECOR 8 (and necessarily LEYECO V).<sup>23</sup> The restoration process of the damaged power infrastructure was completed only in **late 2022**.<sup>24</sup>

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

12. Section 2.3.5. of the DOE’s *Department Circular No. DC2023-06-0021* allows for the negotiated procurement of Emergency Power supply in the event that a distribution utility’s power supply falls below its low demand due to Force Majeure or Fortuitous Events that are beyond its control.<sup>25</sup> Force Majeure or Fortuitous Event is likewise defined as follows, to wit:

---

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

<sup>20</sup> See *SitRep No. 44 for Typhoon Odette (2021)* dated 7 February 2022, copy available at [https://monitoring-dashboard.ndrrmc.gov.ph/assets/uploads/situations/SitRep\\_No\\_44\\_for\\_Typhoon\\_ODETTE\\_20211.pdf](https://monitoring-dashboard.ndrrmc.gov.ph/assets/uploads/situations/SitRep_No_44_for_Typhoon_ODETTE_20211.pdf).

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

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

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

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

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

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

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

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

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

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

- 13.2. **Second**, equally extraordinary, unforeseeable, and unavoidable were the circumstances brought about by the COVID-19 Pandemic. The pandemic was categorized as a national emergency and imposed several logistical restrictions, which extended to an unprecedented scale (and exponentially affected by the still lingering effects of Typhoons Ursula and Odette at the time). These circumstances effectively prevented FRECOR 8 (including LEYECO V) from properly conducting its aggregated CSP.

---

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

- 13.3. It must be emphasized that the exponential consequences of the series of unfortunate events beyond the control of LEYECO V rendered it extremely difficult and impossible to timely recover and plan.
14. All things considered, LEYECO V lost roughly **two (2) years** to conduct its CSP. If LEYECO V had the opportunity to devote its resources during this period for its intended CSP through FRECOR 8, it would have been able to source its power requirements.
15. For context, FRECOR 8 was constrained to resume the conduct of the CSP for the power requirements of all ECs in Region VIII **only on January 2022**, with some of the effects of the above-described events still lingering. From that point until this date, LEYECO V (through FRECOR 8) has continuously, incessantly, and persistently done all that can be expected to finish the conduct of its CSP, which unfortunately for reasons outside of its control it could not do so.
16. Therefore, the incidents discussed above clearly constitute Force Majeure and/or Fortuitous Events which allowed LEYECO V to procure Emergency Power without undergoing a CSP.
17. In fact, from January 2022 to this day, LEYECO V (through FRECOR 8) had already done the following in relation to its intended CSP:

<b>DATE</b>	<b>EVENT/ACTIVITY RELATIVE TO THE INTENDED CSP</b>
12 January 2022	FRECOR 8 member electric cooperatives (including LEYECO V) conduct their first meeting in relation to their intended CSP.
8-9 February 2022	FRECOR 8 member electric cooperatives (including LEYECO V) finalize the relevant Plant Cost Data, Demand Allocation, and Transaction Schedule relevant to the conduct of the intended CSP.
21-24 February 2022	FRECOR 8 starts preparing its Instruction to Bidders ("ITB") and Terms of Reference ("TOR"), among others, for its intended CSP.
15 February 2022	FRECOR 8 member electric cooperatives (including LEYECO V) jointly sign the <i>Memorandum of Agreement</i> for the conduct of the CSP for their collective demand
18 March 2022	FRECOR 8 member electric cooperatives (including LEYECO V) sign the <i>Memorandum of Agreement</i> for the aggregation of their collective demand (the " <i>Aggregation MOA</i> "). <b>On the same day</b> , FRECOR 8 submits to the DOE the relevant EVOSS application, the respective Board Resolutions from the FRECOR 8 member electric cooperatives, and the <i>Aggregation MOA</i> .
25 April 2022	The DOE approves FRECOR 8's Third Party Bids and Awards Committee ("TPBAC") Selection Process for its intended CSP.

**ERC CASE NO. 2024-106 RC**  
**ORDER / 04 NOVEMBER 2024**  
**PAGE 8 OF 24**

<b>DATE</b>	<b>EVENT/ACTIVITY RELATIVE TO THE INTENDED CSP</b>
6-10 June 2022	FRECOR 8, <i>after initial drafting, revision in coordination with the NEA</i> , submit its ITB and TOR for its intended CSP (pending approval of FRECOR 8's member electric cooperatives' respective PSPPs for the year 2022).
14 November 2022	FRECOR 8 receive a reply from the NEA in reply to its submitted TOR ( <b>which it has, at this point, submitted four [4] times after revisions</b> ) ask for FRECOR 8's final Demand Requirement for the intended CSP.
15 November 2022	FRECOR 8 transmits to the NEA its final demand requirement for its intended CSP.
19 December 2022	FRECOR 8 sends a follow-up letter to the NEA.
10 February 2022	FRECOR 8 receives the NEA's comments on its submitted TOR.
27 February 2023	FRECOR 8 submits its Technical Working Group's ("TWG") revised TOR based on the NEA's recommendations.
7 March 2023	FRECOR 8 presents its TOR to the DOE.
8-9 March 2023	FRECOR 8 meets with the NEA to discuss its TOR, as well as to discuss FRECOR 8's member electric cooperatives' respective 2023 PSPPs.
15 March 2023	The NEA endorses the FRECOR 8's member electric cooperatives' respective 2023 PSPPs to the DOE.
26 March 2023	FRECOR 8 submits to the NEA the revised ITB and TOR.
2 May 2023	The DOE approves and posts all of FRECOR 8's member electric cooperatives' respective 2023 PSPPs (since 15 March 2023). <b>On the same day</b> , FRECOR 8 submits to the NEA the TOR and ITB after the DOE's approval of the relevant Distribution Development Plan ("DDP") and PSPP.
10 May 2023	FRECOR 8 receives the NEA's comments on its recently submitted TOR.
12 May 2023	FRECOR 8 replies to the NEA regarding the latter's most recent comments on its TOR.
17 May 2023	FRECOR 8 attends an online meeting with the NEA for clarification of the latter's comments on the former's TOR.
18 May 2023	FRECOR 8 submits its revised TOR based on its meeting with the NEA <b>the day prior</b> .
25 May 2023	FRECOR 8 follows up with the NEA on its submitted TOR.
5 June 2023	NEA endorses FRECOR 8's TOR to the DOE.
6 June 2023	FRECOR 8 submits to the NEA its intended Invitation to Bid.
24 July 2023 to 4 August 2023	FRECOR 8 <i>finally</i> is able to conduct, and in fact conducts, its intended CSP which includes, among others, the following incidents: <b>(i)</b> posting of the Invitation to Bid in the DOE's CSP portal and NEA website; <b>(ii)</b> publication of the Invitation to Bid and the TOR; <b>(iii)</b> acceptance of letters of intent and bid participation fees; <b>(iv)</b> second publication; <b>(v)</b> issuance of bidding documents; and <b>(vi)</b> the conduct of the first (1 <sup>st</sup> ) Pre-Bid Conference.

18. LEYECO V was constrained to enter into two (2) separate EPSAs with Energy Development Corporation and Korea

Electric Power Corporation for 2 MW and 7 MW contracted capacity, respectively, while FRECOR 8 conducted its CSP. These two (2) EPSAs would expire, and have since expired, on 25 August 2023.

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

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

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

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

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

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

22.2. Contract Type: Firm

22.3. Installed Capacity of the Power Plant: 405MW

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

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

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

---

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

Voltage at the Plant Gate	138 kV
---------------------------	--------

22.6. Outage Allowance:

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

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

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

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

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

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

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

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

22.10. Generation Charge:

BASELOAD (FIRM):	RATE IN PHP/KW/MONTH	RATE IN PHP/KWH	BILLING DETERMINANT(BD)
------------------	----------------------	-----------------	-------------------------



**ERC CASE NO. 2024-106 RC  
ORDER / 04 NOVEMBER 2024  
PAGE 11 OF 24**

Capital Recovery Fee (CRF), Php/kW/month	1,095.00	1.5000	Contract Demand in kW
Fixed O&M (FOM), Php/kW/month	452.09	0.6193	Contract Demand in kW
Variable O&M (VOM), Php/kWh	0.1907		Actual energy consumed in kWh or 70% of LF in kWh, whichever is higher
Fuel Cost (FC), Php/kWh	pass-through		Actual energy consumed in kWh

**BASELOAD (FIRM)**

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

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

Where:

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

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

Indexation:

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

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

<b>Generation Rate Impact of EPSA (Weighted Average Rate)</b>	
With FDCMPC	Php 6.3354/kWh
Without FDCMPC	Php 6.5934/kWh
Rate Impact	(Php 0.2580/kWh)

24. **Environmental Compliance Certificate.** The Department of Environment and Natural Resources – Environmental Management Bureau (“DENR-EMB”) issued

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

the *Environmental Compliance Certificate* No. ECC-CO-1304-0012 covering the Power Plant.<sup>29</sup>

25. **Board of Investments (“BOI”) Certificate.** The Power Plant is registered with the BOI. A *Certificate of Registration* No. 213-177 was issued by the BOI to this effect.<sup>30</sup>
26. **Fuel Supply.** In order to ensure the supply of fuel for the operations of the Power Plant, FDCMPC solicited offers from reputable suppliers, and has contracted with the supplier that offered the best terms.<sup>31</sup>
27. **DOE Certification.** The DOE has certified that the Power Plant is consistent with the Power Development Plan. A *Certificate of Endorsement* No. 2015-03-010 was issued by the DOE to this effect.<sup>32</sup>
28. **Provisional Authority to Operate (“PAO”).** The Honorable Commission has issued a *Certificate of Compliance* No. 17-05-M-00108M (“COC”) for the Power Plant, which expired. On 28 October 2021, the Honorable Commission issued a PAO for the Power Plant for a period of one (1) year until 16 October 2022. Finally, on 15 June 2023, the Honorable Commission issued a *Certification* that the PAO for the Power Plant is currently being evaluated. This *Certification* is valid for six (6) months from 15 June 2023 or until the resolution of its COC renewal application, whichever comes earlier.<sup>33</sup>
29. **Point-to-Point Application.** In an application docketed as ERC Case No. 2015-054 MC, FDCMPC secured the authority from this Honorable Commission to develop, own, and operate dedicated point-to-point limited transmission facilities connecting the Power Plant to the Mindanao grid through the National Grid Corporation of the Philippines’ Villanueva Substation.
30. Copies of the following documents and/or information are attached to this *Joint Application* as annexes and made as integral parts hereof:

<b>Annex</b>	<b>Documents/Information</b>
“A”	LEYECO V-FDCMPC EPSA
“B” “B-1”	LEYECO V Articles of Incorporation and LEYECO V By-Laws
“C”	LEYECO V Certificate of Franchise

---

<sup>29</sup> See Annex “I” of the *Joint Application*.  
<sup>30</sup> See Annex “H” of the *Joint Application*.  
<sup>31</sup> See Annexes “X” and “Y” of the *Joint Application*.  
<sup>32</sup> See Annex “K” of the *Joint Application*.  
<sup>33</sup> See Annexes “J” to “J-2” of the *Joint Application*.

**ERC CASE NO. 2024-106 RC**  
**ORDER / 04 NOVEMBER 2024**  
**PAGE 13 OF 24**

---

<b>“D”</b>	LEYECO V NEA Certificate of Registration of Articles of Incorporation
<b>“E”</b>	Verified Certification of LEYECO V List of Directors
<b>“F”</b> <b>“F-1”</b> <b>“F-2”</b> <b>“F-3”</b>	FDCMPC Amended Articles of Incorporation; FDCMPC Amended By-Laws; FDCMPC Amended General Information Sheet for 2023; and FDCMPC Verified Certification on Parent, Subsidiaries, and Affiliates Board of Directors
<b>“G”</b> <b>and series</b>	FDCMPC SEC Certificate of Registration with Amendments and Shareholders’ Agreement
<b>“H”</b>	FDCMPC BOI Certificate of Registration with attached Terms and Conditions
<b>“I”</b>	FDCMPC DENR-EMB ECC
<b>“J”</b> <b>“J-1”</b> <b>“J-2”</b>	FDCMPC ERC COC No. 17-05-M-00108M; FDCMPC PAO valid until 16 October 2022; and FDCMPC PAO Certificate of Filing dated 15 June 2023
<b>“K”</b>	FDCMPC DOE Certificate of Endorsement
<b>“L”</b> <b>“L-1”</b>	LEYECO V Power Supply Procurement Plan and LEYECO V Distribution Development Plan
<b>“M”</b>	LEYECO V Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, and Average Daily Load Curve
<b>“N”</b>	LEYECO V Single-line Diagram Connection
<b>“O”</b>	LEYECO V Performance Assessment
<b>“P”</b>	LEYECO V Potential for Load Reduction Due to Retail Competition
<b>“Q”and series</b>	LEYECO V Solicitation Letters to Generation Companies
<b>“R”</b>	FDCMPC Samuel R. Lamorena Verified Certification
<b>“S”</b> <b>“S-1”</b>	FDCMPC Transmission Service Agreement and FDCMPC Metering Services Agreement
<b>“T”</b>	LEYECO V-FDCMPC EPSA Executive Summary
<b>“U”</b> <b>“U-1”</b>	FDCMPC Sources of Funds and Financial Plans and FDCMPC Bank Certifications
<b>“V”</b> <b>“V-1”</b> <b>“V-2”</b>	FDCMPC Generation Rate and Derivation; FDCMPC Basis of Other Charges; and FDCMPC Financial Model, Project Costs, and Breakdown of Costs
<b>“W”</b>	FDCMPC Cash Flow
<b>“X”</b> <b>“X-1”</b>	FDCMPC Fuel Supply Procurement Process and FDCMPC Certification on Spot Fuel Agreement
<b>“Y”</b>	FDCMPC Sworn Statement on Fuel Concerns
<b>“Z”</b>	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity;

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

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

31. LEYECO V need not undergo a CSP prior to execution of the *LEYECO V-FDCMPC EPSA*. Moreover, the *LEYECO V-FDCMPC EPSA* is immediately implementable upon its execution consistent with prevailing regulations of the Honorable Commission and the DOE.
  
32. Under Sections 2.3 and 2.3.5 of DOE DC2023-06-0021, the conduct of a CSP is not required for the negotiated procurement of emergency power supply, and the filing of an emergency power supply agreement with the Honorable Commission does not need any prior clearance or certification from the DOE.
  - 32.1. In an Advisory dated 31 August 2023, the DOE directed that “[a]ll EPSAs intended to be executed before the effectivity of the ERC Guidelines pursuant to DC No. DC2023-06-0021 shall be directly filed with the ERC for its approval... .” To date, the Honorable Commission has not yet issued its CSP guidelines pursuant to DC No. DC2023-06-0021.
  
  - 32.2. As exhaustively discussed above, the Force Majeure Events prompting LEYECO V to enter into an EPSA falls

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

33. Moreover, in an *Advisory* dated 07 June 2023,<sup>36</sup> as amended by another *Advisory* dated 23 June 2023,<sup>37</sup> the Honorable Commission stated that an emergency power supply agreement shall be immediately implementable upon its execution, and the rates to be charged shall be capped at the latest ERC-approved generation tariff for the same technology in comparable areas.

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

34. Section 1, Rule 4 of the *ERC Revised Rules of Practice and Procedure* provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.
35. Pursuant thereto, FDCMPC prays that the information contained in the documents enumerated below be treated as *CONFIDENTIAL* and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission (collectively referred to as “Confidential Documents”):

<b>Annex</b>	<b>Documents/Information</b>
“U”	FDCMPC Sources of Funds and Financial Plans
“U-1”	FDCMPC Bank Certifications
“V”	FDCMPC Generation Rate and Derivation
“V-1”	FDCMPC Basis of Other Charges
“V-2”	FDCMPC Financial Model, Project Costs, and Breakdown of Costs
“W”	FDCMPC Cash Flow
“X”	FDCMPC Fuel Supply Procurement Process

---

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

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

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

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

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

“X-1”	FDCMPC Certification on Spot Fuel Agreement
“Z”	FDCMPC Relevant Technical and Economic Characteristics of the Generation Capacity
“Z-1”	FDCMPC Engineering, Procurement, and Construction Contract Certification

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

37. In the case *Air Philippines Corporation vs. Pennswell Inc.*,<sup>38</sup> the Supreme Court defined “trade secret” as follows:

“A trade secret is defined as a plan or process, tool, mechanism, or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having commercial value. A trade secret may consist of any formula, pattern, device, or compilation of information that (1) is used in one’s business; and (2) gives the employer an opportunity to obtain advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights.”

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

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

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

---

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

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

41. The Joint Applicants recognize the importance of the continued operation of LEYECO V and its ability to continuously supply electricity to the consumers within its franchise area. While LEYECO V intends to account for the deficit supply, this process will take time and LEYECO V's consumers will need the assurance of seamless, stable and reliable power while it prepares for the CSP.
42. Consequently, LEYECO V was compelled to enter into the LEYECO V-FDCMPC EPSA to ensure an adequate power supply at a rate advantageous to its consumers. In order to ensure the sustainability of their operations, LEYECO V should be permitted to collect the rates, fees, and charges provided in the LEYECO V-FDCMPC EPSA from its customers, as accordingly charged by FDCMPC against LEYECO V pursuant to the same agreement. Any rate lower than the one specified in the LEYECO V-FDCMPC EPSA is not economically feasible and goes against the regulatory principle of enabling generation companies to recover fair and reasonable costs along with a reasonable return.
43. The provisional approval of the EPSA will enable both LEYECO V and FDCMPC to fulfill their obligations without compromising the viability of their operations.
44. The Affidavits of Juan Eugenio L. Roxas, President and CEO of FDCMPC, and Jannie Ann J. Dayandayan, General Manager of LEYECO V, attesting to the truth of the above matters and in support of the prayer for provisional authority are attached as Annexes "CC" and "CC-1".
45. Pursuant to the *ERC Rules of Practice and Procedure*, the Honorable Commission may exercise its discretion by granting a provisional authority or an Interim Relief prior to a final decision. It is understood that the provisional authority or Interim Relief sought by the Joint Applicants shall be subject to adjustments and other conditions that the Honorable Commission may impose.

**PRAYER**

**WHEREFORE**, premises considered, Joint Applicants **LEYTE V ELECTRIC COOPERATIVE, INC.** and **FDC MISAMIS POWER CORPORATION** most respectfully pray that the Honorable Commission:

1. **ISSUE AN ORDER** declaring the Confidential Documents attached hereto as Annexes "U", "U-1", "V", "V-1", "V-2", "W", "X", "X-1", "Z", and "Z-1" as confidential

information as well as directing that the same be treated with confidentiality and be protected from public disclosure;

2. **ISSUE** the corresponding **PROTECTIVE ORDER** in accordance with Section 2, Rule 4 of the *ERC Revised Rules of Practice and Procedure*;
3. Pending trial on the merits, **GRANT PROVISIONAL AUTHORITY** to implement the LEYECO V-FDCMPC EPSA and allow LEYECO V to collect such rates, fees, and charges as provided in the EPSA from its customers reckoned from the start of the supply by FDCMPC to LEYECO V; and
4. After due notice and hearing, **ISSUE A DECISION** (i) approving the instant *Joint Application in toto* which will thereby allow/authorize LEYECO V to charge and collect the fees from its consumers reckoned from the commencement of the supply to the latter by FDCMPC; and (ii) directing that the rates, terms, and conditions of the *LEYECO V-FDCMPC EPSA* be retroactively applied for the entire term of the EPSA.

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

Finding the said *Joint Application* to be sufficient in form 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 2020<sup>39</sup> and Resolution No. 01, Series of 2021<sup>40</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>28 November 2024</b> (Thursday) at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams or Zoom Application</b>	Determination of compliance with jurisdictional requirements, and Expository Presentation
<b>05 December 2024</b> (Thursday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and Presentation of Evidence

<sup>39</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

<sup>40</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.



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

**RELATIVE THERETO**, LEYECO V and FDCMPC are hereby directed to:

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

Within five (5) calendar days prior to the date of the virtual hearings, LEYECO V must submit to the Commission via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), the scanned copies of their **written compliance** with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by LEYECO V to inform the consumers within its franchise area of the filing of the *Application*, the reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *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, LEYECO V and FDCMPC are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Provincial Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

LEYECO V and FDCMPC and all interested parties are also required to submit via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

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

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

LEYECO V and FDCMPC must also be prepared to make an expository presentation of the instant *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 *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

LEYECO V and FDCMPC are hereby directed to file a copy of their **Expository Presentation** via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days prior to the scheduled virtual hearing. 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.

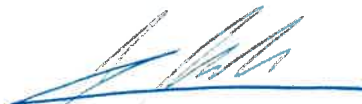
LEYECO V and FDCMPC are hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, 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.

Finally, LEYECO V and FDCMPC, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), with 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 hearing.

**SO ORDERED.**

Pasig City, 04 November 2024.

FOR AND BY AUTHORITY  
OF THE COMMISSION:



**KRISHA MARIE T. BUELA**  
*Director III, Legal Service*

  
LS: KACF

**ERC CASE NO. 2024-106 RC**  
**ORDER / 04 NOVEMBER 2024**  
**PAGE 23 OF 24**

---

**Copy Furnished:**

1. Leyte V Electric Cooperative, Inc. (LEYECO V)  
*Applicant*  
Brgy. San Pablo, Ormoc City
2. FDC Misamis Power Corporation (FDCMPC)  
*Applicant*  
PHIVIDEC Industrial Estate, Villanueva,  
Misamis Oriental 9002
3. ONGCHUAN JAVELOSA LAW OFFICES  
*Counsel for Applicant LEYECO V and FDCMPC*  
3 Hilltop St., Horseshoe, Quezon City, 1112  
Tel. No.: (02)77968273  
[fbongchuan@ojlawoffices.com](mailto:fbongchuan@ojlawoffices.com)
4. Office of the Governor  
Province of Leyte
5. Office of the LGU Legislative Body  
Province of Leyte
6. Office of the Mayor  
Ormoc City, Leyte
7. Office of the LGU Legislative Body  
Ormoc City, Leyte
8. Office of the Mayor  
Merida, Leyte
9. Office of the LGU Legislative Body  
Merida, Leyte
10. Office of the Mayor  
Isabel, Leyte
11. Office of the LGU Legislative Body  
Isabel, Leyte
12. Office of the Mayor  
Palompon, Leyte
13. Office of the LGU Legislative Body  
Palompon, Leyte
14. Office of the Mayor  
Villaba, Leyte
15. Office of the LGU Legislative Body  
Villaba, Leyte
16. Office of the Mayor  
Tabango, Leyte
17. Office of the LGU Legislative Body  
Tabango, Leyte
18. Office of the Mayor  
San Isidro, Leyte
19. Office of the LGU Legislative Body  
San Isidro, Leyte
20. Office of the Mayor  
Calubi-an, Leyte

**ERC CASE NO. 2024-106 RC**  
**ORDER / 04 NOVEMBER 2024**  
**PAGE 24 OF 24**

---

21. Office of the LGU Legislative Body  
Calubi-an, Leyte
22. Office of the Mayor  
Leyte, Leyte
23. Office of the LGU Legislative Body  
Leyte, Leyte
24. Office of the Mayor  
Matag-ob, Leyte
25. Office of the LGU Legislative Body  
Matag-ob, Leyte
26. Office of the Mayor  
Kananga, Leyte
27. Office of the LGU Legislative Body  
Kananga, Leyte
28. Office of the Mayor  
Albuera, Leyte
29. Office of the LGU Legislative Body  
Albuera, Leyte
30. Office of the Solicitor General (OSG)  
134 Amorsolo Street, Legaspi Village, Makati City  
[docket@osg.gov.ph](mailto:docket@osg.gov.ph)
31. Commission on Audit (COA)  
Commonwealth Avenue, Quezon City 1121  
[citizensdesk@coa.gov.ph](mailto:citizensdesk@coa.gov.ph)
32. Senate Committee on Energy  
GSIS Building, Roxas Boulevard, Pasay City 1307  
[senateenergycommittee@gmail.com](mailto:senateenergycommittee@gmail.com)
33. House of Representatives Committee on Energy  
Batasan Hills, Quezon City 1126  
[committee.energy@house.gov.ph](mailto:committee.energy@house.gov.ph)
34. Regulatory Operations Service (ROS)  
Energy Regulatory Commission  
14F Exquadra Tower, Jade 1 Drive, Pasig City  
[ros@erc.ph](mailto:ros@erc.ph)