

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
THE APPROVAL OF THE
ELECTRIC POWER
PURCHASE AGREEMENT
(FOR EMERGENCY POWER
SUPPLY) BETWEEN
NEGROS OCCIDENTAL
ELECTRIC COOPERATIVE
AND PANAY ENERGY
DEVELOPMENT
CORPORATION, WITH
MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2023-145 RC

**NEGROS OCCIDENTAL
ELECTRIC COOPERATIVE
AND PANAY ENERGY
DEVELOPMENT
CORPORATION,**

Joint Applicants.

X-----X

Promulgated:
February 07, 2024

ORDER

On 20 December 2023, Negros Occidental Electric Cooperative (NOCECO) and Panay Energy Development Corporation (PEDC), filed a *Joint Application* dated 01 June 2023, seeking the Commission’s approval of their Electric Power Purchase Agreement (EPPA) for Emergency Power Supply, with prayer for confidential treatment of information.

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

THE JOINT APPLICANTS

1. Applicant NOCECO is an electric cooperative, duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Sitio Naga, Barangay Binicuil,

Kabankalan City, Negros Occidental. It was granted an exclusive franchise to own and operate a system for the distribution of electricity in the Municipalities of Binalbagan, Candoni, Cauayan, Hinigaran, Hinoba-an, Ilog, Isabel, La Castellana, Moises Padilla, Pontevedra, Pulupandan, San Enrique, and Valladolid and the Cities of Kabankalan, La Carlota, Himamaylan, and Sipalay, all in the Province of Negros Occidental.

- 1.1 NOCECO is represented herein by its General Manager, Engineer Ray V. Bustamante, who has been authorized by its Board of Directors to initiate, file, and pursue the instant application through Board Resolution No. 155, Series 2022, as evidenced by the Secretary's Certificate dated February 16, 2023, a copy of which is attached and made as an integral part herein as *Annex "A."*
2. Applicant PEDC is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Barangay Ingore, Lapaz, Iloilo City. It owns and operates 2 x 82 MW circulating fluidized bed coal-fired power plant located in Barangay Ingore, Lapaz, Iloilo City.
 - 2.1 PEDC is represented herein by its President, Jaime T. Azurin, who has been authorized by its Board of Directors to initiate, file, and pursue the instant application as evidenced by the Secretary's Certificate dated 10 November 2022, a copy of which is attached and made as an integral part herein as *Annex "B."*
3. Applicants NOCECO and PEDC may be served with notices, orders and other processes of the Honorable Commission through their respective counsel at their addresses indicated below.

NATURE OF THE APPLICATION

4. This is an application for the approval of the Electric Power Purchase Agreement (For Emergency Power Supply) between NOCECO and PEDC, which was duly notarized on 14 June 2022 ("Emergency EPPA"). Copy of the Emergency EPPA are attached herein as Confidential Annex "C."

NARRATION OF FACTS

5. Through a Letter dated 23 September 2021, NOCECO wrote to the Department of Energy ("DOE") requesting for an exemption from the Competitive Selection Process ("CSP") requirement of the DOE. The Letter expressed NOCECO's urgent need for supply of electricity due to circumstances beyond the control of NOCECO. Copy of the Letter to DOE is attached hereto as *Annex "D."*

- 5.1. The Letter sought exemption from the CSP pursuant to Section 2.2.1.2 of Department of Energy Department Circular No. DC 2021-09-0030 ("DOE Amended CSP Circular"), which states that:

5.2. Exemption from the CSP

- 5.2.1. The following instances shall warrant a Certificate of Exemption from the conduct of Competitive Selection Process (COE- CSP) from the DOE:

x x x x

- 5.2.1.2. Negotiated procurement of emergency power supply wherein the cooperation period of the corresponding Emergency Power Supply Agreement (EPSA) shall not exceed one (1) year, and such EPSA shall be filed immediately before the Energy Regulatory Commission (ERC) upon issuance and within the effectivity of the COE-CSP; Provided, that the DU shall prove and certify that it has performed all the necessary and required due diligence, and solicited proposal from at least one (1) power supplier for EPSA to address the emergency situation and to avert and/or mitigate its consequences, and the offer/s from available Power Supplier/s shall be attached in the request for COE-ESP; Provided also, that the procurement of emergency power supply shall not be entitled to any form of subsidy; Provided finally, that the rate shall be equivalent to or lower than the ERC- approved generation tariff for same or similar technology in comparable areas.

6. NOCECO's supply-demand profile indicates power shortage in the imminent months, exposing its consumers to the failure of adequate power supply as well as passing on the financial burden due to the extraordinary inflation in the global fuel prices, price surge caused by the damaged NGCP line connecting Negros and Cebu, and the volatile Wholesale Electricity Spot Market (WESM) prices without an immediate procurement of appropriate power supply contract where reliable electricity can be sourced.

7. NOCECO deems that this is an emergency that requires a prompt procurement of sufficient capacity of baseload energy from a reliable generator to ensure stability of power supply at a reasonable minimum cost for the paramount interest of its member-consumers in the coming months.
8. On 24 December 2021, the DOE favorably issued a Certificate of Exemption (COE-CSP) with No. COE-CSP-2021-11-018 exempting NOCECO from the conduct of CSP for the negotiated procurement of emergency power supply through Electric Power Purchase Agreement (EPPA) with PEDC for a contract capacity of 10 MW for the period of 26 November 2021 to 25 November 2022. Copy of the COE-CSP is attached hereto as *Annex "E."*
9. NOCECO wrote another Letter, dated 21 January 2022, to the DOE requesting amendment to the validity of the Certificate of Exemption from 26 November 2021 to 25 November 2022 to 26 January 2022 to 25 January 2023. The COE-CSP-2021-11-018 granted by the DOE was not immediately utilized by NOCECO due to the damage brought about by Typhoon Odette in its distribution system. Copy of the Letter to DOE dated 21 January 2022 is attached hereto as *Annex "F."*
10. The DOE favorably issued an Amended Certification of Exemption (COE-CSP-2022-02-006) exempting NOCECO from the conduct of CSP for the negotiated procurement of emergency power of 10 MW Baseload for a period of one (1) year from 26 January 2022 to 25 January 2023. Copy of the Amended Certificate of Exemption (COE-CSP-2022-02-006) is attached hereto as *Annex "G."*
11. In Board Resolution No. 24, Series of 2022, NOCECO Board resolved to approve the Emergency EPPA between NOCECO and PEDC. Copy of NOCECO's Board Resolution No. 24, Series of 2022 is attached hereto as *Annex "U."*
12. On 26 January 2022, NOCECO started drawing power from PEDC in accordance with the Amended Certification of Exemption.
13. On 11 March 2022, PEDC called for a meeting with NOCECO to present their re-pricing scheme in which the projected effect will increase the initially agreed contract price; the re-pricing scheme is a result of the crisis between Russia and Ukraine that has affected the coal prices.
14. On 25 March 2022, since the projected increase defies the purpose of the Emergency EPPA, NOCECO and PEDC have mutually agreed to end the Emergency EPPA. Attached hereto are correspondences between PEDC and NOCECO as *Annexes "H."*
15. NOCECO also informed the DOE of the termination of the Emergency EPPA with PEDC through a Letter to DOE dated

31 March 2022. Copy of the Letter is attached hereto as Annex "I."

- 16. And on 14 June 2022, NOCECO and PEDC executed the Emergency EPPA, subject of this Joint Application.
- 17. Due to the volume of documents, including the limited movements being implemented at the time of the implementation of the Emergency EPPA and the logistics between the Applicants, NOCECO and PEDC hereby file this instant Joint Application for the approval of the Emergency EPPA before the Honorable Commission.

SALIENT FEATURES OF THE EPSA

- 18. Salient Features of the EPSA are as follows:

Contracted Capacity	The capacity of 10 MW and its associated energy reserved by PEDC to NOCECO, which shall not be less than the Minimum Contracted Energy, to NOCECO, during the Cooperation Period in accordance with the terms and conditions of the Emergency EPPA; provided that, PEDC shall not be obligated to deliver electricity following the date on which Termination Notice is validly issued by PEDC pursuant to a NOCECO Default
Minimum Contracted Energy	100% load factor as specified in Schedule 1.
Outage	PEDC shall not be entitled to any outage allowance.
Replacement Power	During outage, PEDC shall have the obligation to source replacement power to fulfill the Minimum Contracted Energy of NOCECO. NOCECO shall pay PEDC the Electricity Fees for the replacement power and PEDC shall shoulder any incremental cost in providing the same. In the event PEDC fails to source replacement power, NOCECO shall be allowed to find replacement power, the incremental cost of which shall be for the sole account of PEDC.
Cooperation Period	From 00:01H on 26 January 2022 until 24:00H on 25 March 2022.
Delivery Point	Delivery point shall be at the high side of PEDC's substation at the Power Plant where the billing meter/s of the NGCP shall be installed and such other delivery

	points as may be agreed upon by PEDC and NOCECO.
Other Charges	In relation to the supply of electricity by PEDC to NOCECO, it is understood that any charges, costs, expenses, and fees that may now or in the future be charged to, incurred and/or assumed by PEDC or otherwise imposed by NGCP, any Governmental Authority, or any other third party, for the supply of the Contracted Capacity and its associated energy shall be paid by NOCECO. For the avoidance of doubt, line rentals, NGCP transmission charges, and/or Ancillary Services and other related services that may now or in the future be charged to, incurred and/or assumed by PEDC in connection with the delivery of Contracted Capacity and its associated energy hereunder shall be paid by NOCECO.
Dispatch	The hourly nominations for both week-ahead and day-ahead Daily Generation Schedule (DGS) shall not exceed the Contracted Capacity and be at least 50% of the Contracted Capacity and shall reasonably conform to the typical daily load profile submitted. The total of the energy quantities nominated by NOCECO in the DGS submitted for any given month shall not be less than the Minimum Contracted Energy nominated by NOCECO.

19. The tariff is further discussed in the Executive Summary of the Emergency EPPA attached as Confidential Annex “EE.”

SUPPLY-DEMAND SCENARIO

20. Below is the Supply-Demand Scenario for Negros Occidental for the period 2022-2023:

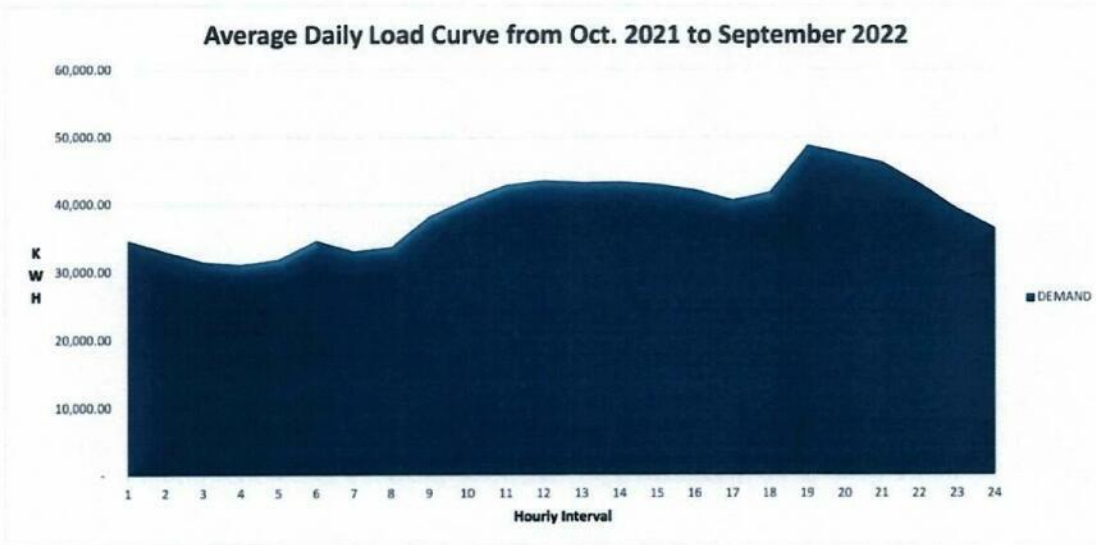
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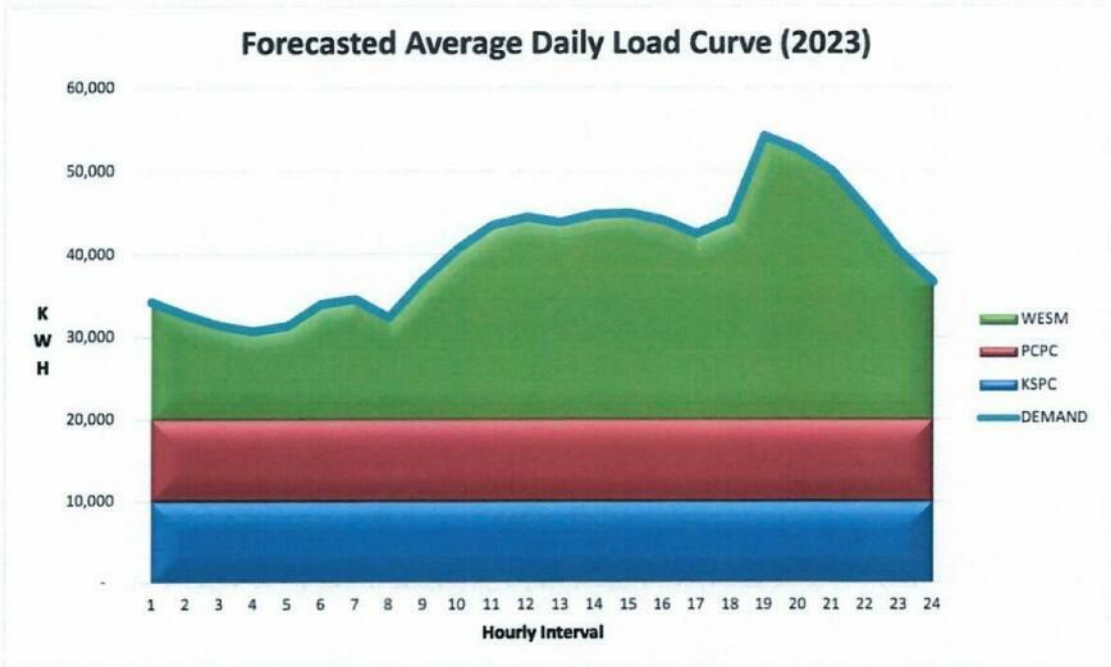
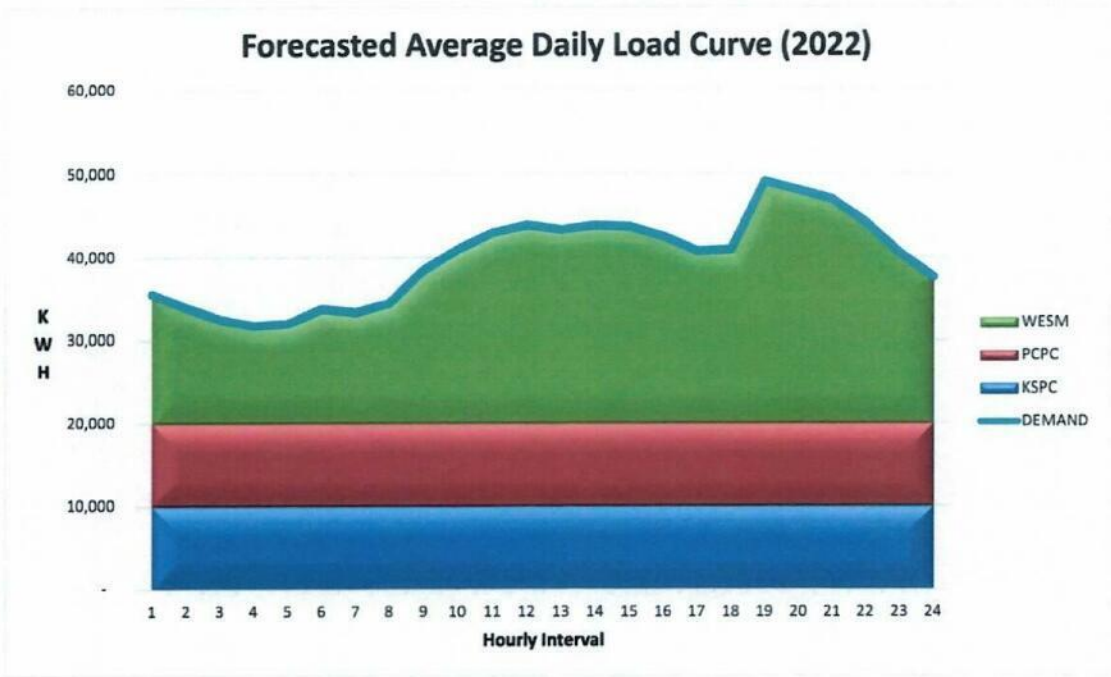
PROJECTION ON SUPPLY - DEMAND PROFILE							
YEAR	MONTH	FORECASTED MAX DEMAND (KW)	CONTRACTED DEMAND (MW)*	UN-CONTRACTED DEMAND**	FORECASTED KWH PURCHASE	CONTRACTED MWH*	SPOT MARKET**
2022	AUG	55,156	10,000	45,156	30,990,752	7,200,000	23,790,752
2022	SEP	53,050	10,000	43,050	29,617,198	7,200,000	22,417,198
2022	OCT	51,377	10,000	41,377	28,765,483	7,200,000	21,565,483
2022	NOV	50,640	10,000	40,640	30,033,238	7,200,000	22,833,238
2022	DEC	53,504	10,000	43,504	28,496,506	7,200,000	21,296,506
2023	JAN	56,044	10,000	46,044	30,676,462	7,200,000	23,476,462
2023	FEB	54,457	10,000	44,457	29,784,346	7,200,000	22,584,346
2023	MAR	56,386	10,000	46,386	28,624,443	7,200,000	21,424,443
2023	APR	55,876	10,000	45,876	32,026,693	7,200,000	24,826,693
2023	MAY	59,365	10,000	49,365	32,224,155	7,200,000	25,024,155
* Only the ERC-approved PSA with PCPC							
** The EPSA shall cover part of the uncontracted demand/power purchased from the spot market							

Further details are found in Annex “N.” (Historical and Forecasted Supply Demand Scenario)

21. On the other hand, the Average Daily Load Curve is shown in this graph:

AVERAGE DAILY LOAD CURVE FOR THE LAST 12 MONTHS
WITHOUT SUPPLIER DETAILS





Average Daily Load Curve is further shown in Annex “O.”

RATE IMPACT ANALYSIS

22. The table in Confidential *Annex “U”* (Rate Impact Analysis) shows in greater detail the actual rate impact of PEDC’s emergency supply of energy to NOCECO.

ALLEGATIONS IN SUPPORT OF THE EMERGENCY EPPA RATE

23. Section 2.2.2 of the CSP Rules provides that the rate for the emergency power supply “shall not be higher than the latest

ERC approved generation tariff for the same or similar technology in the area.”

- 24. The latest ERC-approved generation tariff for the same or similar technology in the Province of Negros Occidental, where Applicant NOCECO’s distribution network and where Applicant PEDC’s power plants are located, is the generation rate for the supply of power between PCPC and Southern Leyte Electric Cooperative in the Honorable Commission’s Decision dated 06 June 2017 in ERC Case No. 2015-013 RC.
- 25. Attached as Annex “KK” is a Comparative Matrix of Suppliers (Generation Rate Comparative Matrix) showing that the total generation rate from PEDC being charged in the Applicants’ Emergency EPPA is not higher than the rate approved by the Honorable Commission in the foregoing power supply agreement.
- 26. The rates under Applicant’s Emergency EPPA is subject of Applicant PEDC’s motion for confidential treatment of information. The allegations in support of the said motion are provided below.
- 27. The applicants respectfully submit that the rates in the Emergency EPPA are compliant with the CSP Rules.

COMPLIANCE WITH PRE-FILING REQUIREMENTS
AND SUPPORTING DOCUMENT

- 28. As further support to the instant Joint Application, the Applicants provide the following documents, which underwent the pre-filing conference and pre-filing marking of annexes with this Honorable Commission:

Description of Document	Annex
NOCECO’s Articles of Incorporation, By-Laws, and Certification of Registration	J, J-1, and J-2
List of Current Members of NOCECO’s Board of Directors and Heads of Departments	K and K-1
NOCECO’s Demand Side Management Program	L
NOCECO’s Load Forecast Projections	M
NOCECO’s Supply and Demand Scenario, Details of Existing Suppliers, and Contract Utilization	N, N-1, and N-2
NOCECO’s Average Daily Load Curve	O
NOCECO’s Single Line Diagram Connection	P
NOCECO’s Performance Assessment of the System: SAIDI and SAIFI	Q
NOCECO’s Report on End Users with Average Monthly Peak Demand	R
NOCECO’s Invitation for the Supply of 10MW Emergency Power	S
Proposals Received by NOCECO	T
Rate Impact Analysis *(Confidential)	U
PEDC’s Certificate of Incorporation, AOI, and BL	V and series

Description of Document	Annex
PEDC's Shareholder's Agreement	W
PEDC's 2022 General Information Sheet	X
PEDC's Verified Certification showing list of Board of Directors and Board Members of the Ultimate Parent Company, its Subsidiaries, and Affiliates	Y
PEDC's Certification from the Board of Investments Unit 1 and 2	Z
PEDC's 2021 Audited Financial Statements	AA
Environmental Compliance Certificate (ECC) and Certification on Change of Name to PEDC	BB
PEDC's Provisional Authority to Operate <i>*(Confidential)</i>	CC and series
NOCECO's Board Resolution Confirming Approval of Evaluation	DD
Executive Summary of the Emergency EPPA <i>*(Confidential)</i>	EE
PEDC's Explanation – Financials	FF and series
Fuel Procurement Process Fuel Supply Contracts <i>*(Confidential)</i>	GG and series
Engine Test Result Simulation of the no. of operating units necessary to meet the Minimum Energy Off Take (MEOT) <i>*(Confidential)</i>	HH and series
NOCECO's Explanation on Non-Applicability of the following documents: <ul style="list-style-type: none">• Other CSP-Related Documents• NPC Supply Contract	II
PEDC's Explanation on non-applicability of some items in the PSA Checklist.	JJ
Generation Rate Comparative Mix	KK

**Subject to the Motion for Confidential Treatment of Information*

ALLEGATIONS IN SUPPORT OF MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION

29. Under *Rule 4 of the ERC Revised Rules of Practice and Procedure*, a party to any proceeding before the Honorable Commission may request that certain information not be disclosed and be treated as confidential, by describing with particularity the information to be treated as confidential, specifying the ground for the claim of confidential treatment of the information and, if applicable, specifying the period during which the information must not be disclosed.
30. With respect to the documents marked and attached as ANNEX/ES “C,” “U,” “CC and series” “EE,” “FF and series,” “GG and series,” and “HH and series,” PEDC respectfully moves that these be treated as confidential and not be disclosed to any party for the reason that these contain non-public, proprietary information, data and calculations involving the investments, financial calculations, and business operations of PEDC. The data and information

contained therein are part of the overall formula and process in arriving at the competitive rates of PEDC. These formula and process are specifically developed for the use of PEDC and are treated as trade secrets. If the information contained in these documents are unduly disclosed, it will seriously prejudice the competitiveness of PEDC. These documents are neither generally available to the public nor already in the possession of the Honorable Commission on a non-confidential basis.

31. In addition to the foregoing, pursuant to PEDC's agreement with its counterparties, Annexes "GG-2 to GG-7" (information relative to fuel supply agreements) likewise contain certain non-public information involving its lender's and counterparties' financial trade secrets. Hence, the confidentiality of those documents should be maintained.

32. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*,¹ 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." (*Emphasis ours.*)

33. The protection of trade secrets is likewise recognized by the Honorable Commission in its Decision in ERC Case No. 2015-111 RC:

"In the case of PNOC RC, the documents sought to be protected from disclosure contains formula and pricing structures used in arriving at their proposed tariff. The prices cited in the documents were components of the proposed tariff. In fact, all three (3) documents were used by the Commission in evaluating the reasonableness of the proposed rate. In electric power industry [where] prices is a major consideration in selecting one's supplier, it is apparent that the assumption used in arriving at one's proposed tariff is considered a competitive leverage by one player against its competitors.

¹ G. R. No. 172835, 13 December 2007.

Thus, the Commission resolved to treat the said documents confidential and may not be publicly disclosed.²

34. It is respectfully submitted therefore that ANNEX/ES "C," "U," "CC and series," "EE," "FF and series," "GG and series," and "HH and series." fall within the bounds of proprietary "trade secrets" which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
35. Thus, Applicants hereby submit one (1) copy of each of the foregoing confidential documents in sealed envelopes, with the envelopes and each page of the documents marked "Confidential."
36. The interest of the consumers of NOCECO is sufficiently protected by the review and evaluation of the rates under the Emergency EPPA by the Honorable Commission, without the need to disclose the contents of the confidential information. The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of the foregoing documents sought to be afforded confidential treatment in the evaluation and handling thereof.
37. Lastly and corollary to the foregoing, PEDC would like to implore the discerning wisdom of the Honorable Commission to include in its issuance for this purpose the *"procedures for the handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period for which the information is to be treated as confidential."*³
38. This is guided by the fact that PEDC will seek for the return of these sought to be declared confidential annexes after its utilization as evidence in this case and/or at the close of the proceedings hereof, so as to relieve the Honorable Commission of the burden of safekeeping the trade secrets of PEDC enclosed in the subject annexes.

PRAYER

WHEREFORE, premises considered, Applicants respectfully pray that the Honorable Commission:

- a) Issue an Order TREATING ANNEX/ES "C," "U," "CC and series," "EE," "FF and series," "GG and series," and "HH and series," and all other information contained

² In the Matter of the Application for the Approval of the Power Supply Agreement Between Nueva Ecija II Electric Cooperative, Inc. – Area 2 (NEECO II – Area 2) and PNOC Renewables Corporation (PNOC RC) with Prayer for Provisional Authority, ERC Case No. 2015-111 RC, Decision dated 30 May 2017, p. 26.

³ Letter (d), Section 4, of the ERC Rules and Practice and Procedure.

therein as CONFIDENTIAL, directing their non-disclosure to persons other than officers and staff of this Honorable Commission, continuously protecting the said information from public disclosure by maintaining the same separate and apart from the records of the case, and ensuring that these are not divulged to unauthorized persons, pursuant to Rule 4 of the ERC Revised Rules of Practice and Procedure; and

- b) After hearing on the merits, render a Decision APPROVING THE EMERGENCY EPPA between PEDC and NOCECO and the terms and conditions thereunder, including the price.

Other relief just and equitable under the circumstances are likewise prayed for.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for hearing 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 2020⁴ and Resolution No. 01, Series of 2021⁵ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
25 March 2024 (Monday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements, and Expository Presentation
01 April 2024 (Monday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and Presentation of Evidence

Accordingly, NOCECO and PEDC are hereby directed to host the virtual hearings at **NOCECO’s Principal Office located at Sitio Naga, Barangay Binicuil, Kabankalan City, Negros Occidental** as the designated venue for the conduct thereof and ensure that the same is open to the public and the community

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

quarantine guidelines are observed at all times. Moreover, Applicants NOCECO and PEDC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, NOCECO and PEDC 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 Governors, the City and Municipal Mayors, and their respective Local Government Unit (LGU) legislative bodies within NOCECO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within NOCECO's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, their reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial virtual hearing, Applicants NOCECO and PEDC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of

their written compliance with the aforementioned jurisdictional requirements attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned 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 NOCECO and PEDC to inform the consumers within NOCECO's franchise area of the filing of the *Joint Application*, their reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

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

Applicants NOCECO and PEDC, and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days**

before the date of the scheduled virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

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

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

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


Further, NOCECO and PEDC are hereby directed to file a copy of their Expository Presentation via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. Applicants NOCECO and PEDC 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.

Finally, Applicants NOCECO and PEDC, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through 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, 07 February 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: CAB/MCC/LSP

ERC
Office of the Chairperson and CEO



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Copy furnished:

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6. Office of the LGU legislative body
Province of Negros Occidental
7. Office of the Mayor
City of Kabankalan
8. Office the LGU legislative body
City of Kabankalan
9. Office of the Mayor
City of La Carlota
10. Office the LGU legislative body
City of La Carlota
11. Office of the Mayor
City of Himamaylan
12. Office the LGU legislative body
City of Himamaylan
13. Office of the Mayor
City of Sipalay
14. Office the LGU legislative body
Sipalay of Sipalay
15. Office of the Municipal Mayor
Municipality of Binalbagan
16. Office the LGU legislative body
Municipality of Binalbagan
17. Office of the Municipal Mayor
Municipality of Candoni
18. Office the LGU legislative body
Municipality of Candoni

19. Office of the Municipal Mayor
Municipality of Cauayan
20. Office the LGU legislative body
Municipality of Cauayan
21. Office of the Municipal Mayor
Municipality of Hinigaran
22. Office the LGU legislative body
Municipality of Hinigaran
23. Office of the Municipal Mayor
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24. Office the LGU legislative body
Municipality of Hinoba-an
25. Office of the Municipal Mayor
Municipality of Ilog
26. Office the LGU legislative body
Municipality of Ilog
27. Office of the Municipal Mayor
Municipality of Isabela
28. Office the LGU legislative body
Municipality of Isabela
29. Office of the Municipal Mayor
Municipality of La Castellana
30. Office the LGU legislative body
Municipality of La Castellana
31. Office of the Municipal Mayor
Municipality of Moises Padilla
32. Office the LGU legislative body
Municipality of Moises Padilla
33. Office of the Municipal Mayor
Municipality of Pontevedra
34. Office the LGU legislative body
Municipality of Pontevedra
35. Office of the Municipal Mayor
Municipality of Pulupandan
36. Office the LGU legislative body
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37. Office of the Municipal Mayor
Municipality of San Enrique
38. Office the LGU legislative body
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39. Office of the Municipal Mayor
Municipality of Valladolid
40. Office the LGU legislative body
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