

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
THE APPROVAL OF THE
POWER SUPPLY
AGREEMENT BETWEEN
MORE ELECTRIC AND
POWER CORPORATION
AND PALM CONCEPCION
POWER CORPORATION,
WITH MOTIONS FOR THE
ISSUANCE OF A
PROVISIONAL
AUTHORITY/INTERIM
RELIEF AND FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION,**

ERC Case No. 2025-065 RC

**MORE ELECTRIC AND
POWER CORPORATION
AND PALM CONCEPCION
POWER CORPORATION.**

Applicants.

Promulgated:
April 28, 2025

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ORDER

On 18 March 2025, MORE ELECTRIC AND POWER CORPORATION (MORE) and PALM CONCEPCION POWER CORPORATION (PCPC), filed their *Joint Application* dated 07 February 2025, seeking the Commission's approval of the Power Supply Agreement (PSA) between MORE and PCPC, with motions for the issuance of a Provisional Authority/Interim Relief and for Confidential Treatment of Information.

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

PARTIES

1. Applicant MORE is a corporation duly organized and existing under the laws of the Republic of the Philippines,

with principal address at GST Building, Quezon St., Iloilo City. It is a private electric distribution utility duly enfranchised under Republic Act No. 11212 to establish, operate and maintain, for commercial purposes and in the public interest, a distribution system for the conveyance of electric power to end users in the City of Iloilo. It has been granted a Certificate of Public Convenience and Necessity by the Honorable Commission in its Decision dated 05 August 2022 in ERC Case No. 2018-019MC

2. MORE is represented herein by its President and Chief Executive Officer, Mr. Roel Z. Castro, who has been authorized by its Board of Directors to sign the PSA with PCPC and initiate, file, and pursue the instant joint application.
3. Joint Applicant PCPC is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Barangay Nipa, Concepcion, Iloilo. It owns and operates a 135MW circulating fluidized bed coal-fired power plant located in the same address.
4. PCPC is represented herein by its President, Mr. Nicandro R. Fucoy, who has been authorized by its Board of Directors to execute the PSA with MORE and initiate, file, and pursue the instant joint application.
5. Applicants MORE and PCPC 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

6. This is an application for the approval of the Power Supply Agreement between MORE and PCPC ("PSA") under the EPIRA, ERC Resolution No. 16, Series of 2023 and other pertinent rules of the Honorable Commission.

SUPPLY-DEMAND SCENARIO OF MORE

7. Based on its power situation outlook as shown in its 2023 to 2032 Power Supply Procurement Plan and Distribution Development Plan duly approved by the Department of Energy ("DOE"), MORE has a supply deficit.
8. The franchise area of MORE had a total peak power demand of 150.7MW in 2024. Of this demand, 21.7MW is attributable to Contestable Customers in its franchise area. Currently, MORE is sourcing its electric power requirements from the following suppliers:
 - a) 20MW from KEPCO SPC Power Corporation under a Power Supply Contract until 25 July 2032 approved by the ERC under ERC Case No. 2022-19RC;

- b) 25MW from SEM Calaca Power Corporation under a Power Supply Contract until 25 July 2032 approved by the ERC under ERC Case No. 2021- 105RC;
 - c) 20MW from Energy Development Corporation under a Power Supply Contract until 19 June 2028 approved by the ERC under ERC Case No. 2022-085RC;
 - d) 10MW from Panay Energy Development Corporation under a Power Supply Contract until 25 October 2027 approved by the ERC under ERC Case No. 2024-053RC;
 - e) The 54MW deficit in supply is currently being sourced from the Wholesale Electricity Spot Market (WESM).
9. The peak demand of the captive market of MORE for 2024 was 129MW and only 75MW of the total demand of MORE is contracted under ERC-approved bilateral contracts as shown above. The supply deficit of MORE was further aggravated by the fact that SEM Calaca Power Corporation (SCPC) has currently suspended deliveries to MORE invoking a supposed force majeure event due to the high line rental charges. MORE has disputed this declaration and suspension of supply by SCPC.
10. Thus, in order to ensure continuous and reliable electricity for MORE's customers and further to reduce their exposure to potential high prices and price volatility in the spot market, there is a need to source additional baseload capacity through bilateral power supply contracts.
11. Section 23 of the EPIRA mandates that all distribution utility shall supply electricity in the least cost manner to its captive market.
12. Section 25 of the EPIRA also provides that the retail rates charged by the DU for the supply of electricity in their captive market shall be subject to regulation by the ERC.
13. The Department of Energy issued the Department Circular DC 2023-06-0021 prescribing that the power supply intended to meet the electricity demand of the DU's captive market shall be procured through a Competitive Selection Process (CSP), consistent with the latest and duly accepted DDP and posted PSPP. Pursuant to this DOE Department Circular, the Honorable Commission issued ERC Resolution 16, Series of 2023.
14. On 12 July 2022, the Board of Directors of MORE resolved to approve the composition of an independent Third-Party Bids and Awards Committee (TPBAC) to spearhead and manage the Competitive Selection Process (CSP) for the procurement of the power requirements of MORE in accordance with the

latest approved Power Supply Procurement Plan as required under Department of Energy (DOE) Department Circular DOE DC2018-02-0003.

15. Also on 12 July 2022, the Board of Directors of MORE resolved to approve the selection of two independent members of the TPBAC according to the selection criteria in accordance with DOE- DC-2018-02-003 and duly approved by the Department of Energy (DOE).
16. Pursuant to the foregoing, a TPBAC, TPBAC TWG, and Secretariat were constituted in accordance with the requirements of DOE Department Circular DC-2018-02-003, which was later amended to DOE Department Circular DC2023-06-0021 and by the ERC Resolution 16, Series of 2023 to conduct the above-mentioned CSP for MORE;
17. Pursuant to the above ERC Resolutions; DOE Department Circulars, and Board Resolutions, the TPBAC was constituted with the following selected members:

NAME	POSITION
Niel V. Parcon	Chairman
Engr. John Wellcome S. Baxinela	Vice Chairman
Engr. Wilmar J. Gonzaludo	Member
Engr. Filomeno Sonza Jr.	Member
Atty. Jordana Mari Jaco	Member

18. In accordance with ERC Resolution 16, Series of 2023, the TPBAC formulated the TOR and proposed CSP timeline, in accordance with the latest approved Power Supply Procurement Plan (PSPP) 2023-2032 and submitted to the DOE for approval.
19. Under the approved TOR, MORE would procure through a CSP, power supply of 20MW Baseload Capacity with Fuel-Cost Pass Through. The initial delivery date will be on 26 June 2025 with a term of five (5) years from such initial delivery dates, attached herewith as Annex E-5. The TOR also provides a Reserve Price for the Total Price, which will be revealed by the TPBAC to qualified bidders during the Opening of Bids.
20. On 22 July 2024, the DOE approved the TOR and proposed CSP timeline. A copy of the Certificate of Conformity issued by the DOE is attached hereto as Annex "E-6" and made an integral part hereof;
21. Pursuant to ERC Resolution 16, Series of 2023 and the approved Certificate of Conformity from the DOE, MORE caused the publication of an "INVITATION TO BID for the Supply of 20 MW Baseload and 6.6 MW RPS Power Supply Requirement of MORE Electric and Power Corporation"

which invitation was published once a week for two consecutive weeks in the 16 August 2024 and 23 August 2024 editions of the Daily Tribune.

22. In accordance with the requirements of the ERC Resolution 16, Series 2023, the Invitation to Bid for the CSP was also posted in MORE Power's official website. DOE through its Advisory 2024-07-001 informed MORE of the temporary shutdown of the DOE CSP E-based Portal, thus the ITB was only posted in the MORE Power Official website.
23. Pursuant to the approved TOR and published Invitation to Bid, the following interested parties submitted their expression of interest to participate in the CSP for the 20 MW Baseload (Fuel Cost Pass Through) power requirement of MORE:

Palm Concepcion Power Corporation
Therma Visayas, Inc.
Panay Energy Development Corporation
FDC Misamis Power Corporation

24. A pre-bid conference was conducted on 10 September 2024 to accommodate questions and clarification by the bidders regarding the conduct of the CSP. Thereafter, the Final Instruction to Bidders is issued to bidders two weeks prior to the Opening of Bid.
25. In accordance with the TOR and CSP Timeline for the CSP for the 20MW Baseload (Fuel Cost Pass Through) power requirement of MORE, the TPBAC conducted the Opening of Bids on 11 October 2024 at Seda Atria Hotel in Mandurriao, Iloilo City attended in person and via video conference by the interested bidders, and representatives of the DOE.
26. The conduct of the Pre-Bid Conference and the Opening to Bid were open to the public. Observers from the Department of Energy, members of the local business and consumer groups and local government unit were also invited to attend the Pre-Bid Conference and the Opening of Bids.
27. During the Opening of Bids, FDC Misamis Power Corporation informed TPBAC through email that they will not submit an offer. Likewise, Therma Visayas Inc. informed TPBAC that they will not submit a bid during the bid opening at the venue. The bid offers for the 20 MW baseload with Fuel Cost Pass Through of the two (2) remaining bidders (PCPC and PEDC) were opened.
28. Subsequently, the Reserve Price for the Bid for the 20MW Baseload with Fuel cost pass through was opened to the public, with a Reserve Price of PhP 6.5000 per kWh. Only the bid of Palm Concepcion Power Corporation of P6.2066/kWh was below the Reserve Price.

29. The TPBAC Technical Working Group (“TWG”) conducted the post-qualification on the Lowest Calculated Bid for the 20 MW Baseload requirement and subsequently submitted its evaluation report to the TPBAC on November 19, 2024. The report finds the bid of Palm Concepcion Power Corporation has satisfactorily complied with all the legal, technical, and financial requirements of the CSP. The TPBAC then issued a Resolution dated 20 November 2024 recommending to the Board of Directors of MORE the award of the 20MW power supply contract to PCPC.
30. On 28 November 2024, the Board of Directors of MORE approved the recommendation of the TPBAC to award contract for Baseload Supply of 20MW Baseload Fuel Cost Pass-through Supply Requirement of MORE to Palm Concepcion Power Corporation with initial delivery date on June 26, 2025.
31. Upon the approval of the Board of Directors, MORE issued a Notice of Award to Palm Concepcion Power Corporation on 10 December 2024.
32. In the same Secretary’s Certificate, the Board of Directors of MORE likewise authorized Mr. Roel Z. Castro, the President and Chief Executive Officer of MORE to negotiate with the winning bidder and act as signatory to the Power Supply Agreement.
33. The BAC and the TWG undertook exhaustive negotiations with Palm Concepcion Power Corporation on the Power Supply Agreement;
34. Pursuant to the abovementioned Board Resolutions and CSP and after exhaustive negotiations, on 30 December 2024, MORE through its President, executed the Power Supply Agreement with PCPC for the supply of 20MW Baseload contracted capacity and equivalent energy with a levelized rate of P P6.2066/kWh with Fuel Pass-through and subject to adjustments in the PSA with a contract period of five years beginning on 26 June 2025;
35. A certification was likewise executed by MORE’s Vice President for Corporate Energy Sourcing and Regulatory Affairs and chairman of its TPBAC, Mr. Niel V. Parcon, on the conduct of a CSP as described above.

**SALIENT FEATURES
OF THE POWER SUPPLY AGREEMENT**

Type of PSA:	Physical
Power Plant Source:	PCPC Concepcion Coal Fired Power Plant
Term:	5 Years
Contracted Capacity:	20MW

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Supply Date:	Commencement	26 June 2025 or upon approval of the ERC whichever comes later
Outages:		No allowed outages
Replacement Power:		SELLER shall provide replacement power due to any outage of the power plant. If SELLER cannot provide replacement power, BUYER shall be allowed to source replacement power at WESM rates and subject to the payment by SELLER of an administrative fee of P0.35/kWh.
Line Rental:		For SELLER'S account

Tariff:

The Electricity Fees for the Contracted Capacity and Bilateral Contract Quantity shall be:

Formula:

$$\text{Electricity Fees} = [\text{Fixed Fee (Php/kWh)} \times \text{Contracted Energy (kWh)}] + [\text{Variable Fee (Php/kWh)} \times \text{Delivered Energy (kWh)}] + \text{VAT}$$

Contracted Energy = 100% energy (kWh) equivalent of the Contracted Capacity, subject to adjustment due to actual number of Force Majeure, if applicable

Delivered Energy = the total energy (kWh) based on the Seller's BCQ declaration.

Rate Components:	
1. Fixed Fee = CRF + F O&M	
<i>Fixed Fee shall be fixed for the entire duration of the contract period.</i>	
▪ Capital Recovery Fee (CRF)	Php 1.5700 / kWh (VAT Excl)
▪ Fixed Operation & Maintenance Fee (F O&M)	Php 1.0084 / kWh (VAT Excl)
2. Variable Fee = V O&M + Fuel Fee	
▪ Variable Operations & Maintenance Fee (V O&M)	
Formula:	
V O&M (Php/kWh)	= Operation and Maintenance Fee = V O&M PHP _{base} × [PH CPI _n /PH CPI _{base}]
where:	
V O&M PHP base	= Php 0.2000 / kWh
PH CPI _{base}	= Php 126.6000
PH CPI _n	= Based on the latest available available actual PH CPI index on or before the 25 th day of the billing month

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<p>▪ Fuel Fee</p> <p>Formula:</p> $\text{Fuel Fee (Php/kWh)} = [(0.25 \times \text{New Castle Indexed Fuel Cost}) + (0.75 \times \text{ICI Indexed Fuel Cost})]$ <p>Sub Formula:</p> <p>New Castle Indexed Fuel Cost</p> $= \left[\frac{(\text{New Castle Fuel Cost} + \text{Transport Cost}_{USD}) (\text{Forex}) + \text{Transport Cost}_{PHP} + 190}{1000} \right] \times 0.604 \times (1.015^{y-1})$ <p>ICI Indexed Fuel Cost</p> $= \left[\frac{(\text{ICI Fuel Cost} + \text{Transport Cost}_{USD} + 2) (\text{Forex}) + \text{Transport Cost}_{PHP} + 190}{1000} \right] \times 0.604 \times (1.015^{y-1})$

<p>New Castle Fuel Cost</p> $= \text{New Castle Price Index}_{(\text{Ave last 3 months})} \times \left[\frac{5400 \frac{\text{kcal}}{\text{kg}} \text{GAD}}{6700 \frac{\text{kcal}}{\text{kg}} \text{GAD}} \right] \times [100\% - 17\% \text{ discount rate}]$ <p>ICI Fuel Cost = ICI Price Index_(Ave last 4 weeks) + 5</p> <p>Transport Cost_{USD}</p> $= \left[\left(3.99 \times \frac{\text{MOPS}_{LFO-\text{current}} + 12}{99.3091} \right) + \left(2 \times \frac{\text{US CPI}_{\text{current}}}{233.877} \right) + 1.1473 \right] + \left[\left(0.25 \times \frac{\text{MOPS}_{HFO-\text{current}}}{362.0955} \right) + \left(0.65 \times \frac{44.983}{\text{FOREX}_{\text{current}}} \right) \times \left(\frac{\text{PH CPI}_{\text{current}}}{91.134} \right) + 0.0056 \right]$ <p>Transport Cost_{PHP} = $\left[\left(260.5 \times \left(\frac{\text{PH CPI}_{\text{current}}}{87.6385} \right) \right) + 27.439 \right]$</p>
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where:

y	No of years from contract signing. For reference, Year 1 is 2024, (y=1).
New Castle Price Index (Ave last 3 months)	Running Average of the preceding three-month weekly reference price for thermal coals delivered on an FOB basis at Newcastle port for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading as published in www.globalcoal.com .
ICI Price Index (Ave last 4 weeks)	Running Average of the preceding four (4) weeks reference price for thermal coals delivered on an FOB basis as per the Indonesian Coal Index Report ICI-4 values as published in Argus/ Coalindo.
FOREX _{Current}	Average exchange rate (in Php per USD) of the billing period, as published by the Bangko Sentral ng Pilipinas (BSP), www.bsp.gov.ph .
MOPS _{LFO-Current}	Prior Settle Price of Singapore Gasoil (Platts) for the closest futures contract of the current month as published by CME Group www.cmegroup.com or at https://www.sgx.com/derivatives/products/oil . The value of the 25 th day of the current month, or, if unavailable, the most recent value prior to the 25th.
MOPS _{HFO-Current}	Prior Settle Price of Singapore Fuel Oil 380 cst (Platts) for the closest futures contract of the current month as published by CME Group www.cmegroup.com or at https://www.sgx.com/derivatives/products/fuel-oil-380cst?cc=3MF . The value of the 25th day of the current month, or, if unavailable, the most recent value prior to the 25th.
US CPI _{Current}	U.S CPI of all items using the latest available index during the current month as published by the U.S. Bureau of Labor Statistics (USBLS) (1982-84 = 100).
PH CPI _{Current}	Philippine CPI of all items using the latest available index during the current month as published by the PSA (2018=100).

3. Line Rental	For Seller's Account
4. Non-Market Fee WESM Adjustment	For Buyer's Account
5. Any Charges, Costs, Expenses and Fees for transmission and/or Ancillary Services and other services in connection with the delivery of electricity	For Buyer's Account

RATE IMPACT ANALYSIS

36. Applicant MORE Power projects that the timely implementation of the PSA with PCPC by June 26, 2025 would potentially result into a **REDUCTION of PHP 0.7739 per kWh** in its generation rate for its captive customers. The Rate Impact Analysis shows in greater detail the actual rate impact of PCPC's supply of energy to MORE under the PSA.

SUPPORTING DOCUMENTS

37. In compliance with Resolution No. 16 series of 2023, and 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:

Document	Annex Marking
Franchise of MORE	A
Certificate of Incorporation and Original Articles of Incorporation of MORE, Amendments to the Articles of Incorporation of MORE and By-Laws of MORE	B and Series
Latest GIS of MORE	C
Latest AFS of MORE	D
Certification on Ultimate Parent Company of MORE	E
MORE WESM Registration	F
Distribution Development Plan (DDP)	G
Power Supply Procurement Plan (PSPP)	H
MORE Supply – Demand Scenario	I
MORE Average Daily Load Curve (signed)	J
MORE Matrix of Existing Power Suppliers (signed)	K
MORE Power Supply Contracts Utilization Table	L
MORE's Explanation on TSC/CSEE	M
MORE's write up on Demand Side Management Program.	N
An estimation of the potential for a reduction in load supplied by the DU due to retail competition, GEOP, etc.	O
MORE Single Line Diagram	P
MORE SAIDI and SAIFI	Q
A copy of the Secretary's Certificates approving the composition of an independent Third-Party Bids and Awards Committee (TPBAC) of MORE to spearhead and manage the Competitive Selection Process (CSP) and subsequent addendum to the composition of the said TPBAC	R and R-1
A copy of the Secretary's Certificate approving the selection of two independent members of the TPBAC of MORE according to the selection criteria in accordance with DOE-DC-2018-02-003	S
MORE CSP TOR for 20MW Baseload Capacity with Fuel-Cost Pass Through with initial delivery date on 26 June 2025 with a term of five (5) years from such initial delivery date and with a Reserve Price	T
Explanation on Determination of Reserve Price	T-1
Certificate of Conformity issued by the DOE approving the TOR	U

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and proposed CSP timeline of MORE.	
INVITATION TO BID for the Supply of 20 MW Baseload Power Supply Requirement of MORE with CSP Timeline	V
Publications of the “INVITATION TO BID for the Supply of 20 MW Baseload Power Supply Requirement of MORE in the 16 August 2024 and 23 August 2024 editions of the Daily Tribune Affidavit of Publication	W and W-1
Proof of posting of the ITB in the website of MORE	X
Minutes of the Pre-Bid Conference	Y
Final Instruction to Bidders	Z
Copies of the Invitation to Observers in each stage of the CSP process (Pre-Bid Conference and the Opening of Bids)	AA
Bid of PCPC	BB and Series
Bid of PEDC (Confidential)*	CC
Minutes of the Opening of Bids	DD
Abstract of Bids with the summary of the bids received	EE
TPBAC TWG Post Qualification Report	FF
TPBAC Resolution dated 20 November 2024 recommending to the Board of Directors of MORE the award of the 20MW contract to PCPC	GG
Secretary’s certificate of MORE approving the recommendation of the TPBAC to award the contract for Baseload Supply of 20MW with Fuel Cost Pass-through to PCPC and filing of the instant Joint Application	HH
MORE Notice of Award to Palm Concepcion Power Corporation	II
Power Supply Agreement between MORE and PCPC	JJ
Sworn certification executed by MORE’s Vice President for Corporate Energy Sourcing and Regulatory Affairs and chairman of its TPBAC, Mr. Niel V. Parcon, on the conduct of the CSP	JJ-1
MORE Rate Impact Simulation with Explanation	KK
Certificate of Incorporation, with original Articles of Incorporation (AOI) and By-Laws, under PCPC’s former Corporate name DMCI Concepcion Power Corporation and PCPC Amended Articles of Incorporation and Amended By-Laws	LL and LL-1
PCPC Latest General Information Sheet (“GIS”)	MM and series
Certification on Ultimate Parent Company of PCPC	NN
PCPC latest Audited Financial Statements	NN-1
PCPC Board of Investments (“BOI”) Certificate of Registration for the Concepcion Power Plant Project	OO
Certification from the Department of Energy (DOE) on the inclusion of PCPC Unit 1 in the Philippine Power Development Plan (PDP)	PP
ECC No. 0606-006-4021 for the PCPC Power Plant issued by the DENR on 27 May 2007 and the approved amendments thereto dated 12 October 2012	PP-1
PCPC Provisional Authority to Operate	QQ
Relevant technical characteristics of Unit 1 of the PCPC Concepcion Power Plant	RR
Summary of the transmission projects or grid connection projects necessary to complement the PCPC Power Plant	SS
PCPC Transmission Service Agreement with National Grid	TT
	UU

Corporation of the Philippines (“NGCP”)	
PCPC Connection Agreement with NGCP	VV
PCPC Metering Services Agreement with NGCP	WW
Summary of the project cost and O&M costs for the PCPC 135 MW Concepcion coal-fired power generation facility	XX
PCPC Sources and Costs of Funds and derivation of WACC	XX-1
PCPC Project Cash Flow Summary	XX-2
Certification from BDO Capital and Investments, Inc., the Lead Arranger of the financing for the PCPC Power Plant, on the principal amortization, term and interest of the respective loan agreements for the Project	XX-3
Basis for the purchased power rate with breakdown of the base prices; Capital Recovery Fee, Fixed and Variable O&M, and Fuel Fee with basis/rationale of indexation including the sources, reference date, and weight of indexation	XX-4
Electronic Copy PCPC Financial model containing derivation of rates (updated)	XX-5
PCPC EPC Contract	XX-6
PCPC Sworn Statement on Details of Fuel Procurement	YY
PCPC-Pevensy Coal Supply Agreement with Amendments	YY-1
Write-up on the PCPC's offered and Contracted Rate	ZZ
Sample Computation of Power Rates	ZZ-1
PCPC Basis of Indexation, Escalation and foreign denominated rate components	ZZ-2
Executive Summary of the PSA with Rates	AAA
PCPC Write-Up on the Non-Applicability of other required documents	BBB
Declaration Certificate on the net heat of the PCPC Power Plant	CCC
PCPC WESM Registration	DDD
Secretary’s Certificate for the Board Resolution adopted by the Board of Directors of PCPC authorizing the execution of the 20MW PSA with MORE and the joint filing of the instant application	EEE
Proofs of Service to the Offices of the Governor and the Presiding Officer or Secretary or their duly authorized representative, of the <i>Sangguniang Panlalawigan</i> of the Province of Iloilo and the Offices of the Mayors and the Presiding Officers or Secretaries or their duly authorized representatives of the <i>Sangguniang Panglungsod/Bayan</i> of the City of Iloilo, and the Municipality of Concepcion, Iloilo, where Applicants principally operate respectively	FFF and series
Copy of the newspaper of local circulation in the franchise area of MORE where the publication of this Application appeared	GGG
Affidavit of Publication from the publisher of such newspaper attesting to such publication	GGG-1
Affidavit in Support of the Prayer for Issuance of Provisional Authority/Interim Relief	HHH

*Subject to the Motion for Confidential Treatment of Information

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

39. The power situation outlook for 2023 to 2032 of MORE shows a baseload capacity deficit. Further, as stated above,

MORE projects that there will be a reduction in its generation rate for its captive market with the timely implementation of the PSA with PCPC as compared to sourcing the contracted energy therein from the spot market. Thus, without the timely implementation of the subject PSA, MORE customers will be continuously exposed to volatile prices of the Wholesale Electricity Spot Market resulting in higher rates, hence, it is important that the PSA with PCPC is allowed to be implemented from 26 June 2025.

40. Joint Applicants move for the issuance of a provisional Authority/Interim Relief for the instant application in recognition of the fact that the Honorable Commission has a tremendous work and case load which may result in a delay in the issuance of a decision for the instant case which would be to the detriment of the consumers of MORE.
41. Under Section 4(e), Rule 3 of the EPIRA IRR, this Honorable Commission may grant a provisional authority as follows:

“The ERC may grant provisionally or deny the relief prayed for not later than seventy five (75) calendar days from the filing of the application or petition, based on the same and the supporting documents attached thereto and such comments or pleadings the consumers or the LGU concerned may have filed within thirty (30) calendar days from receipt of a copy of the application or petition or from the publication thereof as the case may be.”

42. In view of the foregoing, PCPC and MORE respectfully move for the issuance of a provisional authority or interim relief for the instant case to allow them to proceed in implementing the PSA in a timely manner by 26 June 2025, and thus secure the lower rate and benefits derived therein for the benefit of its customers. In support of the Motion for Issuance of Provisional Authority, MORE prepared an Affidavit in Support of the Prayer for Issuance of Provisional Authority/Interim Relief in compliance with the Rules of the Honorable Commission.

**ALLEGATIONS IN SUPPORT OF THE MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION**

43. 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.

44. Further, in the recently issued ADVISORY dated 16 October 2024, the Individual Proposal submitted pursuant to a procurement process is listed as a confidential document. It is respectfully submitted therefore that the Proposal received by MORE from PEDC (**Annex “DD”**) which contains detailed information on the other bid received by MORE under this CSP, falls within the bounds of proprietary “trade secrets” which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable

Commission and are hereby requested to be considered confidential as these documents contain information about the offers received by MORE from the other qualified parties during the procurement of offers which constitute trade secrets of such parties that submitted the respective offers.

45. 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.*)

46. 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

47. 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.”
48. The interest of the consumers of MORE is sufficiently protected by the review and evaluation of the rates under the PSA 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.

PRAYER

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

- a) Issue an Order granting **PROVISIONAL APPROVAL/INTERIM RELIEF** for the instant Joint Application and authorizing Joint Applicants PCPC and MORE to implement the subject PSA in a timely manner by 26 June 2025 in accordance with the terms of the PSA;
- b) Issue an Order **TREATING ANNEX “DD”** and all other information contained therein relevant to the other bid received by MORE, 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
- c) After hearing on the merits, render a Decision **APPROVING THE PSA** between PCPC and MORE and the terms and conditions thereunder, including the electricity rates.

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

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 PNOG Renewables Corporation (PNOG RC) with Prayer for Provisional Authority, ERC Case No. 2015-111 RC, Decision dated 30 May 2017, p. 26.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020³ and Resolution No. 01, Series of 2021⁴ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
1 July 2025 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements, and Expository Presentation
8 July 2025 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

Accordingly, MORE and PCPC are hereby directed to mirror the virtual hearings to be hosted by the Commission at **MORE's principal office at GST Building, Quezon St., Iloilo City**, as the designated venue for the conduct thereof and ensure that the same is open to the public. Moreover, MORE and PCPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, MORE and PCPC are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial virtual hearing;

³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governors, the Mayors and the Local Government Unit (LGU) legislative bodies, within MORE's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within MORE'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 hearing 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 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, MORE and PCPC 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 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 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 MORE to inform the consumers within its franchise area of the filing of the *Joint Application*, the reasons therefor, and of the scheduled hearing 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, MORE and PCPC are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

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

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings thereof; and

- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit from attached to the Pre-Trial Brief.

Applicants **MORE and PCPC** 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 schedule initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of **MORE and PCPC** 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.

Applicants **MORE and PCPC** 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* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

Applicants **MORE and PCPC** 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. MORE and PCPC shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentations, at least five (5) calendar days prior to the scheduled virtual hearing.

Applicants **MORE and PCPC** are hereby directed to submit, through personal service, registered mail 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 acknowledgement receipt e-mail sent by the Commission.

Finally, **MORE and PCPC**, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, their respective

e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 28 April 2025.

FOR AND BY AUTHORITY
OF THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service


LS: LPS/BBB/JGGW

Copy Furnished:

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7. House Committee on Energy
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8. Office of the Governor
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9. Office of the Sangguniang Panlalawigan
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10. Office of the City Mayor
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