

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
PASIG CITY

IN THE MATTER OF THE
APPLICATION FOR EXTENSION
OF THE PERIOD FOR OFFER OF
SHARES TO THE PUBLIC/
DISPERSAL OF OWNERSHIP

ERC Case No. 2025-005 MC

MORE ELECTRIC AND POWER
CORPORATION,

March 03, 2025

Petitioner.

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PETITION

Petitioner MORE Electric and Power Corporation (“MEPC”), by counsel, respectfully states:

I.
NATURE OF THE PETITION

1. This is a petition under Section 4 of Rule 5 of the *Revised Rules of Practice and Procedure*,¹ in relation to Section 43 (u) of *Republic Act (“RA”) No. 9136, the “Electric Power Industry Reform Act of 2001” (“EPIRA”)*,² in which MEPC seeks the approval of the ERC for the extension of the period for MEPC to offer its shares to the public for the dispersal of its ownership required under Section 16 of its franchise, *RA 11212*, as amended.

¹ Section 4. Petition. – By means of a petition, a person, other than an applicant or complaint, seeks an affirmative relief under any statute or other authority delegated to the Commission. *** [Underscoring supplied]

² Section 43. *Functions of the ERC.* - The ERC shall promote competition, encourage market development, ensure customer choice and discourage/penalize abuse of market power in the restructured electricity industry. Towards this end, it shall be responsible for the following key functions in the restructured industry:

*** *** ***

(u) Perform such other regulatory functions as are appropriate in order to ensure the successful restructuring and modernization of the electric power industry, such as, but not limited to, the rules and guidelines under which generation companies, distribution utilities which are not publicly listed shall offer and sell to the public a portion not less than fifteen percent (15%) of their common shares of stocks: . . . [Underscoring supplied]

2. In this petition, MEPC invokes the Equality Clause under Section 22 of its franchise which grants to MEPC, immediately and unconditionally, any *advantage, favor, or privilege* that shall be granted subsequently to other power distribution franchisees. Section 22 of *RA 11212* reads:

Section 22. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted to power distribution franchises, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided*, That the foregoing shall neither apply to nor affect provisions concerning territorial coverage, the term, and the type of service, authorized by the franchise.

3. The *advantage, favor, or privilege* that MEPC invokes is provided under Section 15 of *RA 12011*³, the franchise granted to Negros Electric and Power Corp. (“NEPC”), which allows a reasonable extension of the five (5)-year period within which NEPC should offer its shares of stock to the public subject to the approval of the Honorable Commission after a petition, notice and hearing. Section 15 of *RA 12011* reads:

Section 15. Dispersal of Ownership. - In accordance with the constitutional provision to encourage public participation in public utilities, the Grantee shall offer to the public, specifically Filipino citizens, at least twenty percent (20%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the grant of its CPCN by the ERC: *Provided*, That in cases where a public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented: *Provided, further*, That ownership by the Central Negros Electric Cooperative, Inc. (CENECO), or its successor cooperative or corporation of at least twenty percent (20%) of the outstanding capital stock of the Grantee shall be deemed compliance with the dispersal of ownership requirement.

In the event the required dispersal of ownership is not implemented within five (5) years from the issuance of CPCN, the holdings of persons, natural or juridical, including directors, officers, stockholders, and related interests in the Grantee and its respective holding companies, if any, shall not exceed twenty-five percent (25%) of the voting shares of stock, unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine Stock Exchange, Inc. (PSE): *Provided, That the ERC may, upon application of the Grantee, and*

³ An Act Granting Negros Electric and Power Corp. a Franchise to Establish, Operate, and Maintain, for Commercial Purposes and in the Public Interest, a distribution System for the Conveyance of Electric Power to the End Users in the Cities of Bacolod, Silay, Talisay, and Bago and the Municipalities of Murcia and Don Salvador Benedicto, all in the Province of Negros Occidental.

after notice and hearing, allow such reasonable extension of the five (5)-year period within which the grantee shall offer its shares of stock to the public, if the market conditions are not suitable for such listing or in the event that the Grantee cannot comply with the requirements of the Securities and Exchange Commission (SEC) or the PSE for a public offering, especially the three (3)-year profitability requirement.

Non-compliance with this section shall render the franchise ipso facto revoked. [Underscoring supplied]

II. THE PETITIONER

4. MEPC is a Philippine corporation with principal office address at GST Corporate Center, Quezon Street, Brgy. Sampaguita, Iloilo City. It is represented in this petition by its President, Roel Z. Castro.

The *Secretary's Certificate* showing Mr. Castro's authority to represent MEPC in this petition, as well as the authority of undersigned counsels to represent MEPC herein, is attached as *Annex "A."*

MEPC's *Articles of Incorporation, By-Laws, and 2024 General Information Sheet* are attached as *Annexes "B," "C," and "D,"* respectively.

5. For purposes of this case, MEPC may be served with notices and other processes of this Honorable Commission through undersigned counsel at its address indicated below.

III. ALLEGATIONS IN SUPPORT OF THE PETITION

6. MEPC is the grantee of a franchise under *RA 11212*, otherwise known as "*An Act Granting MORE Electric and Power Corporation a franchise to Establish, Operate, and Maintain, for Commercial Purposes and in the Public Interest, a Distribution System for the Conveyance of Electric Power to the End Users in the City of Iloilo, Province of Iloilo, and Ensuring the Continuous and Uninterrupted Supply of Electricity in the Franchise Area.*"

7. *RA 11212* was subsequently amended by *RA 11918* which expanded the franchise area of MEPC to include the cities of Iloilo and Passi and the municipalities of Alimodian, Leganes, Leon, New Lucena, Pavia, San Miguel, Santa Barbara, Zarraga, Anilao, Banate, Barotac Nuevo, Dingle, Dueñas, Dumangas and San Enrique in the Province of Iloilo.

8. Section 16 of *RA 11212*, as amended, requires MEPC to offer to the public, specifically Filipino citizens, at least thirty per cent (30%) of its outstanding capital stock in the PSE within five (5) years from the commencement of its operations, thus:

Section 16. Dispersal of Ownership. - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to the public, specifically Filipino citizens at least thirty per cent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of its operations: *PROVIDED*, That in cases where a public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented.

In the event the required dispersal of ownership is not implemented within five (5) years, the holdings of persons, natural or juridical, including directors, officers, stockholders, and related interests in the Grantee and its respective holding company, if any, shall not exceed twenty-five percent (25%) of the voting shares of stock, unless the utility or the company holding the shares or its controlling stockholders are already listed in the Philippine stock exchange.

Non-compliance therewith shall render the franchise *ipso facto* revoked.
[Underscoring supplied]

9. As stated in Paragraph 2 above, Section 22 of MEPC's franchise contains an Equality Clause that grants MEPC, immediately and unconditionally, any *advantage, favor, or privilege* that shall be granted subsequently to other power distribution franchisees.

10. On 26 July 2024, the President of the Philippines signed into law *RA 12011* which grants NEPC a franchise to operate an electric distribution system in the Cities of Bacolod, Silay, Talisay, and Bago and the Municipalities of Murcia and Don Salvador Benedicto, all in the Province of Negros Occidental.

11 As stated in Paragraph 3 above, NEPC is granted the following "advantage, favor, privilege, exemption, or immunity" that is not granted to MEPC under *RA 11212*, as amended:

11.1 That ownership by the Central Negros Electric Cooperative, Inc. ("CENECO"), or its successor cooperative or corporation of at least twenty percent (20%) of the outstanding capital stock of the Grantee shall be deemed compliance with the dispersal of ownership requirement (First Paragraph, Section 15 of *RA 12011*).

11.2 That the ERC may, upon application of NEPC, and after notice and hearing, allow such reasonable extension of the five (5)-year period within which the grantee shall offer its shares of stock to the public, if the market conditions are not suitable for such listing or in the event that the Grantee cannot comply with the requirements of the SEC or the Philippine Stock Exchange (PSE) for a public offering, especially the three (3)-year profitability requirement (Second Paragraph, Section 15 of *RA 12011*).

12. MEPC commenced operations on 28 February 2020. Under the terms of its franchise, MEPC is required to offer its shares to the public through the Philippine Stock Exchange or through other methods of encouraging public participation representing at least thirty percent (30%) of its outstanding capital stock on or by 1 March 2025.

13. There are valid grounds, discussed below, which necessitate the deferment of the offering of MEPC's shares to the public and the concomitant extension of the period within which MEPC should conduct the share dispersal or listing its shares in the Philippine Stock Exchange.

IV.

GROUND FOR THE ALLOWANCE OF THE PETITION

14. MEPC respectfully submits the following grounds that will justify the allowance of this petition:

(A) UNFAVORABLE MARKET CONDITION FOR INITIAL PUBLIC OFFERING.

(B) VARIOUS FACTORS AFFECT THE VALUATION OF THE SHARES OF MEPC WHICH WILL MATERIALLY AFFECT THE OFFER OF ITS SHARES TO THE PUBLIC. THEY ARE AS FOLLOWS:

(i) AN APPEAL IN THE EXPROPRIATION CASE, WHICH INVOLVES THE VALUATION OF THE DISTRIBUTION SYSTEM EXPROPRIATED BY MEPC, AND MATERIAL TO THE VALUATION OF ITS SHARES IN A PUBLIC OFFERING, IS STILL PENDING IN THE COURT OF APPEALS;

- (ii) DELAY IN THE DETERMINATION OF MEPC'S DISTRIBUTION RATES DUE TO MATTERS PENDING WITH THE HONORABLE COMMISSION; AND
- (iii) ISSUES ON THE MEPC'S FRANCHISE AREA EXPANSION AND POSSIBILITY OF A JOINT VENTURE WITH THE ILOILO ELECTRIC COOPERATIVES (ILECOS).

*Unfavorable Market condition
for initial public offering.*

15. MEPC commenced its operations only on 28 February 2020 when it was placed in possession and control of the distribution system of the former operator Pany Electric Company Inc. ("PECO"). Shortly thereafter, or on 20 March 2020, the Western Visayas Region was placed under enhanced community quarantine. The negative impact to the economy by the Covid-19 pandemic is of public record.

16. Then the invasion of Ukraine by Russia on 24 February 2022 resulted in more challenges to the country's recovery from the pandemic and quality of life issues for the public due to rising cost of goods and fuel,⁴ supply chain disruption and has constrained the GDP growth to 3%-4% for the next 2-3 years from 2023, while grappling with the enormous debt burden and high inflation.⁵ The most visible impact can be seen in inflation due to the fast increase in the costs of oil and gas right after the outbreak of the war. Russia and Ukraine are the key exporters of agricultural products, food grains, and critical minerals required for semiconductors. Some analysts have pointed out, "considering Russia's and Ukraine's roles as major wheat exporters and Ukraine's position as a major player in corn, Indonesia and the Philippines would be vulnerable to wheat supply shocks and Vietnam exposed to corn disruptions."⁶

⁴ <https://opinion.inquirer.net/160102/ukraine-wars-impact-on-ph-security-interests#ixzz8nCXaNePD>

⁵ <https://www.philstar.com/the-freeman/opinion/2023/10/24/2306141/effects-wars-philippines>

⁶ <https://www.orfonline.org/expert-speak/the-ongoing-russia-ukraine-conflict-impact-on-southeast-asia>

17. And then on 7 October 2023, Israel was attacked by terrorist elements of Hamas which triggered a war of attrition by Israel on Gaza, and Houthi rebels in Yemen attacked international shipping bound to or from the Suez canal in solidarity with Hamas. Cargo ships and container ships had to go around the horn of Africa to avoid the attack. Thus global trade was disrupted and oil prices went up. Since the Philippines imports fifty percent (50%) of its energy needs the higher oil prices means higher electricity, transport, and consequently all commodity prices and will further dampen the economic prospects for the next few years.⁷

18. In November 2023, the economic outlook was still bleak. Bankers and industry executives said the local equities market was still unfavorable for any IPO on the PSE as interest rates and inflation remain elevated and the Bangko Sentral ng Pilipinas (BSP) maintains a hawkish stance by keeping policy rates on hold at 6.25% in September 2023 in case economic conditions worsen. Meanwhile, the Philippine Statistics Authority reported that headline inflation eased to 4.9% in October 2023 from 6.1% in September 2023, when the price of rice hit a double-digit increase.⁸

19. It was reported that recent domestic listings in the Philippine Stock Exchange have faced economic headwinds amid mounting inflationary pressures and soaring interest rates, with Prime Infrastructure cancelling its IPO and meat supplier North Star Meat Merchants cancelling its IPO earlier in 2022 due to market volatility. The Philippine Stock Exchange index (PSEi) has fallen 17% in 2022, the second-worst performer in Southeast Asia, while the peso has plunged about 13.6% and is trading near a record low of 59.09 Pesos against the US Dollar.⁹

20. In 2023, it was reported that the Philippine stock market faced a year full of “challenging conditions,” with the local barometer plunging to levels lower than expected due to risk factors such as inflation and rate increases. The PSE index opened 2023 on a positive note, closing the first trading day up by 0.30% to 6,586.01 and the index hit a high of 7,094.86 on 18 January 2023 and a low of 5,961.99 on 27 October 2023, before closing the year down by 1.06% at 6,450.04. Compared with the last trading day of 2022, the PSEi was down by 116.35 points or 1.77% from 6,450.04 recorded on 29 December 2022. Citing an online stock brokerage firm, 2TradeAsia, it was reported further that 2023 was a year of financial aberrations: record-level rate increases, global bank crises, (arguably) the best year of bonds,

⁷ <https://www.philstar.com/the-freeman/opinion/2023/10/24/2306141/effects-wars-philippines>

⁸ <https://ionanalytics.com/insights/dealogic/philippine-firms-delaying-ipos-turn-to-pes-for-funding-as-outlook-for-pse-debut-in-2024-remains-bleak/>

⁹ <https://www.forbes.com/sites/jonathanburgos/2022/10/11/billionaire-enrique-razons-prime-infra-defers-478-million-ipo-amid-bearish-market-conditions/#:~:text=Prime%20Infrastructure%20Capital—controlled%20by,due%20to%20unfavorable%20market%20conditions.>

crypto resurgence, renaissance of tech stocks, major disruption in AI, among others.¹⁰

21. As of the first half of 2024, the Philippines' economic recovery was well underway and it sustained its momentum growing 6% in the first half of 2024, which is among the top growth performers in the region. Over the medium-term, the growth outlook will continue to be supported by strong domestic demand, driven by a robust labor market, continued public investments, and the positive effects of recent investment policy reforms which could boost private investment.¹¹ Moreover, the audit firm Sycip Gorres Velayo & Co. ("SGV") noted in June 2024 that Philippine companies should reassess their IPO plans as the country saw a sluggish start in the number of IPOs in 2024 saying that it was a slow start for the IPO scene in Asia-Pacific, including the Philippines, in 2024, citing data from the EY Global IPO Trends Q1 2024 report.¹²

22. Despite the optimism for the stock market for 2024, the market recovery did not materialize as the PSE suffered its biggest loss in 2024 with the PSE falling 2.4% down to 6,404.97 as reported on 16 April 2024 as regional concerns continue to cloud sentiment.¹³

23. It was only recently that the market has shown signs of improvement. In 19 August 2024, it was reported that the stock market is expected to sustain its upward trajectory as investors are likely to hunt for bargains and that the benchmark PSE index advanced for the second straight week, gaining 199.57 points or 3% as it ended back above the 6,800 level with the strong performance being fueled primarily by the much-awaited rate cut from the *Bangko Sentral ng Pilipinas*, coupled with easing recession worries in the US.¹⁴ By September 2024, reports showed that the PSE joined the regional rally, closing at 7,202.16 after gaining 0.65 percent and stock market analysts seeing this as the start of a long-term bull run.¹⁵

24. Despite the recent rally, PSE President, Mr. Ramon Monzon, stated that 2025 looks more promising for IPOs and equity deals as 2024 nears its end saying that, "It's almost October so might be late already for a company to try to complete their IPO requirements before the end of the

¹⁰ <https://www.gmanetwork.com/news/money/companies/892725/2023-a-challenging-year-for-the-philippine-stock-market/story/>

¹¹ <https://www.worldbank.org/en/country/philippines/overview#1>

¹² <https://www.bworldonline.com/corporate/2024/06/11/600896/phl-companies-told-to-review-ipo-plans/>

¹³ <https://news.abs-cbn.com/business/2024/4/16/philippine-shares-see-biggest-loss-in-2024-2155>

¹⁴ <https://www.philstar.com/business/2024/08/19/2378794/stocks-seen-sustaining-momentum>

¹⁵ <https://news.abs-cbn.com/business/2024/9/19/as-psei-breaches-7-200-level-analyst-sees-long-term-bull-run-1720>

year. Looking forward to more and bigger IPOs next year.” Despite the interest rate cuts, the market players are still observing the outcome of the US elections in November 2024 and whether the Middle East crisis escalates, because the spread of the conflict in the Middle East could affect the large population of migrant Filipino workers, impacting remittances and local spending and slower remittances are not good if 70% of the economy relies on consumer spending. It was added that timing is key for clients and that there are those who think a breakout above the post-pandemic high of around 7,500 would be the best time to launch an offering, while there are others who are weighing whether to do a deal before or after the midterm elections. But overall, they are optimistic that 2025 will be a viable window for equity offerings.¹⁶

25. The prevailing volatility in the Philippine stock market is a matter of public knowledge of which the Honorable Commission may take official notice. Section 2, Rule 19 of the ERC Rules of Practice and Procedure provides that, “[o]fficial notice may be taken of judicially cognizable facts not subject to reasonable dispute in that they are generally known within the jurisdiction of the Commission or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. In addition, official notice may be taken of generally recognized facts within the area of the Commission’s specialized knowledge.”

26. Similarly, the condition of the stock market and the general state of the Philippine economy may be established from the records of the PSE, the BSP and other government agencies, as well as various news reports.

An appeal in the Expropriation Case, which involves the Distribution System expropriated by MEPC, and material to the valuation of its shares in a public offering, is still pending in the Court of Appeals.

27. There are other factors that affect the valuation of the MEPC shares in a public offering that justify an extension of the period to comply with the ownership dispersal requirement.

¹⁶ <https://insiderph.com/pse-bull-run-to-usher-in-2025-ipo-dealmaking-boom-but-geopolitical-risks-loom>

28. On 11 March 2019, MEPC filed an expropriation case for the distribution assets of PECO, which was the former distribution utility in Iloilo City whose franchise had expired and was not renewed by Congress.¹⁷ The expropriation was necessary because MEPC was mandated to “ensure the continuous and uninterrupted supply of electricity in the franchise area” under its franchise. PECO challenged MEPC’s right to expropriate PECO’s distribution assets but the Supreme Court affirmed MEPCs right to expropriate.¹⁸ The expropriation case was initially opposed by PECO but it later limited its issue to the amount of just compensation. The Regional Trial Court (RTC) issued a writ of possession in favor of MEPC, which allowed MEPC to take possession and control of the distribution system in Iloilo City and operate the same since 28 February 2020.

29. Thereafter, the RTC issued an *Order of Expropriation* affirming the right of MEPC to expropriate PECO’s distribution assets on 20 November 2022. Later MEPC and PECO entered into a *Compromise Agreement*, which was approved by the RTC, to exclude the PECO Building and land located in Gen. Luna, Iloilo City, and to remove this property from the distribution system to be expropriated.

30. After trial the RTC rendered a *Decision* fixing the amount of just compensation at Php361,370,478.00 for the expropriated assets, with legal interest at 6% p.a. computed from 26 February 2020. However, there was a typo mistake in the computation by the RTC and there was also a mistake in the reckoning date for the computation of the 6% annual interest on certain assets (Category C assets) which were only turned over only in January 2021.

31. MEPC filed a *Motion for Partial Reconsideration* raising these points and on 9 February 2023, the RTC amended its Decision and adjusted the compensation to Php344,989,405.00 and had the interest for the Category C assets computed starting only from 13 January 2021. On 17 March 2023, the Land Bank of the Philippines manifested to the RTC that PECO had already claimed the manager’s check payment from MEPC for the just compensation awarded by the RTC but PECO declined to accept the other manager’s checks for the bank interest and legal interest by reason of its appeal to the Court of Appeals.

¹⁷ *MORE Electric & Power Corporation v. Panay Electric Company Inc.*, Civil Case No. 19-34158, RTC Iloilo City Branch 39.

¹⁸ *MORE Electric and Power Corporation vs. Panay Electric Co., Inc.*, G.R. No. 248061 and G.R. No. 249406, September 15, 2020, affirmed on a motion for reconsideration in the Supreme Court Resolution date March 9, 2021 in the same two cases.

32. PECO filed its *Notice of Appeal* on 12 December 2022 to appeal the just compensation decision in the expropriation case to the Court of Appeals. PECO also filed a Motion to Charge Taxes with the RTC on 7 July 2023 alleging that the transfer taxes for the expropriated properties should be the responsibility of MEPC.

33. On 5 June 2023, the RTC granted the *Notice of Appeal* and ordered that the records be forwarded by the RTC to the Court of Appeals. PECO is asking the Court of Appeals to reverse the Decision of the RTC and to award PECO just compensation in the amount of either: (i) Seven Billion Nine Hundred Sixteen Million Nine Hundred Twenty Six Thousand Four Hundred Thirty Five Pesos (Php7,916,926,435.00) using the enterprise value of expropriated properties, or (ii) between One Billion Nine Hundred Sixty Five Million Five Hundred Forty One Thousand Pesos (Php1,965,541,000.00) to Two Billion Nine Hundred Forty Nine Million Nine Hundred Thirty Seven Thousand Pesos (Php2,949,937,000.00) using the fair market value of the expropriated properties. PECO is also asking the Court of Appeals to order MEPC to shoulder all taxes, registration fees and other incidental expenses.

34. PECO and MEPC have filed their *Appellant's Brief* and *Appellee's Brief*, respectively, and PECO has further filed its *Appellant's Reply Brief*, and the parties are awaiting the decision of the Court of Appeals on the amount of just compensation.

Copies of the PECO's *Appellant's Brief*, MEPC's *Appellee's Brief*, and PECO's *Reply Brief* are attached as *Annexes "E," "F,"* and *"G,"* respectively.

35. Hence as of today the matter of just compensation of the expropriated assets in Iloilo City has not been resolved with finality because of the pending appeal of PECO. If MEPC offers its shares to the public or lists its shares in the PSE, it will be subjected to the intense scrutiny by the SEC, the PSE, and the investing public. The pending litigation between MEPC and PECO will weigh heavily against any decision to invest in a public offering of MEPC's shares, considering the big amount subject of the litigation, and will inevitably have a speculative effect on the valuation of MEPC's shares. It must be noted that the amount of just compensation claimed by PECO ranges from 22x to 5.7x of the amount awarded by the RTC.

36. The speculative effect of the pending appeal of PECO will severely affect the valuation of MEPC's shares in a public offering. At worse, an adverse decision by the Court of Appeals granting PECO's prayer of just compensation in the amount of Seven Billion Nine Hundred

Sixteen Million Nine Hundred Twenty-Six Thousand Four Hundred Thirty-Five Pesos (Php7,916,926,435.00), may bankrupt MEPC, as it is 1.75x more than the total assets of MEPC as of date. This uncertainty and possible downside is unfair to the investing public.

Delay in Determination of MEPC's Distribution Rates due to Pending Matters before the Honorable Commission.

37. To date, MEPC does not have its own distribution rates yet and is collecting the distribution charges based on the last approved distribution charges of PECO for Iloilo City pursuant to the *Order* of this Honorable Commission dated 5 March 2020 in ERC Case No, 2018-019MC. The last approved distribution charges of PECO, which MEPC is still currently collecting, were approved way back in 2011 and was meant for the regulatory reset period from 2011 to 2015.

38. In an *Order* dated 27 April 2022 in ERC Case No. 2022-008RC, the Honorable Commission ordered MEPC to file for its own Distribution, Supply and Metering (DSM) Rates. On 21 June 2024, MEPC filed a *Motion For Clarification* of the said *Order*. In the said *Motion*, MEPC sought the Honorable Commission's instructions on what rules and rate setting methodology will govern the filing by MEPC of its new DSM rate application pursuant to the directive of the Honorable Commission. Furthermore, MEPC also sought clarification if the filing by MEPC of its new DSM rate application pursuant to the foregoing directive of the Honorable Commission will be in lieu of its required filing as part of the Fourth Entry Group of Private Distribution Utilities for the Performance Based Regulation (PBR) for the Fourth Regulatory Period as mandated under ERC Resolution No. 10, Series of 2021. To date, the Honorable Commission has not yet acted on the clarifications sought by MEPC under this *Motion for Clarification*.

39. Under ERC *Resolution No. 10, Series of 2021*, MEPC was included in the Fourth Entry Group of Private Distribution Utilities. For the Fourth Entry Group, the Fourth Regulatory Reset Period has been set for 2025 to 2029. However, to date, the Honorable Commission has not yet even begun with the determinations for Fourth Regulatory Periods for the Second Entry Group (2023 to 2027) and the Third Entry Group (2024 to 2028). Based on this, there is a reasonable probability that the determination of the new distribution charges for MEPC for the Fourth Regulatory Period will also be delayed. As the Honorable Commission is aware, almost all of the revenues of a private distribution utility are derived from the distribution charges it is authorized to charge and collect. Thus, the determination of its own distribution, supply and metering, charges

unique to MEPC and based on its own circumstances will be a very important determining factor of the true profitability of MEPC as a business enterprise.

40. The value of shares of common stock, like any other financial instrument, is often understood as the present value of expected future returns. A lack of visibility of future earnings due to the delay in the regulatory reset and any uncertainty as a result of the pending Court of Appeals case on just compensation, and the determination of MEPC's own distribution rate, will have a huge impact on MEPC's stock valuation.

Issues Relating to Franchise Area Expansion and Possibility of a Joint Venture with Iloilo Electric Cooperatives.

41. As mentioned in Paragraph 7 above, the MEPC franchise under RA 11212, for Iloilo City was amended by RA 11918, which expanded the franchise area of MEPC to include the cities of Iloilo and Passi and the municipalities of Alimodian, Leganes, Leon, New Lucena, Pavia, San Miguel, Santa Barbara, Zarraga, Anilao, Banate, Barotac Nuevo, Dingle, Dueñas, Dumangas and San Enrique in the Province of Iloilo.

42. The Supreme Court has publicly announced on 1 August 2024 that it had dismissed the petition G.R. No. 264260 filed by Iloilo Electric Cooperative, Inc., Iloilo II Electric Cooperative, Inc., and Iloilo III Electric Cooperative, Inc., (together referred to as the "ILECOs"), to nullify this expansion of MEPC's franchise into their franchise area. The Supreme Court said that the principal point raised by the ILECOs that their respective franchise is exclusive is contrary to the Constitution which prohibits any exclusive franchise.¹⁹ Yet the ILECOs continue to manifest with this Honorable Commission that they have the right to file a motion for reconsideration from the Supreme Court Decision adverse to them counted from their receipt of the Supreme Court Decision (which is still forthcoming) as of the date of this petition.

43. The expansion of the MEPC franchise into the city of Passi and the municipalities of Alimodian, Leganes, Leon, New Lucena, Pavia, San Miguel, Santa Barbara, Zarraga, Anilao, Banate, Barotac Nuevo, Dingle, Dueñas, Dumangas and San Enrique in the Province of Iloilo, is a material development which impacts into the valuation of the shares of MEPC that will be offered to the public.

¹⁹ <https://sc.judiciary.gov.ph/sc-exclusive-franchises-are-prohibited-by-the-constitution/>

44. The ILECOs have also privately expressed willingness to explore a possible joint venture with MEPC similar to the joint venture entered into by NEPC with CENECO where CENECO ceded its distribution assets to NEPC in exchange for cash payment (which was used to pay for CENECO's creditors and the separation pay of its employees) and 30% equity in NEPC.

45. If the ILECOs will agree to go through this joint venture route with MEPC, it will also have a material impact on the proposed valuation of MEPC shares in relation to the proposed dispersal of its share ownership. Such possible shareholdings of the ILECOs in MEPC or part of MEPC can also be basis for a similar treatment under NEPC where CENECO's ownership of shares in NEPC was deemed a compliance with the public distribution of shares requirement under its franchise under Section 15 of *RA 12011*.

46. There is a need to settle these various outstanding issues which will have a material impact on the valuation of the MEPC shares and which is critical prior condition to allow it to comply with the offer of its shares to the public for share dispersal requirement under its franchise.

The Filing of a Petition with the Honorable Commission to Extend the Period for Compliance with the public distribution of Shares is Proper

47. As mentioned above, MEPC's franchise requires that MEPC "shall offer to the public, specifically Filipino citizens at least thirty per cent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of its operations." However pursuant to Section 22, the Equality Clause, in its franchise, MEPC is entitled to the same privilege granted to NEPC found in Section 15 of *RA 12011* (franchise of NEPC) where this Honorable Commission may, upon application of the Grantee, and after notice and hearing, allow such reasonable extension of the five (5)-year period within which the grantee shall offer its shares of stock to the public, if the market conditions are not suitable for such listing or in the event that the Grantee cannot comply with the requirements of the SEC or the PSE for a public offering, especially the three (3)-year profitability requirement.

48. MEPC now seeks a deferment of the offer of its shares to the public or listing of its shares with the PSE for a period of five (5) years to

allow for time to settle the following contingencies which affect the valuation of its shares necessary for such share distribution to the public or an Initial Public Offering, as explained above:

a) Stability of market condition;

b) Resolution of the amount of Just Compensation relating to the expropriation of PECO's distribution assets now pending with the Court of Appeals;

c) Pendency of the determination of MEPC's Distribution Rates with the Honorable Commission;

d) Expansion of the MEPC franchise area into city of Passi and the municipalities of Alimodian, Leganes, Leon, New Lucena, Pavia, San Miguel, Santa Barbara, Zarraga, Anilao, Banate, Barotac Nuevo, Dingle, Dueñas, Dumangas and San Enrique in the Province of Iloilo.

49. The resolution of the foregoing contingencies will have a material effect on the valuation of the shares of MEPC which will be the subject of the offer and distribution to the public. For example, if the Court of Appeals renders a decision in favor of PECO after any public offering by MEPC, this would cause MEPC's market value to significantly drop and its new investors might sue MEPC and its officers and directors for damages. They may claim in such suit that MEPC failed to disclose material information which, if made public earlier, would have dissuaded them from investing in a company at risk of paying 22x more for the distribution assets. The potential dispute and damage to the investing public, as well as to MEPC and its officers and directions, will be avoided if MEPC is allowed to defer its offer of shares to the public and initial public offering to a later date, when there will be no more speculation on the just compensation amount in the expropriation case.

50. Similar concerns will apply to any resolution of the other contingencies pertaining to the determination of the Distribution Rates of MEPC and the expansion of the franchise area to the ILECO franchise area.

51. Public Interest will be better served if MEPC's offer of shares to the public or its initial public is delayed here and allowed to be conducted after the foregoing material contingencies which have material impact on the valuation of the shares of MEPC for offer and distribution to the public or in an IPO are first given time to be resolved.

52. Considering the complexity of the numerous pending issues raised above, MEPC estimates that it will take the whole of five (5) years before the foregoing contingencies and issues can be resolved.


RELIEF

WHEREFORE, Petitioner MORE Electric and Power Corporation respectfully implores that after appropriate proceedings, the Honorable Commission render a decision:

- (i) GRANTING this petition;
- (ii) APPLYING to Petitioner MORE Electric and Power Corporation the privilege given to Negros Electric and Power Corporation to seek an extension of the period to comply with its offer of shares to the public under Section 15 of *RA 12011* pursuant to the Equality Clause in Section 22 of *RA 11212*;
- (iii) GRANTING an extension of five (5) years from 1 March 2025 for Petitioner MORE Electric and Power Corporation to complete its offer of shares to the public for the dispersal of its shares or the listing of its shares in the Philippine Stock Exchange under its franchise.

Other just and equitable reliefs are also asked.

Makati City, for Pasig City, 6 November 2024.

PICAZO BUYCO TAN FIDER & SANTOS

Counsel for MORE Electric and Power Corporation

Liberty Center – Picazo Law

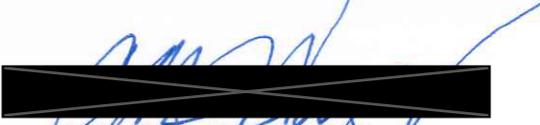
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By:


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Roll of Attorneys No. 35662

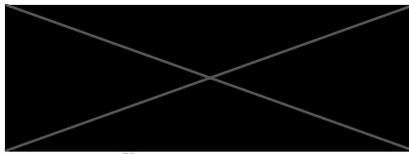
IBP LRN - 05127/01-27-2005/Makati City

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²⁰ ERC Certificate of Registration ER No. 2021-0476-3 dated 7 October 2021.



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Collaborating Counsel

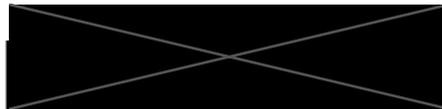
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CYRIL C. DEL CALLAR

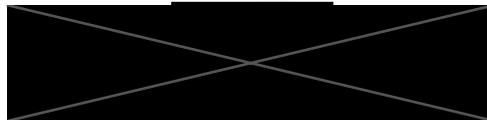
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REPUBLIC OF THE PHILIPPINES)
CITY OF ILOILO) S.S.

**VERIFICATION AND
CERTIFICATION AGAINST FORUM SHOPPING**

I, **ROEL Z. CASTRO**, Filipino, of legal age, with office address at MORE Electric and Power Corporation, GST Corporate Center, Quezon Street, Brgy. Sampaguita, Iloilo City, after having been duly sworn, state that:

1. I am the authorized representative of MORE ELECTRIC AND POWER CORPORATION (the “**Corporation**”).

2. Upon authority granted by the Corporation as provided for in the attached *Secretary’s Certificate*¹, I have caused the preparation and filing of the foregoing *Petition*.

3. I have read and understood the *Petition*, which I have caused to be prepared, and the allegations of which, including the annexes where appropriate, are true and correct based on my personal knowledge, and/or based on authentic documents. Where appropriate, I attest to the authenticity of the annexes of the *Petition*.

4. The *Petition* is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

5. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

6. I have not heretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency. To the best of my knowledge, no such other action, claim, or proceeding has been commenced or is pending before any other court, tribunal, or quasi-judicial agency.

7. Should I hereafter learn that the same or a similar action, claim or proceeding has been filed or is pending in any other court, tribunal or quasi-judicial agency, I shall report such fact to the Honorable Commission within five (5) calendar days from such notice.

- Signature Page Follows -

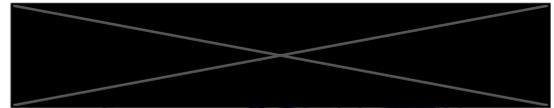
¹ Annex A.

IN WITNESS WHEREOF, I have hereunto signed this document this NOV 06 2024, at Iloilo City, Philippines.



ROEL Z. CASTRO
Affiant *RA*

SUBSCRIBED AND SWORN TO before me this NOV 06 2024 at Iloilo City, Philippines, affiant exhibiting to me as competent evidence of his identity his Philippine Passport with No. P5403471C valid until 01 October 2033, issued at DFA Iloilo.



Doc. No. 121 ;
Page No. 26 ;
Book No. I ;
Series of 2024.

ATTY. LINDA A. LACOMULTO
Notary Public for the City and Province of Iloilo
Notarial Commission No. 10111 until December 31, 2025
Iloilo City Corporate Office
GGT Corporate Center, Quizon St., Iloilo City
PTR No. 0161003, Iloilo City, Iloilo, February 06, 2024
ECP No. 345108, Pasig City, January 03, 2024
Attorney's Roll No. 88843; date admitted: December 22, 2023
MCLE Compliance No. - Newly Admitted

REPUBLIC OF THE PHILIPPINES)
MAKATI CITY, METRO MANILA) S.S.

SECRETARY'S CERTIFICATE

I, DANIEL WINSTON C. TAN-CHI, Corporate Secretary of MORE ELECTRIC AND POWER CORPORATION (the "Corporation"), a Philippine corporation with address at GST Corporate Center, Quezon Street, Brgy. Sampaguita, Iloilo City, hereby certify that at the meeting of the Board of Directors held on 15 October 2024, the following resolutions were approved by the Board:

"RESOLVED, that the Corporation be authorized to file a Petition with the Energy Regulatory Commission for the APPLICATION FOR EXTENSION OF THE PERIOD FOR OFFER OF SHARES TO THE PUBLIC/ DISPERSAL OF OWNERSHIP and for related actions and remedies;

"RESOLVED FURTHER, that the Corporation authorizes its President and Chief Executive Officer, Mr. Roel Z. Castro, to represent the Corporation for this purpose with full power and authority to sign and execute the verified application, certification against forum shopping and other related papers and requirements, and to avail for the Corporation any remedy in relation to the said application; and

"RESOLVED FURTHER, that the Corporation authorizes Picazo Buyco Tan Fider & Santos Law Office as lead counsel, and Del Callar and Partners Law Office as Collaborating Counsel, respectively, to represent the Corporation before the Energy Regulatory Commission for the said application and related actions and remedies."

Issued this OCT 30 2024 at Makati City.



DANIEL WINSTON C. TAN-CHI
Corporate Secretary

SUBSCRIBED AND SWORN TO before me this OCT 30 2024 at Makati City, affiant having exhibited to me his Passport No. P5771489A issued on 26 January 2018 by the DFA NCR South.



ANN JULIENNE A. ARISTOZA
Appointment No. M-460
Notary Public for Makati City
Until December 31, 2024
Liberty Center-Picazo Law
104 H.V. Dela Costa Street, Makati City
Roll of Attorney's No. 84588
PTR No. 10081179/Makati City/01-09-2024
IBP No. 301914/Iloilo/01-05-2024
Admitted to the bar in 2023

Doc. No. 213;
Page No. 44;
Book No. II;
Series of 2024.