

Republic of the Philippines
ENERGY REGULATORY COMMISSION
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Ortigas Center, Pasig City

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IN THE MATTER OF THE JOINT
APPLICATION FOR THE
APPROVAL OF THE POWER
SUPPLY AGREEMENT BETWEEN
MANILA ELECTRIC COMPANY
AND GNPOWER DINGININ LTD.
CO., WITH MOTION FOR
CONFIDENTIAL TREATMENT OF
INFORMATION

ERC CASE NO. 2024-163 RC

December 06, 2024

MANILA ELECTRIC COMPANY
AND GNPOWER DINGININ LTD.
CO.,

Applicants.

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JOINT APPLICATION

WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

Applicants **MANILA ELECTRIC COMPANY ("MERALCO")** and **GNPOWER DINGININ LTD. CO. ("GNPD")**, collectively the **"Applicants"**, by undersigned counsel, and to this Honorable Commission, most respectfully state:

I. THE APPLICANTS

A. MERALCO

1. Applicant MERALCO is a private corporation existing under the laws of the Republic of the Philippines, with principal office located at Lopez Building, Ortigas Avenue, Brgy. Ugong, Pasig City. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.

2. MERALCO has a legislative franchise to operate and maintain a distribution system in the cities/municipalities of Metro Manila, Bulacan, Cavite and Rizal and certain cities/municipalities/barangays in Batangas,

Laguna, Quezon and Pampanga, pursuant to Republic Act No. 9209, and is authorized to charge all its customers for their electric consumption at the rates approved by the Honorable Commission.

B. GNPD

3. Applicant GNPD is a partnership duly organized and existing under the laws of the Philippines, with principal place of business at GNPower Energy Complex, Sitio Dinginin, Brgy. Alas-asin, Mariveles, Bataan. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.

4. GNPD owns and operates a 1,336 MW (net) supercritical coal-fired power generation facility and private port facility at Sitio Dinginin, Barangay Alas-asin, Municipality of Mariveles, Province of Bataan, on the island of Luzon in the Philippines (the "**Plant**").

II. STATEMENT OF FACTS AND TIMELINESS

5. In accordance with MERALCO's latest and duly accepted Distribution Development Plan and posted Power Supply Procurement Plan ("**PSPP**") approved by the Department of Energy ("**DOE**"), MERALCO foresees a mid-merit capacity deficit in its portfolio of 400 MW (net) beginning September 2025.

6. Thus, in order to ensure continuous and reliable electricity for MERALCO's customers, there is a need for MERALCO to source additional mid-merit capacity through bilateral power supply contracts.

7. Under Section 45(b) of Republic Act No. 9136 (EPIRA), it is provided that "*Distribution Utilities may enter into bilateral power supply contracts subject to review by the ERC xxx.*"

8. Accordingly, pursuant to *Section 4, Article IV of the Energy Regulatory Commission's ("**ERC**") Resolution No. 16, Series of 2023 ("**ERC CSP Guidelines**")*, MERALCO conducted a Competitive Selection Process ("**CSP**") for the procurement of 400 MW (net) mid-merit supply requirement. The conduct of CSP proceeded as follows:

8.1. On 30 May 2024, MERALCO submitted to the DOE, the Invitation to Bid ("**ITB**")/*Terms of Reference ("**TOR**")* for its 400 MW (net) mid-merit supply requirement ("**400 MW CSP**"), to request for issuance of a Certificate of Conformity in accordance with MERALCO's latest and duly accepted Distribution Development Plan and posted PSPP, pursuant to *Section 4.3 of DOE Department*

Circular No. DC2023-06-0021, Series of 2023 and Section 5, Appendix B of the ERC CSP Guidelines.

8.2. On 13 June 2024, the DOE issued in favor of MERALCO a Certificate of Conformity No. DOE-EPIMB-COC-2024-06-007 dated 11 June 2024 (the "**DOE COC**") covering MERALCO's 400 MW (net) mid-merit supply requirement, which MERALCO received on the same day, 13 June 2024, and endorsed to its Bids and Awards Committee for Power Supply Agreements ("**BAC-PSA**") for commencement of the 400 MW CSP. On the same day, 13 June 2024, pursuant to requirements provided in the ERC CSP Guidelines, the BAC-PSA Secretariat furnished the ERC a copy of the DOE COC and formally notified the DOE (copy furnished the ERC) of the commencement of the 400 MW CSP in relation to the DOE COC.

8.3. On 18 June 2024 and 25 June 2024, the BAC-PSA caused the publication of the ITB in The Philippine Star, a newspaper of general circulation in the Philippines. The ITB contained the TOR, a summary of the process and timelines of the CSP, and an invitation to power generation companies to pay the Participation Fee and submit an Expression of Interest and set of documents on or before the deadline set out in said ITB. The ITB and the TOR were likewise posted on MERALCO's website and on the DOE e-based CSP Portal.

8.4. On 21 June 2024, MERALCO posted on its website, an "Invitation to Participate as CSP Observers," which informed the public that the following entities or groups identified in Section 9 of the ERC CSP Guidelines are invited to signify to the BAC-PSA of their interest to participate as observer. On 01 July 2024, three (3) Observers submitted their intent to (and were admitted by) the BAC-PSA as CSP Observers.

8.5. On 1 August 2024, the BAC-PSA announced, via Bid Bulletin No. 4, the suspension of the CSP activities until further notice, in compliance with the Temporary Restraining Order ("**TRO**") dated 31 July 2024 issued by Branch 15-FC of the Regional Trial Court of Taguig City, pursuant to the Complaint for Injunction filed by Prime Energy Resources Development B.V., UC38LLC, Prime Oil and Gas, Inc., and PNOC Exploration Corp. against MERALCO.

8.6. On 20 August 2024, the BAC-PSA announced, via Bid Bulletin No. 5, the resumption of CSP activities for this CSP (starting with the previously scheduled Pre-Bid Conference of 01 August 2024 to the new schedule, 29 August 2024) pursuant to an Order

(dated 17 August 2024) issued by Branch 267 of the Regional Trial Court of Taguig City received by MERALCO on 19 August 2024 ("**RTC Order**") and endorsed to the BAC-PSA (with instructions to resume all upcoming CSP activities for the 400 MW CSP without further delay). **The RTC Order held that the TRO was without force and effect and dismissed the Complaint for Injunction for lack of jurisdiction.**

8.7. On 29 August 2024, a Pre-Bid Conference was held to allow interested bidders an opportunity to clarify any provisions, requirements, and/or terms and conditions of the bidding documents and/or any other matter that the interested bidders may raise. The Pre-Bid Conference was held at least thirty (30) calendar days before the 400 MW CSP's bid submission deadline; was attended by CSP Observers; and was broadcasted via livestream on MERALCO's YouTube page.

8.8. On 01 October 2024, the bidders submitted their bid document submissions in compliance with all the bidding instructions for the 400 MW CSP and the respective submissions of the bidders were opened by the BAC-PSA. The bid submission and bid opening were held at least forty-five (45) days after the ITB/TOR's last publication and were attended by CSP Observers and were broadcasted via livestream on MERALCO's YouTube page.

8.9. Following the BAC-PSA's evaluation of each of the bidders' bid submissions, Applicant GNPD emerged as the bidder with the lowest calculated responsive bid ("**Best Bid**"), with GNPD offering 400 MW (net) for the said bidding.

8.10. On 07 October 2024, the BAC-PSA conducted the post-qualification of the document submissions of GNPD and found the submissions to be compliant with, and are responsive to, all the requirements and conditions specified in the bidding documents, as amended, or clarified by pertinent bid bulletins, for the 400 MW CSP. The post-qualification was attended by CSP Observers and was broadcasted via livestream on MERALCO's YouTube page.

8.11. On 11 October 2024, the BAC-PSA submitted its recommendation and report to MERALCO's Board of Directors recommending GNPD to be declared as the Winning Power Supplier and be awarded a power supply agreement for its offer of PhP7.6816/kWh (total Delivered LCOE, VAT and Line Rental inclusive) for 400 MW (net).

8.12. On 16 October 2024, MERALCO's Board of Directors approved the BAC-PSA's recommendation and on 18 October 2024, a Notice of Award was issued by the BAC-PSA in favor of GNPDP.

8.13. On 07 November 2024, the Power Supply Agreement between MERALCO and GNPDP was dated, signed and executed ("**MERALCO-GNPDP PSA**"). On 08 November 2024, a performance bond was submitted by GNPDP and a Notice to Proceed was issued in its favor on 11 November 2024.

A copy of the BAC-PSA Summary-Report and the DOE COC regarding the conduct of the 400 MW (net) CSP are attached hereto as **ANNEXES "C" and "C-1"**.

9. The said Joint Application together with its Annexes was pre-filed with the Honorable Commission starting on 15 November 2024. Hence, this Joint Application is timely filed within the reglementary period provided under the ERC CSP Guidelines.

III. SALIENT FEATURES OF THE MERALCO-GNPDP PSA

10. The MERALCO-GNPDP PSA, a copy of which is attached as **ANNEX "D"** and made an integral part hereof, contains the following salient provisions:

"Article 1 Definitions and Interpretation

xxx

Availability of Supply means one hundred percent (100%) of the Contract Capacity is dispatchable during the Available Hours, subject to Section 8.1.1.

Available Hours means the continuous periods of: (a) fifteen (15) hours from Mondays to Saturdays covering peak hours of 9:00 AM (Trading Interval 10) to 12:00 MN (Trading Interval 24), and (b) ten (10) hours on Sundays covering the peak hours from 2:00 PM (Trading Interval 15) to 12:00 MN (Trading Interval 24); *provided that*, the Available Hours may change during the Term of this Agreement, upon mutual agreement of the Parties.

xxx

Contract Capacity or CC shall be, subject to Section 3.2.2, Article 8, Article 9 and Section 19.1, 400 MW (net), sourced from the Plant.

xxx

Material Adverse Government Action means:

- (a) any Law or Directive coming into effect after the signing of this Agreement, including the adoption or enactment, or any change or repeal with respect to the imposition of taxes, duties, levies, fees, charges and similar impositions, and the right to remit or convert currencies. This does not include any Legal Requirement or the application or interpretation thereof in existence at the date of the signing of this Agreement, but which by its explicit terms or due to any other circumstance, became effective or could be implemented only after the date of this Agreement; or
- (b) the amendment, modification, repeal or withdrawal of any Law or Directive (including any official interpretation thereof which the Parties have relied upon in entering into this Agreement) in force at the date of this Agreement; or
- (c) the modification in the application, enforcement, interpretation or implementation of any Law or Directive by a Governmental Instrumentality which the Parties have relied upon in entering into this Agreement, which modification occurred at any time after the date of this Agreement.

which causes or may cause serious damage to, or materially and adversely affects the financial condition of, any of the Parties. It is understood that there is serious damage to, or material and adverse effect on the financial condition of, a Party if the cost impact is more than ten percent (10%) of the annual capacity payment.

xxx

2.2. Term of Agreement

Subject to Article 3, this Agreement shall become effective on the Execution Date, and shall remain in force and effect until the last day of the 15th Contract Year, unless terminated earlier in accordance with the terms of this Agreement and upon approval by the ERC, or extended by the application of Section 15.3.3 (the "**Term**").

xxx

3.2. Operations Effective Date

3.2.1 Subject to Section 3.2.2, the obligations of Power Supplier with respect to the Contract Capacity and Associated Energy shall commence on the later between August 26, 2025 and the ERC Approval (the "**Operations Effective Date**").

xxx

5.1. Supply of Power

Subject to the terms and conditions of this Agreement:

5.1.1. From the Operations Effective Date of the Plant until the expiration of the Term or earlier termination of this Agreement, Power Supplier shall:

- a) make available to Meralco, and Meralco shall purchase from Power Supplier, at the Price determined in accordance with Appendix E, the Contract Capacity of the Plant; and
- b) deliver and sell to Meralco, and Meralco shall purchase from Power Supplier, at the Price determined in accordance with Appendix E, the Associated Energy (and Replacement Power), to the extent of Meralco's relevant day-ahead nominations.

The Dispatch of Contract Capacity and Associated Energy shall meet the requirements set out in the Performance Guarantees.

5.1.2 Unless otherwise expressly permitted by this Agreement, Power Supplier shall not, without Meralco's prior written consent:

- a) sell, divert, grant, transfer, dedicate, reserve or assign all or any portion of the Contract Capacity and Associated Energy to any Person other than Meralco; or
- b) provide Meralco with capacity and/or electrical energy from any source other than the Plant; *provided*, however, that Power Supplier shall be allowed to deliver and sell to Meralco the Associated Energy from WESM or any other source only when the Plant is on Outage beyond Full Load Equivalent Scheduled Outage Allowance Days and/or Full Load Equivalent Forced Outage Allowance Days, to be paid for by Meralco at the lower between the actual Replacement Power cost and Price, in accordance with Appendix E. Should Power Supplier fail to source from the Plant when it is available, Meralco shall pay the lower between WESM price and Price, in accordance with Appendix E.

xxx

Article 8. Outages

8.1. Outage Allowances and Replacement Power

8.1.1. After Operations Effective Date, Power Supplier shall be allowed Scheduled Outages not exceeding zero (0) Full Load Equivalent Outage Days ("**Full Load Equivalent Schedule Outage Allowance Days**") and Forced Outages not exceeding zero (0) Full Load Equivalent Outage Days ("**Full Load Equivalent Forced Outage Allowance Days**") each Contract Year; *provided* that, a Forced Outage may only be counted towards the Full Load Equivalent Forced Outage Allowance Days upon provision by Power Supplier to Meralco of a copy of the acknowledgment letter from the System Operator or report from the Market Operator that a Forced Outage has occurred.

- 8.1.4 On and after the Operations Effective Date, during any period in which an Event of Force Majeure affects Power Supplier or Meralco, Meralco shall procure replacement energy from the WESM to the extent supply or offtake is so affected. For clarity, the cost of replacement energy shall form part of the price that Meralco will charge its customers.
- 8.1.5 The supply by Power Supplier of quantities of Replacement Power under this Section 8.1 shall be deemed fulfilment of Power Supplier's obligation to make available the Contract Capacity and to deliver the Associated Energy during such period.

8.2. Scheduling Outages

- 8.2.1 Power Supplier shall inform and coordinate with Meralco, and secure Meralco's favorable endorsement of the Plant's annual Scheduled Outages and Major Maintenance Outages for the succeeding calendar year as submitted to the System Operator ("**Annual Maintenance Plan**"). In case of any revisions to the Annual Maintenance Plan approved or initiated by the System Operator, Power Supplier shall coordinate with and keep Meralco informed thereof immediately, and procure Meralco's favorable endorsement thereof.
- 8.2.2 In case of Scheduled Outages other than those in the Annual Maintenance Plan, Power Supplier shall (i) notify Meralco in writing prior to notifying the System Operator and (ii) comply with the requirements of the System Operator, including obtaining Meralco's favorable endorsement, which endorsement will not be unreasonably withheld, delayed or conditioned.
- 8.2.3 Meralco shall reasonably endeavour to coordinate its maintenance of interconnection facilities with the Scheduled Outage to minimize any disruption to Plant operations.

Article 9. Reduction in Contract Capacity and Associated Energy

- 9.1 Subject to the provisions of Section 9.2 below, Meralco shall, from time to time, be entitled to a reduction in the Contract Capacity and Associated Energy (the "**Reduction in Contract Capacity and Associated Energy**") equivalent to the reduction in the demand of its captive customers in order to avoid stranded contract capacities or costs, or by reason of the enforcement of Retail Competition and Open Access (RCOA), the Renewable Energy Law, Renewable Portfolio Standards (RPS), Green Energy Option Program (GEOP), Net Metering program, and other similar government programs, Laws and Legal Requirements.
- 9.2 Meralco shall give a written notice at least five (5) Days prior to the first Day of the next Billing Period to Power Supplier, specifying the Reduction in Contract Capacity and Associated Energy pursuant to Section 9.1, indicating when such reductions shall take place. Upon receipt by Power Supplier of such written

notice, Meralco shall cease to have any rights and obligations under this Agreement in respect of such Reduction in Contract Capacity and Associated Energy. Any such reduction shall be limited to the extent of the Contract Capacity and Associated Energy that will allow Meralco to comply with its obligation to supply electricity in the least cost manner to its customers as of the date indicated in the notice when such Reduction in Contract Capacity and Associated Energy shall commence. Except for such Reduction in Contract Capacity and Associated Energy and the resulting reduction in Capacity Payment, all other terms and conditions of this Agreement, as approved by the ERC, shall remain in full force and effect. For this purpose, Parties shall execute an operations protocol and provide a copy thereof to the ERC.

xxx

12.3 ERC Approval

- 12.3.1 Subject to ERC Approval having been received on or prior to the Longstop Date, upon receipt of the ERC Approval, Meralco shall provide a copy of such ERC Approval to Power Supplier. Power Supplier shall have ten (10) Days from its receipt from ERC or from MERALCO of such ERC Approval, whichever is earlier, to notify Meralco in writing that (a) it accepts such ERC Approval or (b) it does not accept the ERC Approval, stating the grounds for non-acceptance; *provided* that, if the ERC Approval does not contain any adjustment or modification, the ERC Approval shall be (i) deemed accepted by Power Supplier and (ii) implemented by the Parties immediately.

xxx"

IV. GENERATION RATE IMPACT

11. Based on the foregoing, and given a certain set of assumptions, the effective rate under the MERALCO-GNPD PSA is **Php 6.7628 per kWh (at plant gate, VAT exclusive)**, as shown in the **RATE IMPACT ANALYSIS** below:

(Rate Impact Analysis table follows)

GNPower Dinginin Ltd. Co. (GNPD) PSA - Rate Impact at 59.52% pcf
(YEAR 2025)

BILLING COMPONENT	UNIT	BASE RATE ^[a]	CPI Adj Factor ^[c]	BILLING DETERMINANT ^[c]		AMOUNT (PHP)
A. Capacity Payment (MCP)						
Peso Portion	(Php/kW-yr)	18,000.0000		400,000	(kW)	7,200,000,000.00
B. Fixed O&M Payment (MFOM)						
Escalating Peso Portion	(Php/kW-yr)	2,661.0433	1.0342	400,000	(kW)	1,100,820,392.34
C. Fuel Cost Payment (MFCP) ^[d,e]						
Escalating USD Portion	(USD/kWh) ^[d]	0.0467		2,085,580,800	(kWh)	5,728,063,612.40
D. Variable O&M Payment (MVOM)						
Escalating Peso Portion	(Php/kWh)	0.0350	1.0342	2,085,580,800	(kWh)	75,491,768.22
Total Payment (VAT exclusive)						14,104,375,772.96
Effective Rate at Plant Gate						6.7628
WESM Line Rental Rate ^[f]						0.0000
Delivered Rate (VAT exclusive)						6.7628

Effective Cost if sourced from WESM ^[g]	(Php/kWh)	9.0830
Increase / (Decrease) over WESM Price	(Php/kWh)	(2.3202)
Meralco Captive Energy Demand ^[h]	(kWh)	39,683,089,284.22
Increase / (Decrease) in Generation Cost	(Php)	(4,839,009,870.33)
Increase / (Decrease) in Generation Cost	(Php/kWh)	(0.1219)

NOTES:

- ^[a] Base Rates as set forth in Schedule 1 of Appendix E of the PSA.
- ^[b] CPI assumptions were based on values used during evaluation for Year 2025.
- ^[c] Energy Payments based on 59.52% plant capacity factor.
- ^[d] Dollar components shall be paid in USD, however values shown here were converted to Peso amount using exchange rate of PhP 58.835 / USD.
- ^[e] Fuel Payment calculated based on Guaranteed Net Plant Heat Rate at 100.00% Inert factor for Contract Year 1.
- ^[f] Line Rental rate for GNPD is based on the maximum allowable value for Contract Year 1 as stated in the PSA.
- ^[g] Cost if equivalent volume of GNPD was sourced from the WESM based on forecasted average hourly peak prices from September 2025 to August 2026.
- ^[h] Forecasted Meralco Captive Energy for September 2025 to August 2026 based on 2024 Power Supply Procurement Plan as submitted to DOE.

12. MERALCO notes that the delivered rate of PhP 6.7628 per kWh (line rental inclusive and VAT exclusive), is lower by about PhP 2.3202 per kWh than the total effective cost of PhP 9.0830 per kWh if the equivalent capacity under the MERALCO-GNPD PSA is to be sourced from the Wholesale Electricity Spot Market (“WESM”). By sourcing the capacity through the MERALCO-GNPD PSA, MERALCO's average blended generation rate will be reduced by about PhP 0.1219 per kWh (as seen in the RATE IMPACT ANALYSIS above) resulting in savings to consumers of about PhP 4.8 Billion.

13. In support of this Joint Application, the Judicial Affidavit of ENGR. DAVIDJOHN A. ZUÑIGA, Officer of MERALCO's Energy Sourcing Office – Energy Resource Planning, is attached as **ANNEX “E”** and made an integral part hereof.

V. COMPLIANCE WITH DOCUMENTARY REQUIREMENTS

14. Likewise, in support of the instant Joint Application, the Applicants provide the following documents, which underwent the pre-filing conference and pre-filing marking of annexes with the Honorable Commission:

Description of Document	Annex
A. Applicants' Authority	
MERALCO's Secretary's Certificate	"A"
GNPD's Secretary Certificate	"B"
GNPD's SPA	"B-1"
B. MERALCO's Documents	
BAC-PSA Summary-Report regarding the conduct of the CSP	"C"
DOE Certificate of Conformity No. DOE-EPIMB-COC-2024-06-007 dated 11 June 2024	"C-1"
MERALCO- GNPD PSA	"D"
Judicial Affidavit of MERALCO's witness, Engr. Davidjohn A. Zuñiga, Officer of MERALCO's Energy Sourcing – Energy Resource Planning	"E"
MERALCO's Articles of Incorporation and By-Laws (SEC-certified true copy)	"F"
MERALCO's Latest General Information Sheet ("GIS") (SEC-certified true copy) Verified Certification of True Copies of MERALCO's Articles of Incorporation, By-Laws, and GIS and of MERALCO's Ultimate Parent Company, all of its subsidiaries and affiliates	"G" "G-1"
MERALCO's Demand Side Management Program	"H"
Write-up on the Non-Applicability of National Power Corporation ("NPC") Certification regarding whether or not Transition Supply Contract ("TSC") capacity and energy is expected to be available during the contractual period	"I"
<ul style="list-style-type: none"> ● Excerpt of MERALCO's Distribution Development Plan – Power Supply Procurement Plan (Supply and Demand Scenario); ● Average Daily Load Curve scenarios ● Details of Existing Suppliers ● Details of Power Supply Contract Utilization ● Details of SAIDI and SAIFI ● Estimation of the potential for a reduction in load supplied by MERALCO due to RCOA, GEOP, etc. 	"J" "J-1" "J-2" "J-3" "J-4" "J-5"
Documents showing MERALCO's conduct of CSP	"K" and series
C. GNPD's Documents	
SEC Certificate of Registration, including the Articles of Partnership	"L"

Description of Document	Annex
Amended Articles of Partnership dated 18 February 2022	“L-1”
Certificate dated 06 September 2024 with attached Information Sheet of GNPDP	“M”
Certificate dated 08 November 2024 with attached Project Ownership Structure Chart of GNPDP	“M-1”
Certification on Partnership Agreement dated 06 February 2023	“N”
GNPDP’s Certificate of Registration No. 2022-058 dated 29 December 2021, with attached Terms and Conditions	“O”
GNPDP’s Environmental Compliance Certificate No. ECC-CO-1406-0012 dated 10 November 2015 with attached Terms and Conditions issued by the Department of Environment and Natural Resources	“P”
Certificate of Compliance No.22-10-M-00203L issued by the ERC to GNPDP	“Q”
DOE Amended Certificate of Endorsement DOE-EPIMB-ERC No. 2021-08-172 dated 03 August 2021	“R”
<p data-bbox="266 1141 1019 1183">Written Explanation on Inapplicable Documents:</p> <ul data-bbox="318 1228 1084 2038" style="list-style-type: none"> <li data-bbox="318 1228 1084 1310">• Renewable Energy Service Contracts from the DOE <li data-bbox="318 1310 1084 1425">• Certificate of Registration or Certificate of Confirmation of Commerciality by an RE Developer <li data-bbox="318 1425 1084 1467">• Shareholder’s Agreement <li data-bbox="318 1467 1084 1510">• By-Laws <li data-bbox="318 1510 1084 1592">• Water Permit from the National Water Resources Board <li data-bbox="318 1592 1084 1878">• Copies of related agreements (i.e., Transmission Wheeling Contract, Independent Power Producer Administrators Agreement, Engineering-Procurement-Construction Contract, Operation and Maintenance Contract, Wholesale Aggregator Agreement, Project Feasibility Study, etc.) <li data-bbox="318 1878 1084 1961">• Updated costs in relation to a previously filed PSA <li data-bbox="318 1961 1084 2003">• Distribution Wheeling Service Agreement; and <li data-bbox="318 2003 1084 2038">• Potential cost of ancillary services. 	“S”

Description of Document	Annex
Single-line Diagram connection	“T”
Executive Summary of the MERALCO-GNPD PSA	“U”
Sources of Funds/Financial Plans (Confidential)*	“V”*
Certification on Financing Arrangement and Bank Certifications (Confidential)*	“W and series”*
Generation Rate and Derivation (Confidential)*	“X”*
Financial model in soft copy containing derivation of rates (Confidential)*	“Y”*
Cash Flow (Confidential)*	“Z”*
Explanation on the Fuel Procurement Process of GNPD (Confidential)*	“AA”*
Fuel Supply Agreement (Confidential)*	“AA-1”*
Technical and Economic Characteristic of the Facility	“BB”
Latest Audited Financial Statements of GNPD	“CC”
Certification regarding the net heat rate of GNPD (Confidential)*	“DD”*
Simulation of the no. of operating units necessary to meet the MEOT and/or additional energy/demand requirements of MERALCO	“EE”
WESM Registration Information dated 21 December 2022 of GNPD	“FF”
Decision dated 06 November 2020 of this Honorable Commission on the point-to-point application of GNPD	“GG”
GNPD EPC Contract	“HH”*

VI. ALLEGATIONS IN SUPPORT OF THE MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

15. Under Rule 4 of the ERC Revised Rules of Practice and Procedure (“**ERC-RRPP**”), 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.

16. In line with this, GNPD prays that **ANNEXES “V”, “W and series”, “X”, “Y”, “Z”, “AA”, “AA-1”, “DD”, and “HH”** (collectively, the

"**Confidential Documents**") and the information contained therein be treated as confidential and should not be disclosed to any persons other than the officers and staff of the ERC.

17. The foregoing documents contain information and data involving GNPD's power rate calculations and financial model, as well as how these are derived. They are not generally available to the public, are proprietary, privileged, and confidential in nature, and should be protected as trade secrets. In 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 supplied.)

18. 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

19. GNPD hereby submits one (1) copy of the foregoing confidential documents in a sealed envelope, with the envelope and each page of the documents marked “Confidential.”

20. The interest of the consumers of MERALCO 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 **ANNEXES “V”, “W and series”, “X”, “Y”, “Z”, “AA”, “AA-1”, “DD”, and “HH”**. 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.

21. Lastly and corollary to the foregoing, GNPD would like to implore the discerning wisdom of the Honorable Commission to include in its issuance for this purpose the ***“procedures for handling or returning the confidential information, as may be appropriate, upon the close of the proceedings.”³***

22. This is guided by the fact that GNPD 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, to relieve the Honorable Commission of the burden of safekeeping the trade secrets of GNPD enclosed in the subject annexes.

PRAYER

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

a) Issue an Order **TREATING Annexes “V”, “W and series”, “X”, “Y”, “Z”, “AA”, “AA-1”, “DD”, and “HH”** (i.e., the “Confidential Documents”) and all other information contained 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 and that the Confidential

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 ERC-RRPP, Rule 4, Section 2

Documents will be returned to Applicant GNPD, pursuant to Rule 4 of the ERC-RRPP;

b) After hearing on the merits, render a Decision **APPROVING** the MERALCO-GNPD PSA and the terms and conditions thereunder, including the price.

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

Makati City and Pasig City for Pasig City, 15 November 2024.

[Signature Pages follow.]

MANILA ELECTRIC COMPANY

Co-Applicant

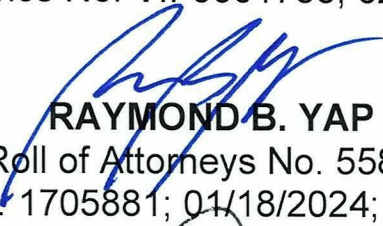
7th Floor, Lopez Building,
Ortigas Avenue, Barangay Ugong, Pasig City
Tel no. 1622-2260; Fax No: 1622-3550
Email: regaffairs@meralco.com.ph

By:



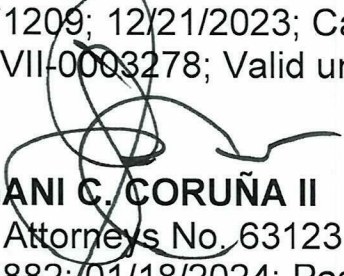
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IBP No. 372610; 12/22/2023; RSM
MCLE Compliance No. VII-0001788; 02 December 2019



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Roll of Attorneys No. 55889
PTR No. 1705881; 01/18/2024; Pasig City
IBP No. 371209; 12/21/2023; Capiz
MCLE Compliance No. VII-0003278; Valid until 14 April 2025



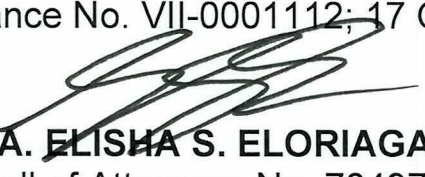
ISAGANI C. CORUÑA II

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IBP No. 371166; 12/21/2023; RSM
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MCLE Compliance No. VII-0001112; 17 October 2019



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Roll of Attorneys No. 73497
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IBP No. 373975; 12/25/2023; Quezon City
Admitted to the Phil. Bar on 19 June 2019
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**GATMAYTAN YAP PATACSIL
GUTIERREZ & PROTACIO**

Counsel for GNPD

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Fax No. (+632) 552-1978

By:



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Roll No. 63792

MCLE Compliance No. VII-0003179;
05/27/2021; Pasig City



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IBP No. 301573; 1/3/2024; PPLM Chapter
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Roll No. 71064

MCLE Compliance No. VII-0031733;
07/19/2024; Pasig City

REPUBLIC OF THE PHILIPPINES }
CITY OF PASIG } S.S.

VERIFICATION/CERTIFICATION OF NON-FORUM SHOPPING

I, **JOSE RONALD V. VALLES**, Filipino, of legal age, married, with office address at 12th Floor, Lopez Building, MERALCO Compound, Ortigas Avenue, Pasig City, after being sworn in accordance with law, hereby depose and say that—

1. I am the Senior Vice President and Head of the Regulatory Affairs & DU Regulatory Management Office of Applicant Manila Electric Company (“**MERALCO**”), and am authorized to represent MERALCO in this Joint Application as per the attached Secretary’s Certificate (**ANNEX “A”**);

2. I have caused the preparation of the instant Joint Application entitled “*In the Matter of the Joint Application for the Approval of the Power Supply Agreement Between Manila Electric Company and GNPowder Dinginin Ltd. Co., with Motion for Confidential Treatment of Information*” and read the contents thereof, and I attest that the allegations herein contained are true and correct;

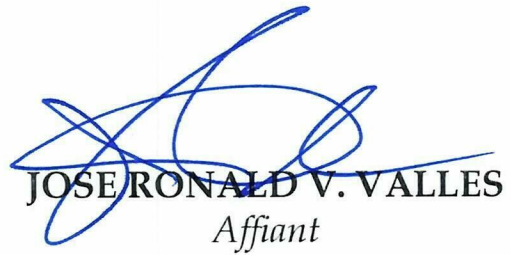
3. I have read and understood the allegations contained therein and the same are true and correct based on my personal knowledge and authentic records made available to me in the ordinary course of business of MERALCO;

4. The foregoing Joint Application 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; and

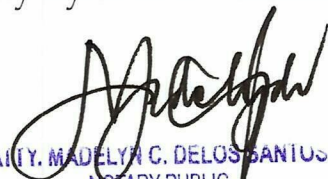
6. Should I hereinafter learn that the any further similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals, or any court, tribunal, or quasi-judicial agency, I shall report such fact to this Honorable Commission within five (5) days from discovery of such fact.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ at Pasig City, Philippines.


JOSE RONALD V. VALLES
Affiant

SUBSCRIBED and SWORN to before me this NOV 18 2024,
affiant having exhibited to me his Social Security System ID bearing the
number 33-10900088.

Doc. No. 431
Page No. 88
Book No. XI
Series of 2024.


ATTY. MADELYN C. DE LOS SANTOS
NOTARY PUBLIC
Appointment No. 138 (2023-2024)
Pasig, San Juan and Pateros
Roll No. 64977 IBP No. 371237; 12/21/2023; RSM Chapt
PTR No. 1705888; 01/18/2024; Pasig City
MCLE Compliance No. VII-0001999; 05 December 2019
7th Floor, Lopez Bldg., Ortigas Ave., Pasig City

VERIFICATION AND CERTIFICATION OF
NON-FORUM SHOPPING

I, **RONALD P. GUTIERREZ**, Filipino, of legal age, and with office address at GNPowr Energy Complex, Sitio Dinginin, Brgy. Alasasin, Mariveles 2105, Bataan, Philippines subscribing under oath, state that:

1. I am the duly authorized representative of GNPowr Dinginin Ltd. Co., the co-applicant in this application, and I caused the preparation and filing of the foregoing Joint Application for Approval of the Power Supply Agreement between Manila Electric Company and GNPowr Dinginin Ltd. Co., Motion for Confidential Treatment of Information (the **"Joint Application"**);

2. I certify that I have read and understood the foregoing Joint Application, the contents of which are true and correct, based on my own personal knowledge, and on authentic documents;

3. The Joint Application is not filed to harass, cause unnecessary delay or needlessly increase the cost of litigation;

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

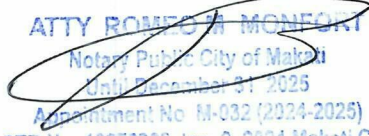
5. I certify that I have not commenced any other action involving the same issues in this Joint Application with this Honorable Commission, or any tribunal or quasi-judicial agency and to the best of my knowledge, no such action or proceeding is pending in this Honorable Commission or any tribunal or quasi-judicial agency;

6. Should I hereafter learn that a similar action or proceeding has been filed or is pending before this Honorable Commission or any tribunal or quasi-judicial agency, I undertake to promptly inform this Honorable Commission and other tribunal or agency thereof within five (5) calendar days therefrom.


RONALD P. GUTIERREZ
Affiant

SUBSCRIBED AND SWORN to before me this **NOV 20 2024** at **MAKATI CITY** exhibiting his PRC ID No. 0000868, valid until November 14, 2027.

Doc. No. 196;
Page No. 31;
Book No. 49;
Series of 2024.

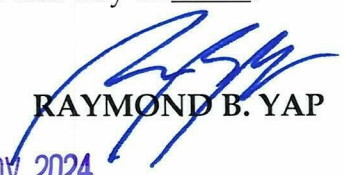

ATTY. ROMEO A. MONFORT
Notary Public City of Makati
Until December 31, 2025
Appointment No. M-032 (2024-2025)
PTR No. 10073908 Jan. 2, 2024 Makati City
ISP No. 391330-Jan. 3, 2014 Pasig / Roll No. 27932
MCLE NO. VII-0027570 Issued April 3, 2023
101 Urban Ave. Campos Rueda Bldg.
Brgy. Pio Del Pilar, Makati City

VERIFIED DECLARATION

I, **RAYMOND B. YAP**, of legal age, Filipino, with office address at the Lopez Building, Ortigas Avenue, Pasig City, after having duly sworn in accordance with law, hereby depose and state:

1. I am one of the duly authorized representatives to undertake the pre-filing process with respect to the application to be pre-filed by **MERALCO** and **GNPOWER DINGININ LTD. CO. [GNPD]** for the **Approval of the Power Supply Agreement between MERALCO and GNPD dated 07 November 2024.**
2. I hereby declare that, in compliance with ERC Resolution No. 9, Series of 2020, the documents submitted by MERALCO electronically as part of the virtual pre-filing process are complete and true copies of the original documents.

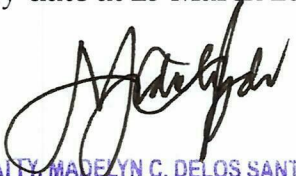
20 NOV 2024
IN WITNESS WHEREOF, I hereby affix my signature this day of ____.


RAYMOND B. YAP

20 NOV 2024

SUBSCRIBED AND SWORN to before me this ____ at Pasig City, affiant exhibiting to me his Driver's License No. F04-99-042540, with expiry date at 25 March 2032.

Doc. No. 434;
Page No. 88;
Book No. XI;
Series of 2024.


ATTY. MADELYN C. DELOS SANTOS
NOTARY PUBLIC

Appointment No. 138 (2023-2024)
Pasig, San Juan and Pateros
Roll No. 64977 IBP No. 371237; 12/21/2023; RSM Chapter
PTR No. 1705888; 01/18/2024; Pasig City
MCLE Compliance No. VII-0001999; 05 December 2019
7th Floor, Lopez Bldg., Ortigas Ave., Pasig City

Republic of the Philippines)
LUCBAN, QUEZON)S.S.

VERIFIED DECLARATION

I, Edrian A. Rosete, hereby declare that (a) I am one of the duly authorized representative to undertake the pre-filing process with respect to the application to be pre-filed by Manila Electric Company ("MERALCO") and GNPowder Dinginin Ltd. Co. ("GNPD"), for the Joint Application for Approval of the Power Supply Agreement dated 7 November 2024 (with Motion for Confidential Treatment of Information) (the "Joint Application"), and (b) the documents submitted electronically in accordance with ERC Resolution No. 9, Series of 2020, are complete and true copies of the original documents.

IN WITNESS WHEREOF, I have hereto affixed my signature on
05 DEC 2024 in LUCBAN, QUEZON, Philippines.



Edrian A. Rosete
Authorized Representative

SUBSCRIBED AND SWORN to before me this 05 DEC 2024 in LUCBAN, QUEZON
affiant exhibiting his competent evidence of identity, to wit: Philippine Passport with
number P8326493A issued on August 13, 2020, at DFA MANILA.

Doc. No. 157 ;
Page No. 22 ;
Book No. 18 ;
Series of 2024.

Jillian Balac Villanera
NOTARY PUBLIC
Until December 31, 2024
Attorney's Roll No. 69175
IBP Lifetime No. 016647
MCLE No. VII - 0017211
G. Del Pilar St., Brgy. 10, Lucban, Quezon