

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

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
EMERGENCY POWER  
SUPPLY AGREEMENT  
(EPSA) BETWEEN ILOCOS  
NORTE ELECTRIC  
COOPERATIVE, INC. (INEC)  
AND THERMA VISAYAS, INC.  
(TVI), WITH PRAYER FOR  
CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2023-126 RC**

**ILOCOS NORTE ELECTRIC  
COOPERATIVE, INC. (INEC)  
AND THERMA VISAYAS, INC.  
(TVI),**

*Applicants.*

X-----X

**Promulgated:**  
November 21, 2023

**ORDER**

On 15 November 2023, Ilocos Norte Electric Cooperative, Inc. (INEC) and Therma Visayas, Inc. (TVI), filed a *Joint Application*, dated 12 September 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with prayer for confidential treatment of information.

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

The Joint Applicants

1. INEC is a non-profit electric cooperative duly organized and registered under and by virtue of the laws of the Philippines, with office address at Brgy. Suyo, Dingras, Ilocos Norte. It holds an exclusive franchise issued by the National Electrification Commission (NEC) to operate an electric light and power distribution service in the municipalities of Adams, Bacarra, Badoc, Bangui, Banna, Burgos, Carasi, Currimao,

Dingras, Dumalneg, Marcos, Nueva Era, Pagudpud, Paoay, Pasuquin, Piddig, Pinili, San Nicolas, Sarrat, Solsona, and Vintar, and the cities of Laoag and Batac, all in the Province of Ilocos Norte (the “Franchise Area”).

2. TVI is a generation company duly organized and existing under and by virtue of the laws of the Philippines, with principal place of business at Barangay Bato, Toledo City, Cebu. It is the owner and operator of a power plant composed of a coal-fired power plant located in Brgy. Bato, Toledo City, Cebu (“Power Plant”).
3. Applicants may be served notices, orders, and other processes of the Honorable Commission through their respective counsels at their addresses indicated below.

#### Statement of Facts

4. INEC is part of the R1+CAR+S1 Aggregation (“Aggregation”) of distribution utilities.
5. On 03 May 2021, the Aggregation conducted a Competitive Selection Process (“CSP”) pursuant to Department of Energy (“DOE”) Department Circular No. 2021-09-0030 (“Amended CSP Circular”) for the procurement of baseload requirements.
  - 5.1. The CSP conducted by the Aggregation had two unsuccessful rounds and was declared to have failed on 09 December 2022.
  - 5.2. Consequently, on 28 December 2022, the Aggregation’s Joint Third Party Bids and Awards Committee (JTPBAC) proceeded to directly negotiate with bidders of the failed rounds of bidding.
  - 5.3. The JTPBAC eventually decided to accept the lower offer and to thereafter negotiate on the terms of the PSA, which will be submitted to the National Electrification Administration (NEA) for review before signing.
  - 5.4. However, on 24 April 2023, the NEA declared the CSP and Negotiated Procurement conducted by the Aggregation null and void and without effect primarily because the Aggregation only proceeded to directly negotiate with the bidders of the failed rounds of CSP bidding.
6. Because of the failed CSP and the failure of procurement through direct negotiation by the Aggregation, INEC found a pressing need to secure dependable supply of electricity by itself, to immediately meet the demand of its end-users. Accordingly, INEC was prompted to immediately procure an emergency supply of energy of 3MW for its uncontracted baseload requirements for the year 2023.

- 6.1. Section 2.2.1.2 of the Amended CSP Circular on the exemption from CSP states that:
  - 2.2. Exemption from CSP
    - 2.2.1. The following instances shall warrant a Certificate of Exemption from the conduct of Competitive Selection Process (COE-CSP) from the DOE:  
xxx
      - 2.2.1.2. Negotiated procurement of emergency power supply wherein the cooperation period of the corresponding Emergency Power Supply Agreement (EPSA) shall not exceed one (1) year, and such EPSA shall be filed immediately before the Energy Regulatory Commission (ERC) upon the issuance and within the effectivity of the COE-CSP; Provided, that the DU shall prove and certify that it has performed all the necessary and required due diligence, and solicited proposal from at least one (1) power supplier for EPSA to address the emergency situation and to avert and/or mitigate its consequences, and the offer/s from the available Power Supplier/s shall be attached in the request for COE-CSP; Provided also, that the procurement of emergency power supply shall not be entitled to any form of subsidy. Provided finally, that the rate shall be equivalent to or lower than the latest ERC-approved generation tariff for same or similar technology in comparable areas.
- 6.2. On 4 April 2023, the DOE issued an Advisory dated 3 April 2023 regarding the moratorium on the issuance of a certificate of exemption from the conduct of CSP (“COE-CSP”). In the said Advisory, the DOE, instead of issuing a COE-CSP, directed “the DU and the power supplier [to] jointly file their Emergency Power Supply Agreement (EPSA) before the ERC for its approval”. As such, INEC no longer obtained a COE-CSP for its procurement of emergency power.
- 6.3. On 28 April 2023, INEC directly negotiated with TVI for the supply of its uncontracted baseload requirement of 3 MW for a one (1) year period from Effective Date.
7. In accordance with Section 2.2.1.2 of the DOE Amended CSP Circular, INEC negotiated with TVI for the procurement of emergency power supply with a contract capacity of 3 MW Baseload Power Supply Requirements for a period of one (1) year from commencement of supply delivery.
8. Consequently, INEC and TVI executed an Emergency Power Supply Agreement (EPSA), subject of this *Joint Application*.

9. Thus, this instant *Joint Application* for the approval of the EPSA between INEC and TVI.
10. Salient Features of the EPSA.
  - 10.1. Contract Energy. Contract Energy refers to the amount of energy delivered by TVI to INEC per each Billing Period or Interval, which shall in no case exceed the Maximum Contract Energy per Billing Period or the Maximum Contract Energy per Interval, nor be less than the Minimum Contract Energy per Billing Period or the Minimum Contract Energy per Interval, as provided in Schedule 4.1 (Delivery Schedule), *to wit*:

Schedule 4.1 – Delivery Schedule

BILLING MONTH	MAXIMUM CONTRACT CAPACITY PER TRADING HOUR (kW)	MINIMUM CONTRACT ENERGY PER BILLING PERIOD (kWh)	MAXIMUM CONTRACT ENERGY PER BILLING PERIOD (kWh)
May 26, 2023 - June 25, 2023	3,000	2,232,000	2,232,000
June 26, 2023 - July 25, 2023	3,000	2,160,000	2,160,000
July 26, 2023 - August 25, 2023	3,000	2,232,000	2,232,000
August 26, 2023 - September 25, 2023	3,000	2,232,000	2,232,000
September 26, 2023 - October 25, 2023	3,000	2,160,000	2,160,000
October 26, 2023 - November 25, 2023	3,000	2,232,000	2,232,000
November 26, 2023 - December 25, 2023	3,000	2,160,000	2,160,000
December 26, 2023 - January 25, 2024	3,000	2,232,000	2,232,000
January 26, 2024 - February 25, 2024	3,000	2,232,000	2,232,000
February 26, 2024 - March 25, 2024	3,000	2,088,000	2,088,000
March 26, 2024 - April 25, 2024	3,000	2,232,000	2,232,000
April 26, 2024 - May 25, 2024	3,000	2,160,000	2,160,000

- 10.2. Contract Period. The EPSA shall take effect immediately from Effective Date until the end of the Contract Period specified in Schedule 3.1 (b), i.e. up to a maximum of one (1) year from the commencement of supply delivery.
- 10.3. Electricity Fees. INEC shall pay all Electricity Fees, including all applicable taxes thereon, computed as follows:

Schedule 6.1.2- Rate Schedule

$$\text{Electricity Fees} = A + B + C + D + E$$

All computations on payments to Supplier shall not be rounded off, except for the final PHP amount, which shall be rounded off to the nearest Philippine centavo.

Where:

- A = CRF x CC x Adj  
CRF = 1,456 Php/kW/mo  
CC = the contracted capacity in kW for the Billing Period as indicated in the attached Delivery Schedule
- $$\text{Adj} = \sum_{j=1}^n \sum_{i=1}^{\text{Int}} \frac{\text{ACC}_{ij}}{\text{CC} \times \text{Int} \times n}$$
- ACC<sub>ij</sub> = CC less affected capacity due to Force Majeure for interval i and day j  
Int = the number of Trading Intervals per day  
n = the number of days for the current Billing Period
- B = FOM x CC x Adj  
FOM = 433 Php/kW/mo  
CC = as previously defined  
Adj = as previously defined
- C = VOM x TED  
VOM = 0.1721 Php/kWh  
TED = the total energy delivered (in kWh) within CC per Trading Interval and within Maximum Contract Energy per Billing Period during the current Billing Period
- D = Fuel x TED  
Fuel = Base x [(85.53% x  $\frac{N_m}{N_o} \times \frac{FX_m}{FX_o}$ ) + (7.15% x  $\frac{FX_m}{FX_o}$ ) + 7.32%] Php/kWh  
Base = 2.4406 Php/kWh  
N<sub>m</sub> = the average Newcastle index (USD/MT) for the last three calendar months prior to the Billing Period for which the Invoice is being prepared, as posted by globalCOAL on the website www.globalcoal.com or its successor or, if globalCOAL ceases to report the Newcastle Index, an agreed upon replacement source that reports the Newcastle Index shall be adopted by the Parties  
N<sub>o</sub> = the Newcastle index of 200 USD/MT  
FX<sub>m</sub> = the average of the PHP/USD exchange rate for the last three calendar months prior to the Billing Period for which the invoice is being prepared, as published in the Bangko Sentral ng Pilipinas website  
FX<sub>o</sub> = the PHP/USD exchange rate of 50.70

In the event that revisions are made on the above indices, including any shift made in the base year and other adjustments to such index made by the relevant authorized entity, its successor-in-interest, there shall be a corresponding change in the base index such that the use of the revised index will yield the equivalent values as the use of the original base index.

In the event that the index (a) becomes unavailable, (b) is replaced by a new benchmark rate as determined by the relevant authorized entity, its successor-in-interest, or (c) ceases to exist, or (d) in the reasonable determination of either Party, fails to reflect the real costs and forms an integral part of this price mechanism, the Parties shall agree to adopt a new price index.

TED = as previously defined

E = all future taxes, fees and imposts (including increases, or adjustments thereon and increases, or adjustments on existing taxes, fees and imposts), such as but not limited to real property taxes, excise taxes, and other future charges imposed on the Power Plant for the generation of electricity, in Philippine Pesos

Adjustments:

a.) Service Interruption Adjustment:

If the Customer is only able to take Energy at a level below the Contract Energy due to the failure of the Transmission System, the Minimum Contract Energy shall be adjusted to reflect the hours of such transmission service interruption. For this purpose, the Customer shall deliver to the Supplier documentation from the NGCP establishing the occurrence of the service interruption not later than five (5) days before the end of the Billing Period during which such interruption occurred. If the Customer shall be affected by any service interruption during the five-day period preceding the end of a Billing Period, the Customer shall deliver the NGCP supporting documentation to the Supplier as soon as reasonably practicable after receipt thereof, and the Supplier shall credit the Customer with the adjustment in the next succeeding Billing Statement.

10.4. Buy-out Charge. INEC shall compensate TVI for the reduction of the Contract Energy or Maximum Contract Energy per Interval in the amount of the Buy-out Charge, which is computed as follows:

Buy-out Charge = historical load weighted average price under this Agreement x reduction in the Contract Capacity x average Capacity Utilization Factor of the twelve Billing Periods immediately preceding the effectivity of the reduction x remaining Contract Billing Periods

- 10.5. Other Charges. The following fees, charges, and other costs shall be for the account of INEC: (a) Value-added Tax; (b) Transmission Fees; (c) Line Rental Charges; (d) Charges that are not part of the generation charge; and (e) Net Settlement Surplus.
- 10.6. Billing and Payment of Fees. TVI shall deliver to INEC a Billing Statement setting out the Electricity Fees due on account of all Energy Delivered during each Billing Period on or before the seventh (7th) day of the Payment Month. The Energy that will be used for purposes of the Billing Statement will be based on the amount of Energy Delivered to INEC pursuant to Section 6.2 and Schedule 6.2 (*Nomination Procedure*) of the EPSA.

If INEC fails to fully pay the Electricity Fee or any other amounts (including all applicable taxes, including VAT due (if any) payable by it under this Agreement on the Payment Date, it shall be liable and pay a penalty of two percent (2%) per month (a fraction of a month to be considered one month) based on the amount due, from the relevant Payment Date until the date such amount is received in full by TVI.

10.7. Discounts

a) Early Payment Discount

INEC may be entitled to Early Payment Discount in the amount of Php0.10/kWh provided that INEC pays the full amount of Electricity Fees due in respect of the Billing Period, together with all charges payable by it to TVI under this Agreement and all taxes due thereon, on or before the 20th day of the Payment Month. TVI shall credit through Credit Memo the discount to the Electricity Fees due on INEC's next Billing Statement (but not on any taxes due thereon); provided that, for the last Billing Period, any discount shall be released through check payment.

11. Estimated Rate Impact. The indicative rate impact on INEC’s overall generation rate with and without the additional supply from TVI is as follows:

Generation Rate Impact of EPSA with TVI*	
Without TVI	Php 9.7435/kWh
With TVI	Php 9.2477/kWh
<i>Rate Impact</i>	<i>(Php 0.4958/kWh)</i>

\*Assumptions:

- Based on May 2023 billing period
  - Without TVI: Computation of blended rate with the assumption that the 3MW baseload requirement will be obtained from the Wholesale Electricity Spot Market (WESM) at an average of Php 12.9064/kWh.
  - With TVI: Computation of blended rate with the assumption that the 3MW baseload requirement will be obtained through an emergency power supply procurement at Php 5.9808/kWh.
12. Board of Investments (BOI) Certificate. On 28 August 2012, TVI’s plant located in Brgy, Bato, Toledo City was registered with the BOI with Certificate of Registration No. 2012-176.
13. Environmental Compliance Certificate (ECC). On 11 January 2018, the Department of Environment and Natural Resources (DENR) issued ECC in favor of TVI, with ECC No. ECC-CO-1506-0018.
14. Certificate of Compliance (COC). On 26 June 2019, the Honorable Commission issued a Certificate of Compliance in favor of TVI, with COC No. 19-06-M-00176V.
15. Certificate of Endorsement. On 11 April 2019, the Department of Energy issued Certificate of Endorsement COE No. 2019-04-003 in favor of TVI’s Coal-Fired Power Plant located in Brgy. Bato, Toledo City, Cebu.
16. Copies of the following documents and/or information are attached to the *Joint Application* as annexes:

Annex	Documents/Information
A	Emergency Power Supply Agreement between INEC and TVI
B and series	INEC’s Amended Articles of Incorporation, By-Laws, and Certificate of Franchise
C and C-1	INEC’s EC Board of Directors (BOD) Information Sheet; and Verified Certification showing the list of BOD



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D and D-1	TVI's Amended Articles of Incorporation and Amended By-Laws
E	Certificate of Incorporation issued by the Securities and Exchange Commission (SEC) to TVI (formerly, Vesper Industrial & Development Corporation)
F	TVI's Latest General Information Sheet
F-1	TVI's Verified Certification dated 21 June 2023 showing the list of BOD
G	Conglomerate Map of TVI and its Affiliates
H	TVI's Certificate of Registration issued by the BOI, with Certificate of Registration No. 2012-176
I	TVI's Environmental Compliance Certificate (ECC) issued by the DENR, with ECC No. ECC-CO-1506-0018
J	TVI's Certificate of Compliance (COC) issued by the ERC, with COC No. 19-06-M-00176V
K	TVI's Certificate of Endorsement issued by the DOE, with COE No. 2019-04-003
L	INEC's Demand Side Management Program
M	INEC's load forecast projections in accordance with the latest Distribution Development Plan
N	INEC's Supply and Demand Scenario, Details of Existing Suppliers and Contract Utilization
O	Average Daily Load Curves
P	INEC's Reliability Report (SAIFI and SAIDI)
Q	INEC's estimation of the potential for a reduction in load supplied due to retail competition
R	TVI's Verified certification regarding the power plant's readiness to deliver power and the rates charged under the EPSA
S	TVI's Transmission Service Agreement with National Grid Corporation of the Philippines ("NGCP")
S-1	TVI's Metering Service Agreement with NGCP

T	TVI's Single Line Diagram
U	INEC's Single Line Diagram
V	Relevant technical and economic characteristics of the generation capacity
W	Sample Bill
X	Executive Summary of the INEC and TVI EPSA
Y*	TVI's Sources of Funds ( <i>Confidential</i> ) *
Z*	Bank Certification of Long-Term Loans, including Schedule of Original Loan (Principal amount, interest payable, term of the loan) and updated balances (Principal Amount, interest payable, and term of the loan). ( <i>Confidential</i> ) *
AA*	TVI's Cash Flow ( <i>Confidential</i> ) *
BB*	TVI's Generation Rate and Derivation ( <i>Confidential</i> ) *
CC*	TVI's Financial Model ( <i>Confidential</i> ) *
DD	TVI's 2022 Audited Financial Statements (AFS)
EE* and FF*	TVI's Certification (net heat rate) for Unit 1 and Unit 2 ( <i>Confidential</i> )*
GG*	TVI's Explanation on Coal Procurement Process ( <i>Confidential</i> ) *
GG-1*	Executive Summary of TVI's Coal Procurement Process ( <i>Confidential</i> ) *
GG-2*	TVI's Coal Supply Agreement ( <i>Confidential</i> )*
HH	TVI's Certification form IEMOP dated 10 December 2020 and WESM Registration Approval Form
II	INEC's WESM Registration
JJ	INEC's Write up on Non-Applicability of Documents: <ul style="list-style-type: none"> <li>● Transition Supply Contract with NPC</li> <li>● Inconsistencies in submitted documents</li> <li>● CSP-related documents</li> <li>● DOE Certificate of Exemption for EPSA</li> </ul>
KK	Write up on Non-Applicability of the following documents for TVI:

	<ul style="list-style-type: none"> <li>• Shareholders' Agreement</li> <li>• Renewable Energy Service Contract/ Operating Contract from the DOE</li> <li>• Certificate of Registration or Certification of Confirmation of Commerciality by an RE Developer and after due confirmation by the DOE</li> <li>• Water Permit from the National Water Resources Board (NWRB) (Note: For hydro technology only)</li> <li>• Copy of Related Agreements (i.e., Transmission Wheeling Contract, EPC Contract, O&amp;M Contract, Wholesale Aggregator Agreement, Project Feasibility Study, etc.)</li> <li>• Potential Cost (absolute amounts and Php/kWh of Ancillary Services as and when the IPP or the DU is connected to the main grid)</li> <li>• Updated cost of BIR Receipts, Seller's Receipt, Purchase Orders, Deeds of Sale</li> <li>• Distribution Wheeling Service (DWS) Agreement</li> <li>• Details regarding transmission projects or grid connection projects necessary to complement the proposed generation capacity</li> <li>• Life of Asset versus Term of Loan (Computation Levelized Cost)</li> </ul>
LL and LL-1	<p>INEC's Agreements with NGCP:</p> <ul style="list-style-type: none"> <li>• Transmission Service Agreement</li> <li>• Metering Service Agreement</li> </ul>

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

**Allegations in Support of the Motion for Confidential Treatment of Information for Annexes "Y", "Z", "AA", "BB", "CC", "EE", "FF", "GG", "GG-1", and "GG-2"**

17. Section 1, Rule 4, of the ERC Revised Rules of Practice and Procedure provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.
18. Pursuant thereto, TVI prays that the information contained in the documents attached as annexes be treated as confidential and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission, as follows:

Annex	Documents and/or Information
Y*	TVI's Sources of Funds ( <i>Confidential</i> ) *

Z*	Bank Certification of Long-Term Loans, including Schedule of Original Loan (Principal amount, interest payable, term of the loan) and updated balances (Principal Amount, interest payable, and term of the loan). ( <i>Confidential</i> ) *
AA*	TVI's Cash Flow ( <i>Confidential</i> ) *
BB*	TVI's Generation Rate and Derivation ( <i>Confidential</i> ) *
CC*	TVI's Financial Model ( <i>Confidential</i> ) *
EE* and FF*	TVI's Certification (net heat rate) for Unit 1 and Unit 2 ( <i>Confidential</i> )*
GG*	TVI's Explanation on Coal Procurement Process ( <i>Confidential</i> ) *
GG-1*	Executive Summary of TVI's Coal Procurement Process ( <i>Confidential</i> )*
GG-2*	TVI's Coal Supply Agreement ( <i>Confidential</i> ) *

19. Annexes "Y", "Z", "AA", "BB", "CC", "EE", "FF", "GG", "GG-1", and "GG-2" contain information and data where TVI has actual and valuable proprietary interest to protect with respect to such information, and fall within the bounds of "trade secrets" that are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
  - 19.1. The foregoing annexes contain non-public, proprietary information and data involving TVI's generation rate calculations, financial model, cash flow, supply agreement, sale and purchase agreement, and procurement processes. TVI determines its competitive rates through these data, thus, the information contained in these documents are privileged and confidential in nature.
  - 19.2. Likewise, TVI's financial model, including the details of its fuel and coal procurement processes, contain information pertaining to the core of TVI's business operations and any disclosure thereof will affect TVI's competitiveness in the industry. As such, the information contained in the document are likewise privileged and confidential in nature.
  - 19.3. Furthermore, the information and data in the aforementioned annexes are not generally available to the public.

20. In the case of the *Air Philippines Corporation v. Pennswell, Inc.*,<sup>1</sup> the Supreme Court explained that:

**“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 a 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 an advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous use in the 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.*)

21. Moreover, the Honorable Commission categorically acknowledged in its Decision in ERC Case No. 2015-111 RC<sup>2</sup> that formulas and pricing structures of a generation company must be accorded confidential protection, to wit:

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

**Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed.”** (*Emphasis supplied.*)

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<sup>1</sup> 564 Phil. 774 (2007), G.R. No. 172835.

<sup>2</sup> Decision, ERC Case No. 2015-111 RC dated 30 May 2017 entitled “*In the Matter of the Application for 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).*”

22. The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the EPSA by the Honorable Commission, without the need to disclose the contents of Annexes "Y", "Z", "AA", "BB", "CC", "EE", "FF", "GG", "GG-1", and "GG-2". The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of TVI's operating costs and expenses.
23. More importantly, TVI's competitors, should they obtain the information in Annexes "Y", "Z", "AA", "BB", "CC", "EE", "FF", "GG", "GG-1", and "GG-2", will gain undue advantage thereon and have the opportunity to use the same in their operations. The negotiating power of TVI with parties it plans to contract with or who it is currently doing business with, will clearly be thwarted if it is compelled to disclose such information.
24. Accordingly, one (1) copy each of Annexes "Y", "Z", "AA", "BB", "CC", "EE", "FF", "GG", "GG-1", and "GG-2", are placed in a sealed envelope, with the said envelope and each page of the documents and/or information stamped with the word "Confidential".

**PRAYER**

WHEREFORE, the foregoing premises considered, applicants ILOCOS NORTE ELECTRIC COOPERATIVE, INC. (INEC) and THERMA VISAYAS, INC. (TVI) most respectfully pray that the Honorable Commission:

1. ISSUE an Order treating Annexes "Y", "Z", "AA", "BB", "CC", "EE", "FF", "GG", "GG-1", and "GG-2", and all information contained therein as confidential, directing their non-disclosure to persons other than the officers and staff of the 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 its Rules of Practice and Procedure; and
2. ISSUE a Decision approving the Joint Application and the EPSA between INEC and TVI, including all the rates, fees, charges and tariff adjustment mechanisms set out therein at the rates provided in the EPSA, and authorizing INEC to charge and collect the fees therein from its customers reckoned from the start of supply by TVI to INEC under the EPSA.

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

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for hearing for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>3</sup> and Resolution No. 01, Series of 2021<sup>4</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>26 January 2024 (Friday)</b> at nine o'clock in the morning (09:00 A.M)	<b>Microsoft Teams Application</b>	Determination of compliance with jurisdictional requirements and expository presentation
<b>02 February 2024 (Friday)</b> at nine o'clock in the morning (09:00 A.M)		Pre-Trial Conference and Presentation of Evidence

Accordingly, INEC and TVI are hereby directed to host the virtual hearings at **INEC's Principal Office located at Brgy. Suyo, Dingras, Ilocos Norte**, as the designated venue for the conduct thereof and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, INEC and TVI shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

**RELATIVE THERETO**, INEC and TVI are hereby directed to:

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

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

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

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

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the 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 INEC and TVI to inform the consumers within INEC's franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

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

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

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-trial Brief; and

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

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

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

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

Further, INEC and TVI are hereby directed to file a copy of their Expository Presentation via e-mail at [docket@erc.ph](mailto:docket@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), **at least five (5) calendar days** prior to the scheduled virtual hearing. Joint Applicants shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled virtual hearing, via e-mail at [docket@erc.ph](mailto:docket@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Joint Applicants INEC and TVI are directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **within five (5) working days** from the date


that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard copy thereof within the same period through any of the available modes of service.

Finally, INEC and TVI, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through [legal.virtualhearings@erc.ph](mailto: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.**

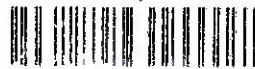
Pasig City, 21 November 2023.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**MONALISA C. DIMALANTA**  
*Chairperson and CEO*

  
LS: ECI/LSP/MCCG

**ERC**  
*Office of the Chairperson and CEO*



MCD 2023-011181

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Copy furnished:

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2. Atty. Limberge Paul G. Corpuz  
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3. Therma Visayas, Inc. (TVI)  
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Province of Ilocos Norte
6. Office of the LGU legislative body  
Province of Ilocos Norte
7. Office of the Municipal Mayor  
Municipality of Adams, Ilocos Norte
8. Office of the LGU legislative body  
Municipality of Adams, Ilocos Norte
9. Office of the Municipal Mayor  
Municipality of Bacarra, Ilocos Norte
10. Office the LGU legislative body  
Municipality of Bacarra, Ilocos Norte
11. Office of the Municipal Mayor  
Municipality of Badoc, Ilocos Norte
12. Office the LGU legislative body  
Municipality of Badoc, Ilocos Norte
13. Office of the Municipal Mayor  
Municipality of Bangui, Ilocos Norte
14. Office the LGU legislative body  
Municipality of Bangui, Ilocos Norte
15. Office of the Municipal Mayor  
Municipality of Banna, Ilocos Norte
16. Office the LGU legislative body  
Municipality of Banna, Ilocos Norte
17. Office of the Municipal Mayor  
Municipality of Burgos, Ilocos Norte
18. Office the LGU legislative body  
Municipality of Burgos, Ilocos Norte
19. Office of the Municipal Mayor  
Municipality of Carasi, Ilocos Norte

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Municipality of Carasi, Ilocos Norte
21. Office of the Municipal Mayor  
Municipality of Currimao, Ilocos Norte
22. Office the LGU legislative body  
Municipality of Currimao, Ilocos Norte
23. Office of the Municipal Mayor  
Municipality of Dingras, Ilocos Norte
24. Office the LGU legislative body  
Municipality of Dingras, Ilocos Norte
25. Office of the Municipal Mayor  
Municipality of Dumalneg, Ilocos Norte
26. Office the LGU legislative body  
Municipality of Dumalneg, Ilocos Norte
27. Office of the Municipal Mayor  
Municipality of Marcos, Ilocos Norte
28. Office the LGU legislative body  
Municipality of Marcos, Ilocos Norte
29. Office of the Municipal Mayor  
Municipality of Nueva Era, Ilocos Norte
30. Office the LGU legislative body  
Municipality of Nueva Era, Ilocos Norte
31. Office of the Municipal Mayor  
Municipality of Pagudpud, Ilocos Norte
32. Office the LGU legislative body  
Municipality of Pagudpud, Ilocos Norte
33. Office of the Municipal Mayor  
Municipality of Paoay, Ilocos Norte
34. Office the LGU legislative body  
Municipality of Paoay, Ilocos Norte
35. Office of the Municipal Mayor  
Municipality of Pasuquin, Ilocos Norte
36. Office the LGU legislative body  
Municipality of Pasuquin, Ilocos Norte
37. Office of the Municipal Mayor  
Municipality of Piddig, Ilocos Norte
38. Office the LGU legislative body  
Municipality of Piddig, Ilocos Norte
39. Office of the Municipal Mayor  
Municipality of Pinili, Ilocos Norte
40. Office the LGU legislative body  
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41. Office of the Municipal Mayor  
Municipality of San Nicolas, Ilocos Norte

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42. Office the LGU legislative body  
Municipality of San Nicolas, Ilocos Norte
43. Office of the Municipal Mayor  
Municipality of Sarrat, Ilocos Norte
44. Office the LGU legislative body  
Municipality of Sarrat, Ilocos Norte
45. Office of the Municipal Mayor  
Municipality of Solsona, Ilocos Norte
46. Office the LGU legislative body  
Municipality of Solsona, Ilocos Norte
47. Office of the Municipal Mayor  
Municipality of Vintar, Ilocos Norte
48. Office the LGU legislative body  
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49. Office of the Mayor  
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50. Office the LGU legislative body  
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