

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

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
EMERGENCY POWER SUPPLY  
AGREEMENT BETWEEN  
GNPOWER DINGININ LTD.  
CO. AND ILOCOS NORTE  
ELECTRIC COOPERATIVE,  
WITH PRAYER FOR  
CONFIDENTIAL TREATMENT  
OF INFORMATION**

**ERC CASE NO. 2025-005 RC**

**GNPOWER DINGININ LTD.  
CO. (GNPD) AND ILOCOS  
NORTE ELECTRIC,  
COOPERATIVE, INC. (INEC),**

*Applicants.*

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**Promulgated:**  
April 08, 2025

**NOTICE OF VIRTUAL HEARING**

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 06 January 2025, GNPower Dinginin Ltd. Co. (GNPD) and Ilocos Norte Electric Cooperative, Inc. (INEC) filed their *Application* dated 16 December 2024, seeking the Commission’s approval of their Emergency Power Supply Agreement (EPSA), with prayer for confidential treatment of information.

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

**The Nature of the Application**

1. The Applicants are filing this Joint Application to ask this Honorable Commission to approve and grant them authority to implement their *Emergency Power Supply Agreement* dated November 23, 2024 (the “**Subject EPSA**”). Copies of the Subject EPSA and its executive summary are attached as **Annexes A and Annex A-1**, respectively.

**The Parties**

2. GNPD is a duly registered limited partnership organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at GNPower Energy Complex, Sitio Dinginin, Barangay Alas-asin, Municipality of Mariveles, Province of Bataan. GNPD owns and operates a 1,336-megawatt (“**MW**”) coal power plant (the “**Plant**”) which it uses to supply its customers with environmentally clean electric power (the “**Project**”).
3. INEC is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office address at Barangay Suyo, Municipality of Dingras, Province of Ilocos Norte. It is the holder of a franchise issued by the National Electrification Administration (“**NEA**”) under *Certificate of Franchise No. 219* dated August 10, 1977, which will expire on August 11, 2027. INEC supplies electricity to the whole of Ilocos Norte, which is composed of two (2) cities, twenty-one (21) municipalities, and five hundred fifty-nine (559) barangays.
4. The Applicants may be served with notices, orders, and processes of this Honorable Commission through their respective counsels at the addresses indicated below.

**Statement of the Facts**

5. From October 13, 2023 to October 12, 2024, GNPD supplied electricity to INEC under their *Emergency Power Supply Agreement* dated October 12, 2023 (the “**2023 EPSA**”). A copy of the 2023 EPSA is attached as **Annex H**.
6. The Applicants entered into the 2023 EPSA to augment the deficit that INEC experienced as a result of this Honorable Commission’s directive to INEC and Masinloc Power Partners Co. Ltd. to stop implementing their Power Supply Agreement (“**PSA**”),<sup>1</sup> which was one of the PSAs affected by the Supreme Court’s decision in *Alyansa Para Sa Bagong Pilipinas, Inc. v. Energy Regulatory Commission*.<sup>2</sup> The *Joint Application* for the approval of the 2023 EPSA was docketed as ERC Case No. 2023-144 RC and is currently pending before this Honorable Commission.

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<sup>1</sup> See Order dated July 5, 2023 in ERC Case No. 2015-214 RC.

<sup>2</sup> G.R. No. 227670, May 3, 2019.

7. In anticipation of the 2023 EPSA's expiration, INEC joined the NEA's Luzon Electric Cooperatives Aggregation ("**LECA**") competitive selection process ("**CSP**") with the intention of securing a long-term PSA to meet the needs of its captive market.
8. On August 17 and 24, 2024, the NEA's Special Bids and Awards Committee ("**NEA-SBAC**") published the *Invitation to Bid* (the "**ITB**") for the LECA CSP. Under the ITB, the execution of PSAs was initially scheduled to take place from November 27 to 30, 2024. A copy of the ITB is attached as **Annex I**.
9. On September 4, 2024, the NEA-SBAC issued *Bid Bulletin No. 1*, which pushed back the execution of the LECA CSP PSAs to the period from December 16 to 20, 2024. A copy of Bid Bulletin No. 1 is attached as **Annex J**.
10. Because of the impending expiration of the 2023 EPSA, and pending the conduct of the LECA CSP, INEC began soliciting offers for emergency power to replace the 2023 EPSA beginning on September 16, 2024. GNPDP received INEC's request for proposal on September 17, 2024.
11. On September 30, 2024, INEC sent the NEA a letter with the subject, "*Notice Pursuant to Section 6 (c) of ERC Resolution No. 16, Series of 2023 (the 'ERC 2023 CSP Guidelines')*" (the "**FM/FE Notice**"), stating that (a) the 2023 EPSA is set to expire on October 13, 2024; and (b) the delay in the conduct of the LECA CSP was force majeure or a fortuitous event. A copy of the FM/FE Notice is attached as **Annex K**.
12. On October 14, 2024, the NEA-SBAC issued *Bid Bulletin No. 2*, further pushing back the execution of the LECA CSP PSAs to the period between January 31 to February 2, 2025. A copy of Bid Bulletin No. 2 is attached as **Annex L**.
13. On November 6, 2024, the NEA-SBAC issued *Bid Bulletin No. 4*, which reiterated that the execution of the LECA CSP PSAs would take place from January 31 to February 2, 2025. A copy of Bid Bulletin No. 4 is attached as **Annex M**.
14. On November 22, 2024, INEC determined that GNPDP's offer for the supply of emergency power was one of the most advantageous for its captive market. Upon GNPDP's selection, the Applicants immediately began negotiating the terms of the Subject EPSA.
15. On November 24, 2024, INEC sent GNPDP a letter of the same date, with the subject "*Commencement of Emergency Power Supply Agreement ('EPSA')*" (the "**Commencement Request**"), asking GNPDP to start implementing the Subject EPSA on November 26, 2024. A copy of the Commencement Request is attached as **Annex N**.
16. On November 25, 2024, (a) the Applicants signed the Subject EPSA, and (b) GNPDP sent INEC a letter of the same date, with the subject "*Commencement Date Notice*" (the "**CDN**"), notifying

INEC that, as requested, GNPD would start supplying power under the Subject EPSA on November 26, 2024. A copy of the CDN is attached as **Annex O**.

17. On November 26, 2024, the Applicants began the implementation of the Subject EPSA.

**The Salient Features of the Subject PSA**

18. The Subject EPSA contains the following salient provisions:

18.1. **Term and contracted capacity.** The Subject EPSA shall commence on the Operations Effective Date (i.e., November 26, 2024)<sup>3</sup> and shall expire on July 25, 2025, unless terminated earlier in accordance with the terms of the Subject EPSA.<sup>4</sup> The contracted capacity under the Subject EPSA is 26 MW.<sup>5</sup> Schedule 1, Section 1.3 of the Subject EPSA provides:

1.3 Term of Agreement

1.3.1 Effective Date: The date of execution of this Agreement.

1.3.2 Operations Effective Date: The date specified in the Commencement Date Notice.

1.3.3 Scheduled Termination Date: July 25, 2025.

18.2. **Contract price.** The Contract Price shall be composed of the Capacity Fee, Energy Fee, and Governmental Charges, computed as follows:<sup>6</sup>

Electricity Fees = A + B + C

Where:

A. Capacity Fee = ₱1,919/kW-~~mo~~ \* Contracted Capacity \* Adj

Contracted Capacity = 26,000 kW  
Adj = Adjustment due to Force Majeure computed as:

$$Adj = \sum_{j=1}^n \sum_{i=1}^{int} \frac{ACC_{ij}}{CC * Int * n}$$

Where:

~~ACC<sub>ij</sub>~~ = Contracted Capacity less affected capacity due to Force Majeure for interval ~~i~~ and day ~~j~~ within the Billing period ~~n~~

Int = The number of Trading Intervals per day

n = The number of days for the current Billing Period

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<sup>3</sup> See CDN (**Annex P**).  
<sup>4</sup> See Subject EPSA (**Annex A**), Article 2.1.  
<sup>5</sup> See Subject EPSA (**Annex A**), Schedule 1, Section 1.1.  
<sup>6</sup> See Subject EPSA (**Annex A**), Schedule 1, Section 1.2.

- B.

Energy Fee = means the component of the Contract Price allocated to pay for the fuel for the quantity sold from the Facility, including Governmental Charges, designated as the Energy Fee in Schedule 1 as adjusted from time to time due to changes in the delivered price of fuel and Governmental Charges.

The Energy Fee is computed as follows:

$$Energy\ Fee = IEF \times \left[ \frac{CIF_n}{CIF_0} \right] \times MAE \times FX_b \times FX_{af}$$

Where:

- IEF

- Initial Energy Fee equal to \$0.0370 / kWh
- ~~CIF<sub>n</sub>~~

- CIF Cost of Fuel for Billing Period *n*
- ~~CIF<sub>0</sub>~~

- Base CIF Cost of Fuel equal to \$11.5573 / million kcal
- MAE

- monthly actual energy, in kWh, or max (MEOT,AE)

Where:

$$MEOT = 60\% \times \text{Contracted Capacity} \times 24 \times \text{Billing Period in Days} \times Adj, \text{ in kWh}$$

$$AE = \text{actual energy delivered, in kWh}$$

- ~~FX<sub>c</sub>~~

- the Foreign Exchange rate of the Philippine Peso to the US Dollar as posted in the <https://bap.org.ph/> within three (3) Business Days prior to the invoice date, in P/USD.
- ~~FX<sub>af</sub>~~

- as defined below

If ~~FX<sub>c</sub>~~ is equal to or below P58.000/USD, ~~FX<sub>af</sub>~~ = 1

If ~~FX<sub>c</sub>~~ is higher than P58.000/USD, the ~~FX<sub>af</sub>~~ shall be calculated as follows:

$$FX_{af} = \frac{FX_c}{FX_b}$$

Where:

~~FX<sub>b</sub>~~ = P56.1526/USD

- C.

All existing and future taxes and imposts (including increases, or adjustments thereon and increases, or adjustments on existing taxes, fees and impositions on the Power Plant for the generation of electricity), in Philippine Pesos.

INEC’s Supply-Demand Scenario and Rate Impact Analysis

19.

Because of the expiration of the 2023 EPSA, INEC’s forecasted supply-demand scenario for the years 2024 and 2025 shows that INEC may experience a deficit of up to 54.41 MW if the Subject EPSA is not implemented. Even if the Subject EPSA is implemented and GNPD supplies INEC with 26 MW of emergency power, INEC still expects to experience a deficit of up to 28.41 MW within the Subject EPSA’s term. Hence, there is an urgent need for INEC to procure emergency power. A copy of INEC’s supply-demand scenario for the years 2024 and 2025 is attached as **Annex B**.

20. With the implementation of the Subject EPSA, INEC expects its blended generation rate to decrease by ₱0.0701 per kilowatt-hour (“*kWh*”). The indicative rate impact on INEC’s overall generation rate with and without the supply from the Subject EPSA are as follows:

| Without the Subject EPSA                            |              |
|---|--------------|
| Supplier  | Rate (₱/kWh) |
| Masinloc Power Co. Ltd. (“ <i>MPCL</i> ”)           | 5.9058       |
| Wholesale Electricity Spot Market (“ <i>WESM</i> ”) | 6.1815       |
| Generation Rate                                     | 5.9892       |

  

| With the Subject EPSA                        |              |
|--|--------------|
| Supplier                                     | Rate (₱/kWh) |
| GNPD ( <i>i.e.</i> , under the Subject EPSA) | 5.8307       |
| MPCL   | 5.9792       |
| WESM   | 6.1815       |
| Blended Generation Rate                      | 5.9191       |

A copy of INEC’s rate impact analysis is attached as **Annex G**.

21. In support of this Joint Application, copies of the following documents are attached as annexes:

| Description of Document  | Annex |
|--|-------|
| The Subject EPSA   | A     |
| An executive summary of the Subject EPSA                                       | A-1   |
| INEC’s supply-demand scenario  | B     |
| INEC’s Distribution Development Plan (DDP)                                     | B-1   |
| INEC’s Power Supply Procurement Plan (PSPP)                                    | B-2   |
| GNPD’s Financial model*  | C     |
| GNPD’s Generation Rate and Derivation*   | D     |
| GNPD’s <i>Sworn Statement</i> dated November 23, 2023 (Coal Supply Agreement)* | E     |
| Relevant technical and economic characteristics of GNPD                        | F     |
| INEC’s rate impact analysis  | G     |
| 2023 GNPD-INEC EPSA  | H     |
| The ITB  | I     |
| NEA-SBAC’s Bid Bulletin No. 1  | J     |
| INEC’s FM/FE Notice  | K     |
| NEA-SBAC’s Bid Bulletin No. 2  | L     |
| NEA-SBAC’s Bid Bulletin No. 4  | M     |
| INEC’s Commencement Request  | N     |
| GNPD’s CDN   | O     |

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

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

22. Section 1, Rule 4 of the *Revised Rules of Practice and Procedure of the Energy Regulatory Commission* (“**Revised ERC Rules**”)

provides that a party to any proceeding before this Honorable Commission may request that documents and/or information in this Honorable Commission's possession be treated as confidential and not be disclosed.

23. In line with this, GNPD prays that **Annexes C, D, and E** (collectively, the "**Confidential Documents**") and the information contained therein be treated as confidential and not be disclosed to any persons other than the officers and staff of this Honorable Commission.
24. The Confidential Documents contain information and data involving GNPD's power rate calculations and financial model, as well as how these were derived. They are not generally available to the public, are proprietary, privileged, and confidential in nature, and should be protected as trade secrets. In *Air Philippines Corporation vs. Pennswell, Inc.*,<sup>7</sup> the Supreme Court held that:

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.** The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information "in confidence" or through a "confidential relationship." American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:

- (1) the extent to which the information is known outside of the employer's business;
- (2) the extent to which the information is known by employees and others involved in the business;
- (3) the extent of measures taken by the employer to guard the secrecy of the information;
- (4) the value of the information to the employer and to competitors;

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<sup>7</sup> G.R. No. 172835, December 13, 2007.

(5) the amount of effort or money expended by the company in developing the information; and

(6) the extent to which the information could be easily or readily obtained through an independent source.<sup>8</sup>

25. In the *Decision* in ERC Case No. 2015-111 RC dated May 30, 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)*, this Honorable Commission categorically stated that formulas and pricing structures of a generation company must be treated as confidential and may not be publicly disclosed:

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. 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.**<sup>9</sup>

26. Thus, this Honorable Commission has recognized the importance of maintaining pricing structures as confidential to ensure the competitiveness of the generation sector. Such information, which falls within the definition of a trade secret as defined by jurisprudence, is clearly information that merits the confidential treatment provided for under Rule 4 of the Revised ERC Rules.
27. The interest of the consuming public is sufficiently protected by the review and evaluation of the rates of the Subject EPSA by this Honorable Commission, without the need to disclose the contents of Confidential Documents. The reasonableness and transparency of the prices of electricity is to be assured by this Honorable Commission through its own review and verification of GNPDP's operating costs and expenses.
28. Further, if the Confidential Documents and the information contained therein are leaked to GNPDP's competitors, they will gain undue advantage and could use such information and documents in their operations. Furthermore, the negotiating power of GNPDP with parties it plans to contract with or with

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<sup>8</sup> *Emphasis and underscoring supplied.*

<sup>9</sup> *Emphasis supplied.*



whom it is currently doing business, will be impeded if it is compelled to disclose such information.

29. Accordingly, one (1) copy each of the Confidential Documents is placed in a sealed envelope, with the said envelope and each page of the documents stamped with the word “*Confidential*.”

**PRAYER**

**WHEREFORE**, the Applicants respectfully pray that this Honorable Commission:

(a) ISSUE an Order –

- (i) GRANTING the Motion for Confidential Treatment of Information and DECLARING as confidential the information contained in the Confidential Documents (**Annexes C, D, and E**);
- (ii) DIRECTING the NON-DISCLOSURE of the Confidential Documents to persons other than the officers and staff of this Honorable Commission;
- (iii) continuously PROTECTING the information contained in the Confidential Documents from public disclosure by maintaining the same separate and apart from the records of the case; and
- (iv) ensuring that these are NOT DIVULGED to unauthorized persons, pursuant to Rule 4 of the Revised ERC Rules; and

(b) ISSUE a Decision GRANTING the Joint Application and APPROVING the Subject EPSA, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the Subject EPSA, and authorizing INEC to charge and collect the fees therein from its customers reckoned from the start of power supply by GNPDP to INEC under the Subject EPSA.

The Applicants also pray for such other reliefs just and equitable under the circumstances.

The Commission hereby sets the instant *Application* 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>10</sup> and

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<sup>10</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

Resolution No. 01, Series of 2021<sup>11</sup> (ERC Revised Rules of Practice and Procedure):

| Date  | Platform                           | Activity   |
|---|------------------------------------|--|
| <b>20 May 2025</b><br>(Tuesday)<br>at nine o'clock in the morning (9:00 AM) | <b>Microsoft Teams Application</b> | Determination of compliance with the jurisdictional requirements and Expository Presentation |
| <b>27 May 2025</b><br>(Tuesday)<br>at nine o'clock in the morning (9:00 AM) |                                    | Pre-Trial Conference and Presentation of Evidence  |

Accordingly, GNPD and INEC are hereby directed to mirror the virtual hearings hosted by the Commission at **Barangay Suyo, Municipality of Dingras, Province of Ilocos Norte** as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, GNPD and INEC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications at **least one (1) calendar day** prior to the scheduled initial virtual hearing, 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 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.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [docket@erc.ph](mailto:docket@erc.ph), and copy furnishing the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene at **least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

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<sup>11</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at [docket@erc.ph](mailto:docket@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon at **least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **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.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

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Finally, all interested persons may be allowed to join the scheduled initial virtual hearings by providing the Commission, thru [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

**WITNESS**, the Honorable Chairperson and CEO **MONALISA C. DIMALANTA** and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 8<sup>th</sup> day of April 2025 in Pasig City.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ATTY. KRISHA MARIE T. BUELA**  
*Director III, Legal Service*



LS: JPM