

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE
MEMORANDUM OF
AGREEMENT BETWEEN
MANILA ELECTRIC
COMPANY (MERALCO) AND
MONTALBAN METHANE
POWER CORPORATION
(MMPC), WITH PRAYER
FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2016 - 142 RC

**MANILA ELECTRIC
COMPANY (MERALCO) AND
MONTALBAN METANE
POWER CORPORATION
(MMPC),**

Applicants.

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DOCKETED
Date: **SEP 22 2016**
By: *(Signature)*

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 June 2016, Applicants Manila Electric Company (MERALCO) and Montalban Methane Power Corporation (MMPC), filed a *Joint Application* for approval of their Memorandum of Agreement (MOA) dated 10 March 2016, with prayer for provisional issuance

In the said Application, MERALCO and MMPC alleged the following:

1. MERALCO is a private corporation existing under the laws of the Republic of the Philippines, with principal office located at Lopez Building, Meralco Center, Ortigas Avenue, Pasig City. It may be served with notices and other processes of this Honorable Commission at its principal office address or 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.
3. Montalban Methane Power Corporation (MMPC) is a corporation duly organized and existing under the laws of the Philippines. It owns and operates the Montalban Methane Power Plant ("Power Plant"), powered by the methane extracted from the Montalban Landfill, located at Montalban, Rizal.
4. On 13 May 2009, MERALCO filed an Application with the ERC, docketed as ERC Case No. 2009 - 27 RC¹, for approval of its Contract for the Supply of Electricity (CSE) dated 03 April 2009 with MMPC which the Honorable Commission approved, albeit with modification, in its Decision dated 03 December 2012.
5. In the Letter Agreement dated 06 June 2013, MERALCO and MMPC agreed to: (i) extend the CSE for three (3) months from 11 June 2013, or until 11 September 2013; and (ii) automatically renew said CSE for a series of three (3) month terms, unless MMPC notifies MERALCO in writing no later than thirty (30) days before the lapse of each three (3)-month term that it is no longer willing to extend the CSE².

¹ Entitled "*In the Matter of the Application for Approval of the Contract for the Supply of Electricity between Montalban Methane Power Corporation (MMPC) and Manila Electric Company (MERALCO), with Prayer for Provisional Authority*".

² In its Manifestation with Motion dated 10 June 2013, MERALCO sought the approval of said Letter Agreement by the Honorable Commission. To date, the Honorable Commission has yet to resolve said Manifestation with Motion.

6. Thereafter, MMPC informed MERALCO of its intention to terminate the CSE as it intends to register in the Wholesale Electricity Spot Market (WESM) and participate in the Feed-in-Tariff (FIT) Program.
7. Consequently, in a Letter Agreement dated 21 January 2015, MMPC and MERALCO agreed to terminate the CSE effective 26 January 2015³.
8. However, despite the termination of the CSE, MMPC was still able to generate and inject energy to the distribution system of MERALCO.
9. In its letter dated 09 June 2015 to the Honorable Commission, MMPC sought the Honorable Commission's assistance to, among other things, recover reasonable charges for the energy that was generated and injected by MMPC to the distribution system of MERALCO.
10. On 01 July 2015, a conference was held by the Honorable Commission, attended by MERALCO, MMPC and the Philippine Electricity Market Corporation (PEMC) to address the concerns raised in MMPC's letter dated 09 June 2015.
11. In its letter dated 20 July 2015 to MERALCO, MMPC and PEMC, the Honorable Commission laid down the matters that were taken up during the 01 July 2015 conference with said parties. With respect to the issue on the energy generated and injected by MMPC to the distribution system of MERALCO, the Honorable Commission made the following directive:

“4. On the unpaid dispatched generation of MMPC from 26 January 2016, which was the termination date of the Contract for the Sale of Electricity with MERALCO

It was suggested that MERALCO and MMPC discuss and agree on the possible mechanism for the compensation of energy generated and injected by MMPC for the **period between 26 January 2015, when (the) Contract for the Sale of Electricity**

³ In its Manifestation with Motion dated 30 March 2015, MERALCO sought the ERC's approval of the Extension and Automatic Renewal of the CSE until 25 January 2015. To date, the Honorable Commission has yet to resolve said Manifestation with Motion.

between MERALCO and MMPC was terminated, and 15 June 2015, which is the date of effectivity of the Feed-in-Tariff Certificate of Compliance of MMPC. This compensation will be paid on a collect-and-remit basis, subject to approval by the ERC. MERALCO will not be made to advance payment of such compensation or portion thereof to MMPC pending collection of the amounts due from consumers, as may be approved by the ERC." (Emphases supplied)

12. Pursuant to the directive of the Honorable Commission, and after extensive discussions, MERALCO and MMPC, on 10 March 2016, entered into a Memorandum of Agreement (MOA) covering the payment for the energy generated and injected by MMPC to the distribution system of MERALCO for the period 26 January 2015 to 15 June 2015.
13. The payment for the energy generated and injected by MMPC to distribution system of MERALCO is a pass-through charge to MERALCO which will have an impact on MERALCO's "retail rate" to its customers as defined under Section 4 (ss) of Republic Act 9136⁴. Notably, MERALCO's "retail rate" is regulated by the Honorable Commission as provided in Section 25 of the same Act, thus:

"SEC.25. Retail Rate. – The retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that will promote efficiency as may be determined by the ERC. xxx"

⁴ "Retail Rate" refers to the total price paid by end-users consisting of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service;" (Emphases supplied)

14. Hence, the instant Application. The MOA between MERALCO and MMPC, a copy of which is attached as ANNEX "A" and made an integral part hereof, contains the following salient features:

"xxx

Section 2. The rate to be followed for the computation of the energy injected into MERALCO's distribution system for the period 26 January 2015 to 14 June 2015 shall be the ERC-approved NPC Basic Time-of-Use (TOU) Rates for the Luzon Grid, excluding other adjustments such as the Franchise and Benefits to Host Communities (FBHC) charge, and the Generation Rate Adjustment Mechanism (GRAM) and Incremental Currency Exchange Rate Adjustment (ICERA) charges.

Section 3. The compensation shall be for 2,651,494 kWh⁵ amounting to Php12,381,627.20. The same shall be paid to MMPC only upon collection by MERALCO from the customers under a collect-and-remittance scheme and under such terms and conditions as may be approved by the Energy Regulatory Commission (ERC).

xxx"

15. MERALCO proposes to recover from its customers, and correspondingly remit to MMPC, the amount of **Php12,381,627.20** at the rate of **Php0.005 per kWh** for **one (1) month** following approval of this Application. The parties believe that a 1-month period of recovery is reasonable as the amount to be recovered is only minimal, thus, it has negligible impact to the customers.
16. In support of this Application, the Judicial Affidavit of **Mr. CIPRINILO C. MENESES**, Head of Applicant's Energy Sourcing Office, is attached as ANNEX "B".

⁵ kWh as delivered/metered.

PRAYER

WHEREFORE, premises considered, MERALCO and MMPC respectfully pray that:

- 1.) The MOA between MERALCO and MMPC be **APPROVED** by the Honorable Commission;
- 2.) MERALCO be allowed to **COLLECT** from its customers the amount of **Php12,381,627.20** at the rate of **Php0.005 per kWh** for **one (1) month** following approval of this Application; and
- 3.) MERALCO be allowed to **REMIT** to MMPC the amount of **Php12,381,627.20** it collected from its customers.

The Commission has set the said Application for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference, and presentation of evidence on **07 November 2016 at two o'clock in the afternoon (2:00 p.m.)**, at the **ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City**.

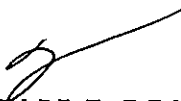
All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating:


- (1) the petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the Application and or comment thereon at any stage of the proceeding before the Applicants conclude the presentation of their evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who wish to have a copy of the *Joint Application* may request the Applicants, prior to the date of the initial hearing, that they be furnished with a copy of the Joint Application. The Applicants are hereby directed to furnish all those making a request with copies of the Joint Application and its attachments, subject to reimbursement of reasonable photocopying costs. Any such person may likewise examine the Application and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairman **JOSE VICENTE B. SALAZAR** and the Honorable Commissioners **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 30th day of August 2016 in Pasig City.


ATTY. NATHAN J. MARASIGAN
Chief of Staff
Office of the Chairman and CEO


LS: GLS/APV