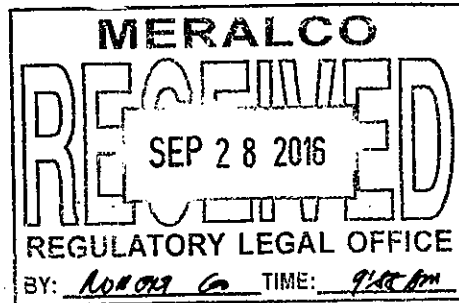


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE POWER
SUPPLY AGREEMENT
(PSA) BETWEEN MANILA
ELECTRIC COMPANY
(MERALCO) AND
ATIMONAN ONE ENERGY,
INC. (A1E), WITH MOTION
FOR CONFIDENTIAL
TREATMENT OF
INFORMATION**



ERC CASE NO. 2016 – 092 RC

**MANILA ELECTRIC
COMPANY (MERALCO)
AND ATIMONAN ONE
ENERGY, INC. (A1E),
Applicants.**

X-----X

D O C K E T E D
Date: **SEP. 27 2016**
By: _____

ORDER

On 29 April 2016, Applicants Manila Electric Company (MERALCO) and Atimonan One Energy, Inc. (A1E), filed a *Joint Application with Motion for Confidential Treatment of Information* dated 28 April 2016 for approval of their Power Supply of Agreement (PSA) dated 26 April 2016.

In the said Application, MERALCO and A1E alleged the following:

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

A handwritten signature in black ink, appearing to be a stylized name, located at the bottom right of the page.

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 and 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 this Honorable Commission.
3. Applicant A1E is a corporation duly organized and existing under the laws of the Republic of the Philippines, with its office address at 8th Floor, Tower 1, Rockwell Business Center, Ortigas Avenue, Pasig City, Metro Manila. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.
4. A1E shall construct, own, operate, manage and maintain a 2 x 600 MW (net) supercritical coal-fired power generating facility in the Municipality of Atimonan, Quezon (the "Plant"), on the island of Luzon in the Philippines.
5. Based on MERALCO's Distribution Development Plan, "from 2015 to 2024, energy sales is forecasted to grow by a compounded average growth rate of 3.7%."
6. In order to ensure continuous and reliable electricity for MERALCO's customers with the expected continuous increase in demand and load growth, and mitigate exposure to the Wholesale Electricity Spot Market ("WESM"), there is a need for MERALCO to source additional 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, following extensive negotiations, on 26 April 2016, MERALCO executed a Power Supply Agreement ("PSA") with A1E, for the purchase of 1,200 MW Contract Capacity and Associated Energy from the Plant that A1E shall construct, own, operate, manage and maintain.
9. The PSA, a copy of which is attached as ANNEX "A" and made an integral part hereof, contains the following salient features:



“2.2 Term of Agreement

2.1.1 [sic] Subject to Article 3, this Agreement shall become effective on the Effective Date.

2.1.1.1 [sic] The term of this Agreement (the “Term”) shall commence on the Commercial Operations Date (Unit 1), and shall expire on the date falling twenty (20) years and six (6) months thereafter xxx xxx

xxx

3.2 Commencement Date

3.2.1 The “Commencement Date” shall occur upon the satisfaction of the conditions below:

- (a) The conditions set out in Section 3.1.1 have been fulfilled;
- (b) Each Party has delivered to the other Party a certification dated no earlier than two (2) Days prior to the proposed Commencement Date to the effect that its representations and warranties contained herein shall be true and correct in all material respects on and as of the Commencement Date;
- (c) On or before the Longstop Date, (i) the ERC shall have issued an ERC Final Approval, including the pricing structure as set out herein (or as otherwise acceptable to Power Supplier), and (ii) the Acceptance Date has occurred; and
- (d) Financial Close shall have occurred.

Power Supplier shall deliver written notice to Meralco of the satisfaction of these conditions and Meralco shall confirm in writing the occurrence of the Commencement Date.



- 3.2.2 Power Supplier covenants to achieve Financial Close within ninety (90) Days from the Acceptance Date (the "Required Financial Completion Date").

xxx.

3.3 Commercial Operations Date

- 3.3.1 Power Supplier covenants that the Plant shall achieve Commercial Operations Date fifty-eight (58) months from the Commencement Date for Unit 1 (the "Scheduled Commercial Operations Date (Unit 1)") and six (6) months thereafter for Unit 2 (the "Scheduled Commercial Operations Date (Unit 2)").

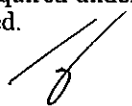
- 3.3.2 The Plant shall achieve Commercial Operations Date for each Unit of the Plant upon the delivery of the Power Supplier of the documents enumerated below, in form and substance satisfactory to Meralco:¹

xxx

3.4 Early Occurrence of the Commercial Operations Date

- 3.4.1 In the event that Power Supplier anticipates that the Plant shall achieve Commercial Operations Date prior to the Scheduled Commercial Operations Date ("Early Commercial Operations Date"), Power Supplier shall promptly deliver to Meralco written notice (the "Early COD Notice") of such anticipated Early Commercial Operations Date, indicating the anticipated date thereof, at least three (3) months prior to the then anticipated date of the Early Commercial Operations Date.

¹ With respect to Commercial Operations Date of Unit 1 and Unit 2:

- (a) Capacity Test Certificate xxx;
 - (b) a Net Plant Heat Rate Test Certificate xxx;
 - (c) all permits, licenses, authorizations and other approvals from all Government Instrumentalities and third parties needed for the operation Meralco, xxx;
 - (d) a Commercial Operations Date Certificate; and
 - (e) Power Supplier Certification that the insurances required under this Agreement relevant for at least the first Contract Year have been obtained.
- 

3.4.2 Upon receipt of such Early COD Notice, Meralco shall, by written notice to Power Supplier, choose between the following options:

- (a) Consider that the Scheduled Commercial Operations Date shall occur on the Early Commercial Operations Date or on such other date as the Parties may agree; or
- (b) Elect to have Power Supplier deliver, on a non-firm basis during the Interim Supply Period and until the occurrence of the Scheduled Commercial Operations Date, such portion of the Contract Capacity and Associated Energy required by Meralco, for which it shall pay the Non-Firm Price.

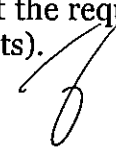
6.1 Supply of Power

Subject to the terms and conditions of this Agreement:

6.1.1 From the Commercial Operations Date for each Unit 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, 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 Appendix B (Technical Limits).



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


xxx

Article 9 Outages

9.1 Outage Allowances and Replacement Power

9.1.1 After Commercial Operations Date, Power Supplier shall be allowed Scheduled Outages of thirty (30) Full Load Equivalent Outage Days ("Full Load Equivalent Scheduled Outage Allowance Days") and Forced Outages of fifteen (15) Full Load Equivalent Outage Days ("Full Load Equivalent Forced Outage Allowance Days") each Contract Year; provided that no more than four (4) times during the Term, Power Supplier shall be entitled to an additional twenty (20) Full Load Equivalent Outage Days to undertake major repair, overhaul and maintenance of the Plant not more frequent than once every four (4) years ("Full Load Equivalent Major Maintenance Outage Allowance Days"); provided further that the first Major Maintenance Outage shall occur no earlier than the fourth (4th) year after Commercial Operations Date, and the Major Maintenance Outage of Unit 1 and Unit 2 shall not occur at the same time.

9.1.2 During Scheduled Outages within the Full Load Equivalent Scheduled Outage Allowance Days, Forced Outages within the Full Load Equivalent Forced Outage Allowance Days, and Major Maintenance Outages within the Full Load Equivalent Major Maintenance Outage Allowance Days, Meralco shall procure Replacement Power from the WESM and Power Supplier shall not bill Meralco for these quantities; provided that, upon service of a written notice to Meralco no later than ninety (90) Days prior to a Scheduled Outage or Major Maintenance Outage, Power Supplier shall have the option to purchase Replacement Power during Scheduled Outages within the Full Load Equivalent Scheduled Outage Allowance Days



and Major Maintenance Outages within the Full Load Equivalent Major Maintenance Outage Allowance Days, which Replacement Power shall be declared as BCQ and paid by Meralco at five percent (5%) lower than the Price ("Replacement Power Price").

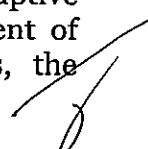
xxx

Article 10 Assignment or Transfer of Contract Capacity

- 10.1 Meralco shall, also be entitled to assign, transfer, designate, delegate or allocate (collectively in this context, "Transfer") its rights and obligations to purchase a portion of Contract Capacity and Associated Energy that is no longer required by Meralco to any of its business segments or wholly-owned Affiliates without the prior consent of the Power Supplier.

Meralco shall also be entitled to Transfer its rights and obligations to purchase a portion of Contract Capacity and Associated Energy that is no longer required by Meralco to any other Person, subject to the consent of Power Supplier, which consent shall not be unreasonably withheld, delayed or conditioned, it being understood that withholding consent would not be considered unreasonable if the proposed Transfer would be contrary to the reasonable requirements of Finance Parties under the Finance Documents, as evidenced by a written confirmation by the relevant Finance Parties. xxx

10.3 Reduction in Contract Capacity and Associated Energy

- 10.3.1 Subject to the provisions of Section 10.3.2 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 by reason of the enforcement of Retail Competition and Open Access, the
- 

Renewable Energy Law and other Laws and
Legal Requirements.

- 10.3.2 Meralco shall give a written notice to the Power Supplier of such reduction at least five (5) Days prior to the first Day of the next Billing Period. 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.

xxx

Article 11 Billing and Payment

xxx

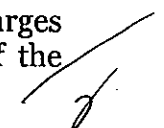
11.2 Payments

- 11.2.1 Meralco shall pay the entire amount indicated in the Final Invoice (subject to Appendix I) when due and payable, provided that Meralco shall not be required to make payment on any Invoice that is manifestly in error, apparently invalid or not in the form or substance contemplated by this Agreement until the same has been corrected following prompt notice by Meralco to Power Supplier of such error, invalidity or absence of proper form or substance.

xxx

Article 12 Taxes, Fees and Costs

12.2 Charges Due to Change in Circumstances

- 12.2.1 If as a result of a Change in Circumstances, Meralco becomes liable to pay any new charges, fees, taxes, duties, assessments or other similar amounts ("New Charges"), or any increase in existing charges, fees, taxes, duties, assessments or other similar amounts ("Increased Charges") becomes payable with respect to this Agreement, the New Charges or Increased Charges shall form part of the
- 

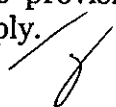
Price that Meralco will charge to its customers.

12.2.2 In the event that, as a result of a Change in Circumstances and pursuant to a corresponding order of the ERC or any relevant Government Instrumentality:

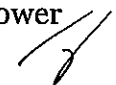
(a) Meralco is prevented from making a timely pass through to its customers of any charges under this Agreement as approved by the ERC in the ERC Final Approval as accepted by Power Supplier (such amounts referred to hereinafter as "Disallowed Pass-Through Amounts");

or

(b) any portion of the Price that has been paid to Power Supplier is required to be refunded to Meralco or Meralco's customers in connection with the ERC Application or any petition, claim, case, proceeding or other action involving any of the Parties brought before any judicial, administrative or quasi-judicial body (such portion of the Price referred to hereinafter as "Refundable Amounts"), the Parties shall enter into good faith negotiations to agree on a satisfactory solution regarding the amendment of this Agreement to restore Meralco's commercial position prior to such Change in Circumstances, including an adjustment of the Price; provided that in the case of Section 12.2.2(b), Power Supplier shall refund all Refundable Amounts to Meralco or Meralco's customers in the manner and within the period as required by the ERC or any other relevant Government Instrumentality (as applicable). If the Parties fail to reach a mutually satisfactory resolution within sixty (60) Days from the commencement of negotiations, the provisions of Section 18.6.6(a) will apply.



12.2.3 If as a result of a Change in Circumstances affecting Power Supplier, Power Supplier becomes liable to pay any New Charges or any Increased Charges with respect to this Agreement, or Power Supplier is no longer able to require payment from Meralco for Disallowed Pass-Through Amounts, or Power Supplier is required to refund Refundable Amounts, or a Change in Circumstances materially increases the operating costs or capital expenditures associated with the Plant or materially and adversely affects its performance of its obligations under this Agreement, adversely affects the sale by Power Supplier of Contract Capacity and Associated Energy in accordance with this Agreement, makes the Power Supplier's administration or operational aspects of such performance materially more burdensome (whether made at the direction of any Governmental Instrumentality or otherwise) or causes serious damage to, or materially and adversely affects the financial condition of Power Supplier, Power Supplier shall send a notice to Meralco of the occurrence of such Change in Circumstances ("Notice of Change in Circumstances") together with an analysis of the cost impact of such Change in Circumstances and Meralco shall file the necessary application with the ERC for the adjustment of the Price ("Application for Price Adjustment") within thirty (30) Days from receipt of the Notice of Change in Circumstances; provided that, Meralco shall not be liable to pay any adjustment in the Price from the time the Change in Circumstances becomes effective until the ERC approves the Application for Price Adjustment ("Interim Period"); and provided, further, that New Charges or Increased Charges for which the Power Supplier sends a Notice of Change in Circumstances in accordance with this Section 12.2.3 shall not include charges, fees, taxes, duties or other similar amounts relating to (i) taxes on the income of Power



Supplier, (ii) taxes on the real property owned, held by or in possession of Power Supplier, and (iii) business taxes on the operations of Power Supplier.

12.2.4 In the event that:

- (a) Meralco is unable to file an Application for Price Adjustment within thirty (30) Days from receipt of the Notice of Change in Circumstances, or
- (b) the ERC denies, in whole or in part, the Application for Price Adjustment, or
- (c) if no order is issued granting the Application for Price Adjustment within sixteen (16) months from receipt of the Notice of Change in Circumstances, or
- (d) the total amount of unreimbursed New Charges, Increased Charges, Disallowed Pass-Through Amounts that Power Supplier is unable to collect from Meralco, and the Refundable Amounts actually refunded by Power Supplier, accumulated during the Interim Periods for all Change in Circumstances events occurring for the entire Term ("Unreimbursed New or Increased Charges and Refundable Amounts") exceeds the equivalent of two percent (2%) of the Capacity Payments for one (1) Contract Year ("Threshold Level 1"), the Parties shall enter into good faith negotiations to agree on a satisfactory solution regarding the amendment of this Agreement to restore Power Supplier's commercial position prior to such Change in Circumstance, including an adjustment of the Price. If the Parties fail to reach a mutually satisfactory resolution within sixty (60) Days from the commencement of negotiations, the Power Supplier shall be entitled to terminate this Agreement in accordance with the provisions of Section 18.6.6(b).

Article 14 **Covenants**

XXX

14.3 ERC Approval

- 14.3.1 Subject to the non-occurrence of the Longstop Date, upon receipt of the ERC Final Approval, Meralco shall provide a copy of such ERC Final Approval to Power Supplier. Power Supplier shall have ten (10) Days from the date of receipt from MERALCO of such ERC Final Approval to notify Meralco in writing that (i) it accepts such ERC Final Approval or (ii) it does not accept the ERC Final Approval, stating the grounds for non-acceptance.
- 14.3.2 In case of Power Supplier's non-acceptance, Power Supplier shall be free to file with the ERC a motion for reconsideration. Any order on a motion for reconsideration shall be treated as an ERC Final Approval for purposes of the processes under this Section 14.3.
- 14.3.3 Following (i) a written notice of acceptance from Power Supplier with respect to the ERC Final Approval (including upon reconsideration under Section 14.3.2 above), or (ii) the lapse of the period referred to in Section 14.3.1 without Power Supplier communicating its acceptance or non-acceptance in writing, the acceptance date shall be considered as having occurred on the date of the written notice of acceptance or on the last Day of such period, as applicable ("Acceptance Date"), provided, in each case, that Meralco has not filed any motion for reconsideration or appeal subsequent to the Power Supplier's acceptance of such ERC Final Approval and the Longstop Date has not occurred.

XXX

Article 17 **Force Majeure** 

xxx.

17.5 Effect of Extended Force Majeure

If any Event of Force Majeure prevents Power Supplier from making available the Contract Capacity or delivering the Associated Energy, or Meralco from accepting Contract Capacity or Associated Energy, in each case for a continuous period of more than one hundred eighty (180) Days, then either Party may upon written notice, require the other Party to meet as soon as practicable to reasonably discuss any modification, change or amendment of this Agreement under such reasonable terms, to the extent necessary to resolve the issues arising from the Event of Force Majeure and maintain, to the extent feasible, the rights and obligations of the Parties under this Agreement.

If the Parties do not reach such satisfactory solution prior to the end of such one hundred eighty (180) Day period, or such other time as may be agreed upon, either Party may terminate this Agreement in accordance with Section 18.6.5.

xxx

Article 18 **Events of Default and Termination**

18.1 Power Supplier Events of Default

Each of the events described below shall constitute a "Power Supplier Event of Default", provided that such event (with the exception of Section 18.1(e)) results in or is accompanied by an actual failure by Power Supplier to make Available the Contract Capacity and/or deliver the Associated Energy of Meralco in accordance with this Agreement:

xxx

If, within one hundred eighty (180) Days after receipt from Meralco of written notice of Power Supplier Event of Default by Power Supplier (the

“Curing Period”), Power Supplier Event of Default has not been remedied by Power Supplier, Meralco may, subject to a Direct Agreement, terminate this Agreement and pursue any remedy available to it under this Agreement, at law or in equity.

18.2 Meralco Events of Default

Each of the events described below shall constitute a “Meralco Event of Default”, provided that such event (with the exception of Section 18.2(e)) results in or is accompanied by an actual failure by Meralco to receive, and pay for, the Contract Capacity and Associated Energy in accordance with this Agreement:

xxx

If, within one hundred eighty (180) Days after receipt from Power Supplier of written notice of Meralco Event of Default by Meralco (the “Curing Period”), Meralco Event of Default has not been remedied by Meralco, Power Supplier may, subject to a Direct Agreement, terminate this Agreement and pursue any remedy available to it under this Agreement, at law or in equity.

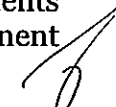
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10. The Payment Structure, as provided in Appendix E of the PSA is as follows:

xxx

D. PAYMENT UPON COMMERCIAL OPERATIONS DATE

The payment to be made in each Billing Period during the Term for Contract Capacity and Associated Energy shall consist of a Capacity Payment, Energy Payment, Interconnection Facilities Payment, and Reimbursable Cost Payment. The Capacity Payment consists of Component A (MCP), and Component B (MFOM), and the Energy Payments consists of Component C (MFP), Component D (MVOM), and Component E (MEEP). Other payments consist of Component F (MIFP), and Component



G Reimbursable Cost Payment (RCP). Thus, the Monthly Power Bill ("MPB") payment for Contract Capacity and Associated Energy for each Billing Period shall be equal to:

$$MPB = MCP + MFOM + MFP + MVOM + MEEP + MIFP + RCP$$

The MPB is exclusive of the applicable Value Added Tax."

11. Given the foregoing, a sample calculation of the base contract price under the PSA, given a certain set of assumptions, results in an annual effective rate of PHP3.7587 per kWh (at plant gate), as shown in the sample calculation below:

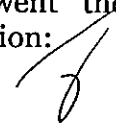
A1E PSA - Rate Impact
 (YEAR 2021)

BILLING COMPONENT	UNIT	BASE RATE ^[1]	CPI Adj Factor ^[2]	BILLING DETERMINANT ^[3]	AMOUNT (PHP)
A. Capacity Payment (MCP)					
Peso Portion	(Php/kw-yr) ^[4]	14,486.0000		1,200,000 (kW)	17,383,200,000.00
B. Fixed O&M Payment (MFOM)					
US Dollar Portion	(USD/kw-yr) ^[4]	30.3644	1.000000	1,200,000 (kW)	1,678,665,489.60
Peso Portion	(Php/kw-yr) ^[4]	1,594.3749	1.000000	1,200,000 (kW)	1,913,249,880.00
C. Fuel Payment (MFP)					
US Dollar Portion	(USD/kWh) ^[4]	0.0207		8,409,600,000 (kWh)	8,011,098,700.79
D. Variable O&M Payment (MVOM)					
Peso Portion	(Php/kWh)	0.1114	1.000000	8,409,600,000 (kWh)	936,829,440.00
E. Excess Energy Payment (MEEP)					
Peso Portion	(Php/kWh)			(kWh)	
F. Interconnection Facilities Payment (MIFP)					
Capital Recovery	(Php/kw-yr) ^[4]	204.0530		1,200,000 (kW)	244,863,600.00
Fixed O&M	(Php/kw-yr) ^[4]	10.5123	1.000000	1,200,000 (kW)	12,614,760.00
G. Reimbursable Cost Payment (RCP) ^[4]					1,428,791,040.00
TOTAL PAYMENT	(Php)				31,609,312,910.39
Effective Rate at Plant Gate	(Php/kWh)				3.7587
WESM Line Rental Rate^[4]	(Php/kWh)				0.0910
Delivered Rate	(Php/kWh)				3.8498
Effective Cost at WESM Price^[5]	(Php/kWh)				7.0640
Increase / (Decrease) over WESM Price	(Php/kWh)				(3.2143)
Meralco Captive Energy Demand^[6]	(kWh)				34,658,621,088
Increase / (Decrease) in Generation Cost	(Php)				(27,030,635,881.69)
Increase / (Decrease) in Generation Cost	(Php/kWh)				(0.7799)

NOTE:

- ^[1] Base Rates as set forth in Schedule 1 of Appendix E of the PSA
^[2] Annual Capacity Rate, Annual Fixed O&M Rate, and Annual Interconnection Facilities Rate are converted into monthly rates by applying the formulas shown in Appendix E of the PSA
^[3] Fuel Payment calculated based on Guaranteed Net Plant Heat Rate at 91.25% plant load factor, Newcastle Index + USD 50.38/MT, Freight Price = USD 5.90/MT, and Forex rate at PHP 46.07/USD (current prices as of Mar 2016)
^[4] Reimbursable Payments (pass through costs) based on estimated taxes
^[5] Assumed estimated A1E line rental rate
^[6] Cost if equivalent volume of A1E was sourced from the WESM based on forecast average Jan - Dec 2021 hourly prices
^[7] Meralco Captive Energy Demand based on 2021 forecast
^[8] Assumed no CPI escalation
^[9] Energy Payments based on 80.00% plant capacity factor

12. As seen in the rate impact above, given the above assumptions, the simulated delivered price under the PSA would result in the reduction of MERALCO's generation charge by about PhP0.7799 per kWh.
13. Notably, the Plant offers greater reliability compared to existing plants that are past their expected plant life, at a price competitively at par with the rates of the existing plants despite its newness.
14. It bears emphasis that there is an urgent need for the final approval of the PSA considering the requirement of lenders for the Honorable Commission's final approval of the PSA prior to financial closure. Only thereafter can A1E commence construction of the Plant to meet the target Commercial Operations Date and allow for delivery of MERALCO's needed capacity and associated energy by then.
15. Verily, this Honorable Commission's approval of the PSA will send strong signals to lenders of the viability of financing power generation projects in the Philippines, and thus, set the pace for infusion of similar investments by the private sector.
16. Additionally, the Plant is part of the Department of Energy's ("DOE") planned indicative power projects. It is worthy to note that the realization of this project and its contribution to achieving the government's target of available capacity as per the DOE's Philippine Development Plan would largely depend on the timely approval of this Application.
17. In support of this Joint Application, the Judicial Affidavit of **MR. CIPRINILO C. MENESES**, Head of MERALCO's Energy Sourcing Office, is attached as ANNEX "B" and made an integral part hereof.
18. Likewise, in support of the instant Joint Application, the Applicants provide this Honorable Commission with the following documents, which underwent the pre-filing conference of this Honorable Commission:



Description of Document	Annex
A1E's Certificate of Registration with the Securities and Exchange Commission	C
A1E's Articles of Incorporation & By-Laws	D
The latest General Information Sheet of A1E	E
The latest Audited Financial Statements of A1E	F
A1E's Certificate of Registration with the Board of Investments	G
A1E's Environmental Compliance Certificate	H
Executive Summary of the PSA	I
Source of Funds/Financial Plans	J
Basis Purchased Power Rate	K
Project Cash Flow	L
Operating Expenses	M
Indicative loan agreement documents	N
MERALCO's procurement process	O
Write-up regarding related contracts/agreements	P
Write-up regarding Department of Energy Certification	Q
Write-up regarding technical description and economic characteristics of project	R
Write-up regarding tangential transmission projects and grid connections	S
DOE Endorsement and Power Outlook Presentation	T
Load Forecast Projections per Distribution Development Plan of MERALCO	U
Sworn Statement on A1E's fuel procurement process	V
Procurement Process Leading to the Execution of the PSA	W
Demand Side Management program	X
Write-up regarding the (i) certification of the net heat rate; (ii) simulation of the operating units necessary to meet the MEOT; and (iii) potential cost of Ancillary Services	Y

**ALLEGATIONS IN SUPPORT OF
MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION**

19. A1E notes that Annexes "J", "K", "L", "M" and "N" of the instant case contain certain non-public information, data and calculations involving business operations and financial trade secrets reflecting A1E's investment and business calculations and, as such, are confidential in nature. Further, there are confidentiality clauses set out by the Parties under the PSA.

20. Under Rule 4 of the ERC Rules of Procedure, the Honorable Commission may, upon request of a party and determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential. Pursuant to said rule, the A1E respectfully moves that Annexes "J", "K", "L", "M," and "N," not be disclosed and be treated as confidential documents in accordance with Rule 4 of the ERC Rules.

21. A1E hereby submits one (1) copy of Annexes "J" "K," "L," "M," and "N," in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential."

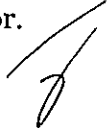
PRAYER

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Commission:

- a) **ISSUE** an Order: (i) treating Annexes "J", "K", "L", "M", and "N" and the information contained therein as confidential, (ii) directing their non-disclosure to persons other than officers and staff of the Honorable Commission, as necessary, pursuant to Rule 4 of the ERC Rules, and (iii) prescribing guidelines for the protection thereof; and

- b) after hearing on the merits, a Decision be rendered **APPROVING** the PSA between Applicants MERALCO and A1E.

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




Finding the said Application sufficient in form and substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference, and presentation of evidence on **14 November 2016 (Monday) at ten o'clock in the morning (10:00 a.m.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Applicants MERALCO and A1E are hereby directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. They are also directed to inform the consumers within the franchise area of MERALCO, by any other means available and appropriate, of the filing of the Joint Application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the *Joint Application with Motion for Confidential Treatment of Information*, this Order, and the attached Notice of Public Hearing be furnished 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.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) Legislative Bodies within MERALCO's franchise area for the appropriate posting thereof on their respective bulletin boards.

Applicants MERALCO and A1E are hereby directed to furnish all those making requests therefor with copies of their *Joint Application, Joint Motion for Provisional Authority*, and the attachments thereto, subject to reimbursement of reasonable photocopying costs.



On the date of the initial hearing, Applicants MERALCO and A1E must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governors and Mayors, or their duly authorized representatives, and the duly authorized officials of the LGU Legislative bodies, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

Applicants MERALCO and A1E, and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and Pre-trial Conference, their respective Pre-trial Briefs containing, among others:

- a. A summary of admitted facts and proposed stipulation of facts;
- b. The issues to be tried or resolved;
- c. The documents or exhibits to be presented, stating the purposes and proposed markings therefor; and
- d. The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure by the Applicants to submit the required Pre-trial Brief and Judicial Affidavits of their witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, the Applicants must also be prepared to make an Expository Presentation of their *Joint Application* and *Joint Motion for Provisional Authority* aided by whatever communication medium that they may deem appropriate.

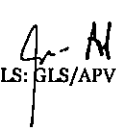
for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what their Application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 05 September 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO


LS: GLS/APV

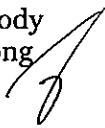
ERC
Office of the Chairman



1-2016-023-OC-05002

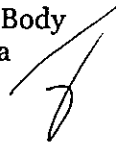
Copy Furnished:

1. Attys. Francis Dino S. Antonio, Carmen Grace S. Ramos,
and Angelica Diane B. Monteza
Counsels for MERALCO
7th Floor, Lopez Building, Ortigas Avenue,
Barangay Ugong, Pasig City
2. Atty. Jose Ronald V. Valles
VP and Head Regulatory Affairs Office, MERALCO
7th Floor, Lopez Building, Ortigas Avenue,
Barangay Ugong, Pasig City
3. Puyat Jacinto & Santos
Counsel for A1E
c/o Atty. Roy Enrico C. Santos and Rafael A. Evangelista
10th Floor 8 Rockwell Plaza corner Hidalgo Drive
Rockwell Center, Makati City
4. Christopher Rainier Chua
Antimonan One Energy, Inc.
8th Floor Rockwell Business Center Tower 1
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila

6. Commission on Audit (COA)
Commonwealth Avenue
Quezon City, Metro Manila
 7. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Metro Manila
 8. House Committee on Energy
Batasan Hills, Quezon City, Metro Manila
 9. Philippine Chamber of Commerce and Industry (PCCI)
Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City
 10. The City Mayor
City of Manila
 11. LGU Legislative Body
City of Manila
 12. The City Mayor
Quezon City
 13. LGU Legislative Body
Quezon City
 14. The City Mayor
City of Caloocan
 15. LGU Legislative Body
City of Caloocan
 16. The City Mayor
City of Makati
 17. LGU Legislative Body
City of Makati
 18. The City Mayor
City of Malabon
 19. LGU Legislative Body
City of Malabon
 20. The City Mayor
City of Mandaluyong
 21. LGU Legislative Body
City of Mandaluyong
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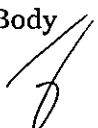
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City of Muntinlupa
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City of San Jose del Monte, Bulacan
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26. The City Mayor
City of Valenzuela
27. LGU Legislative Body
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28. The City Mayor
City of Pasig
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City of Pasig
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Pasay City
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City of Parañaque
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City of Parañaque
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Cavite City
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Trece Martirez City
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Trece Martirez City
38. The City Mayor
Las Piñas City



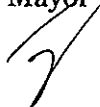
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San Juan City
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Lucena City
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Lucena City
 44. The City Mayor
Batangas City
 45. LGU Legislative Body
Batangas City
 46. The City Mayor
San Pablo City, Laguna
 47. LGU Legislative Body
San Pablo City, Laguna
 48. The City Mayor
City of Marikina
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City of Marikina
 50. The City Mayor
Antipolo City, Rizal
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 52. The City Mayor
Tagaytay City, Cavite
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 54. The City Mayor
Calamba, Laguna
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Calamba, Laguna
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Sta. Rosa, Laguna
57. LGU Legislative Body
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Biñan, Laguna
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60. The City Mayor
Navotas, Metro Manila
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Taguig, Metro Manila
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General Aguinaldo, Cavite
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General Aguinaldo, Cavite
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Magallanes, Cavite
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Amadeo, Cavite
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72. The Municipal Mayor
Indang, Cavite

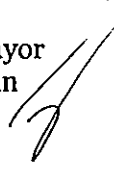


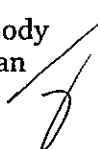
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Imus, Cavite
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Kawit, Cavite
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Noveleta, Cavite
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Bacoor, Cavite
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Ternate, Cavite
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Ternate, Cavite
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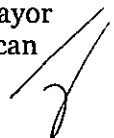
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Tanza, Cavite
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Dasmariñas, Cavite
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Gen. Mariano Alvarez, Cavite
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Silang, Cavite
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Carmona, Cavite
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Cainta, Rizal





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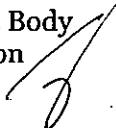
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Sampaloc, Quezon
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Pagbilao, Quezon
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209. LGU Legislative Body
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Majayjay, Quezon
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Majayjay, Quezon
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San Pascual, Batangas
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Candaba, Pampanga
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San Simon, Pampanga
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San Simon, Pampanga
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Apalit, Pampanga
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Apalit, Pampanga
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Province of Rizal
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Province of Rizal
 240. Office of the Governor
Province of Laguna
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Province of Laguna
 242. Office of the Governor
Province of Batangas
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- 243. LGU Legislative Body
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 - 244. Office of the Governor
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Province of Quezon
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 - 251. LGU Legislative Body
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- 