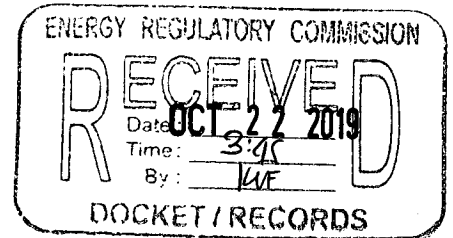


Republic of the Philippines
ENERGY REGULATORY COMMISSION
 San Miguel Avenue, Pasig City

**IN THE MATTER OF THE
 APPLICATION FOR THE
 APPROVAL OF THE POWER
 SUPPLY AGREEMENT (PSA)
 BETWEEN MANILA ELECTRIC
 COMPANY (MERALCO) AND
 PHINMA ENERGY
 CORPORATION (PHINMA),
 WITH PRAYER FOR
 PROVISIONAL AUTHORITY
 AND/OR INTERIM RELIEF AND
 MOTION FOR CONFIDENTIAL
 TREATMENT OF INFORMATION**



ERC CASE NO. 2019-079-RC

**MANILA ELECTRIC COMPANY
 (MERALCO) AND PHINMA
 ENERGY CORPORATION
 (PHINMA),**

Applicants.

X-----X

**JOINT APPLICATION
 with
 PRAYER FOR PROVISIONAL AUTHORITY AND/OR
 INTERIM RELIEF AND MOTION FOR CONFIDENTIAL
 TREATMENT OF INFORMATION**

Applicants **MANILA ELECTRIC COMPANY ("MERALCO")** and **PHINMA ENERGY CORPORATION ("PHINMA")**, through their respective undersigned counsel, respectfully state:

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

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. Applicant PHINMA is a private corporation duly organized and existing under the laws of the Philippines, with principal office located at 11/F PHINMA Plaza, 39 Plaza Drive, Rockwell Center, Makati City. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated below.

4. PHINMA administers and manages the output of the South Luzon Thermal Energy Corporation's 2 x 135 MW circulating fluidized bed coal-fired power plant ("**Plant**"), located in KM. 117 National Highway, Calaca Seaport Phase II, Brgy. Puting Bato West, Calaca, Batangas, and offered to supply and sell to MERALCO electric energy corresponding to 200 MW (net) produced from said Plant, the Wholesale Electricity Spot Market ("**WESM**"), or any other source.

5. Based on the power situation outlook for 2020 and succeeding years, MERALCO foresees a capacity deficit in its portfolio due to the expiration by 25 December 2019 of its power supply agreements covering 1905 MW.

6. In order to ensure continuous and reliable electricity for MERALCO's customers, there is a need for MERALCO to source baseload 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 the conduct of a competitive selection process ("**CSP**") for the procurement of baseload capacity, on 13 September 2019, MERALCO executed a Power Supply Agreement ("**PSA**") with PHINMA, for the purchase of electric energy corresponding to 200 MW (net). The conduct of a CSP proceeded as follows:

8.1. On 12 July 2019, MERALCO caused the publication of an Invitation to Bid, which contained basic terms of reference, indicating a summary of the process and timelines of the CSP, and inviting bidders to submit an Expression of Interest and Confidentiality Undertaking on or before the deadline set out in the said invitation. At the same time, MERALCO caused the posting thereof on its website and the Department of Energy's ("DOE") e-based portal.

8.2. On 09 September 2019, the bidders submitted their Bid Requirements, followed by the opening of their respective submissions by the Third-Party Bids and Awards Committee ("TPBAC"). On the same day, PHINMA's bid was declared as one of the possible best bids.

8.3. On 10 September 2019, the TPBAC sent a letter-notice to PHINMA, as one of the winning power suppliers, confirming after post-qualification evaluation that its proposed energy price was found to be among the best bids. The said letter-notice also contained the Notice of Award in favor of PHINMA.

8.4. On 19 September 2019, and upon directive of this Honorable Commission, MERALCO wrote DOE to request for a written certification that the aforesaid CSP is compliant with DOE Circular No. DC2018-02-003, Series of 2018. In lieu of the requested certification that has not been issued to date, the TPBAC Chairman has executed an affidavit attesting to such compliance.¹

9. The PSA between MERALCO and PHINMA, a copy of which is attached as **ANNEX "C"** and made an integral part hereof, contains the following salient features:

"2.2. Term of Agreement

2.2.1. Subject to Article 3, this Agreement shall become effective on the Execution Date.

2.2.2. The term of this Agreement the ("**Term**") shall commence on the Operations Effective Date, and shall expire on December 25, 2029, unless terminated earlier in accordance with the terms of this Agreement or extended by the application of Section 2.2.3.

2.2.3. The Term may be renewed for an additional period of up to one (1) year under the same terms and conditions, at the option of Meralco, by giving prior written notice to Power

¹ A copy of MERALCO's letter-request stamped received by the DOE and the affidavit of the TPBAC's Chairman are attached as part of the documents showing MERALCO's conduct of a competitive selection process marked as Annex "K" and series".

Supplier at least one hundred eighty (180) Days prior to the end of the Term.

xxx

3.3. **Operations Effective Date**

3.3.1. The obligations of Power Supplier with respect to the Contract Capacity and Associated Energy shall commence on December 26, 2019 ("**Operations Effective Date**"), provided that Commencement Date has occurred.

3.3.2. If the Operations Effective Date has not occurred by the Longstop Date, then the provisions of Section 14.5.1. shall apply.

xxx

4.1. **Supply of Power**

Subject to the Terms and Conditions of this Agreement, from the Operations Effective Date until the expiration of the Term or earlier termination of this Agreement:

(a) Power Supplier shall make available to Meralco the Contract Capacity to be sourced from the Plant, the WESM or any other source, and deliver and sell to Meralco the Associated Energy, at the Contract Price determined in accordance with Appendix C;

(b) Meralco shall purchase from Power Supplier, to the extent of Meralco's relevant day-ahead nominations, the MEOT and at its option, the Excess Energy, at the Contract Price determined in accordance with Appendix C.

4.2. **Contract Price**

a. The Contract Price for the First Contract Year is PhP4.2366² per kWh, subject to applicable value-added tax (VAT) and an annual escalation, as computed and shown in Schedule 1 of Appendix C, *provided*, that the Benefits to Host Communities Charges, if any, shall not form part of, and is excluded from the computation of the Contract Price. For the avoidance of doubt, all taxes pertaining to Power Supplier, including but not limited to the Benefits to Host Communities Charges, shall be shouldered by, and be for the sole account of, Power Supplier. Any violation of this Section 4.2 shall constitute a Power Supplier Event of Default as provided for under Section 14.1.

xxx

Article 7. Outages

² Based on one hundred percent (100%) plant capacity factor corresponding to the Contract Capacity.

- 7.1. Power Supplier shall not be entitled to any Outage during the Term of this Agreement. For clarity, this means that notwithstanding Outage of the Plant, Power Supplier shall make available the Contract Capacity and Associated Energy to Meralco.

xxx

- 7.3. In case Power Supplier fails to deliver the Contract Capacity and Associated Energy to Meralco due to unavailability of supply from its Plant, WESM, and any other source, Power Supplier shall pay a fine equivalent to Nine Hundred Eight Philippine Peso (PhP908) multiplied by each MWh during a Day, which shall be used to reduce the generation charge to the consumers. For the avoidance of doubt, in case Power Supplier fails or refuses to supply Contract Capacity and Associated Energy despite availability thereof, then Section 14.3.1. shall apply.

Article 8. Assignment or Transfer of Contract Capacity

- 8.1 Meralco shall 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, to the extent allowed by Law, or to any other Person acceptable to Power Supplier (which consent shall not be unreasonably withheld, delayed or conditioned).
- 8.2 In respect of Transfers not requiring Power Supplier's consent, Meralco shall give a written notice to the Power Supplier of such Transfer at least five (5) Days prior to the first Day of the next Billing Period or by such date as would be sufficient for timely notice to WESM of such change. In respect of Transfers requiring Power Supplier's consent, Meralco shall give a written notice to the Power Supplier of such Transfer at least sixty (60) Days prior to the first Day of the next Billing Period or by such date as would be sufficient for timely notice to WESM of such change.

Subject to the receipt of Meralco and the Power Supplier of the written acceptance of such Transfer by the transferee:

- a) Meralco shall cease to have any rights and obligations under this Agreement, and
- b) the transferee shall assume all rights and obligations of Meralco under this Agreement.

8.3. Reduction in Contract Capacity and Associated Energy

- 8.3.1. Subject to the provisions of Section 8.3.2., 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, other Laws and Legal Requirements.
- 8.3.2. For reduction in Contract Capacity and Associated Energy under Section 8.3.1., 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. Provided that, in case Meralco exercises its option to reduce the Contract Capacity for Contract Years 2024 and/or 2025, apart from those contemplated in Section 8.3.1., Meralco shall give notice to the Power Supplier at least ninety (90) Days prior to the effectivity of such reduction. 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

12.2. **ERC Approval**

- 12.2.1. Subject to the non-occurrence of the Longstop Date, upon receipt of the ERC Approval, Meralco shall provide a copy of such ERC Approval to Power Supplier. Power Supplier shall have ten (10) Days from the date of receipt from Meralco of such ERC Approval to notify Meralco in writing that: (i) it accepts such ERC Approval or (ii) it does not accept the ERC Approval, stating the grounds for non-acceptance.
- 12.2.2. In case of Power Supplier's non-acceptance, Power Supplier shall be free to file with the ERC a motion for reconsideration. In case Power Supplier decides to file a motion for reconsideration, and pending resolution thereof by the ERC, the Parties shall implement the ERC Approval subject to any adjustment or amendment that the ERC may direct. Any order on a motion for reconsideration shall be treated as an ERC Approval for purposes of the processes under Section 12.2. If the ERC Approval requires any amendment to or modification of any provision of this Agreement that is not acceptable to either Party, acting reasonably, then the Parties shall cooperate in good faith to resolve the required amendment. If the Parties are unable to agree on the required amendment within thirty (30) Days from receipt of the ERC Approval resolving the motion for reconsideration, or if the motion for reconsideration is not resolved by the ERC within one hundred twenty (120) days after its filing, Power Supplier may terminate this Agreement upon thirty (30) Days prior written notice to Meralco.

))

12.2.3. If the ERC Approval requires any portion of the sum that has been paid by Meralco to Power Supplier to be adjusted, Power Supplier shall make the necessary adjustments in accordance with the direction of the ERC. In the event of any disallowance in the Contract Price, the same shall be for the account of Power Supplier.

12.2.4. Following (i) a written notice of acceptance from Power Supplier with respect to the ERC Approval (including upon reconsideration under Section 12.2.2. above), or (ii) the lapse of the period referred to in Section 12.2.1. 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 Approval and the Longstop Date has not occurred.

xxx

13.2 **Instance of Force Majeure**

Subject to the provisions of Section 13.1., Events of Force Majeure shall include, but not be limited to:

- (a) acts of war or the public enemy whether war is declared or not;
- (b) public disorders, civil disturbance, insurrection, rebellion, acts or campaigns of terrorism, piracy, embargo, sabotage, blockade, revolution, riots or violent demonstrations;
- (c) explosions, fires, earthquakes, lightning, typhoon, tsunami, flood, cyclone, volcanic eruptions, landslide or other natural disasters, acts of God, epidemic, quarantine or plague;
- (d) any action or aggregation of actions or failure to act by any Governmental Instrumentality, including expropriation, requisition, confiscation, nationalization or other compulsory acquisition;
- (e) strikes, lockouts or other collective or industrial action by workers or employees other than non-manual personnel (in each instance, occurring in the Philippines); provided that any Party that seeks to invoke such a strike, lockout or other collective or industrial action as an Event of Force of Majeure must first utilize all reasonable efforts to continue performance of its obligations hereunder; and

- (f) any Transmission Failure that prevents delivery by Power Supplier, or acceptance by Meralco, of Contract Capacity and Associated Energy. In case of disagreement as to the existence of a Transmission Failure, the Parties shall secure the necessary certification from the ERC, which certification shall bind both Parties;

For clarity, the Power Supplier shall not be allowed to claim Force Majeure under Article 13 in case there is supply available from the WESM or any other source.

13.5. Event Not Excused

Lack or unavailability of supply in itself shall not be considered as an Event of Force Majeure, unless the circumstances in Section 13.1. concur.”

10. Based on the foregoing, and given a certain set of assumptions, the annual effective rate under the PSA is PhP 4.7450 per kWh (at plant gate, VAT-inclusive), as shown in the rate impact analysis below:

PHINMA PSA (200 MW) - Annual Rate Impact
(YEAR 2020)

BILLING COMPONENT	UNIT	BASE RATES ^[a]	BILLING DETERMINANT ^[b]		AMOUNT (PHP)
Energy Payment					
Contract Price for energy up to MEOT PCF (75%)	(Php/kWh)	5.6300	1,317,600,000	(kWh)	7,418,088,000.00
Excess Energy Price for energy greater than MEOT PCF up to 100% pcf	(Php/kWh)	0.0563	439,200,000	(kWh)	24,726,960.00
Total Energy Payment (VAT exclusive)	(Php/kWh)	4.2366	1,756,800,000	(kWh)	7,442,814,960.00
VAT Payment ^[c]	(Php)				893,137,795.20
Total Payment (VAT inclusive)	(Php)				8,335,952,755.20
Effective Rate at Plant Gate (VAT Inclusive)	(Php/kWh)				4.7450
WESM Line Rental Rate ^[d]	(Php/kWh)				0.0000
Delivered Rate (VAT inclusive)	(Php/kWh)				4.7450
Effective Cost at current Baseload PSAs ^[e]	(Php/kWh)				5.4748
Increase / (Decrease) over current Baseload PSAs	(Php/kWh)				(0.7298)
Meralco Captive Energy Demand ^[f]	(kWh)				35,005,615,519
Increase / (Decrease) in Generation Cost	(Php)				(1,282,112,761.51)
Increase / (Decrease) in Generation Cost	(Php/kWh)				(0.0366)

Assumptions:

- ^[a] Contract Price (VAT exclusive) and Excess Energy Price (VAT exclusive) as set forth and computed in Appendix C of the PSA.
- ^[b] Energy billing determinant for one year based on 100% plant capacity factor with respect to the Contract Capacity (200,000 kW).
- ^[c] VAT rate of 12.00% as stated in the PSA.
- ^[d] Line Rental rate for PHINMA is based on the maximum allowable value as stated in the PSA.
- ^[e] Cost if equivalent volume of PHINMA was sourced from current baseload PSAs (TLI, SPPC, and MPPCL) that will expire on Dec. 25, 2019 using average of actual Sep 2018 to Aug 2019 prices (VAT and line rental inclusive).
- ^[f] Forecasted Meralco Captive Energy for 2020 based on Power Supply Procurement Plan as submitted to DOE.

11. MERALCO notes that the annual delivered rate of PhP 4.7450 per kWh (VAT and line rental inclusive) is **lower** by about PhP 0.7298 per kWh than the effective cost of PhP 5.4748 (VAT and line rental inclusive), if the equivalent capacity under the instant PSA will be sourced from among MERALCO’s expiring baseload PSAs. In fact, by sourcing the capacity through the instant PSA, MERALCO’s average blended generation rate³ of PhP 5.84 per kWh (VAT and line rental inclusive) will be reduced by about **PhP 0.0366 per kWh** (as seen in

³ Prior twelve (12)-month period.

the rate impact above) resulting in savings to consumers of about PhP 1.28 Billion.

12. It bears emphasis that MERALCO's foreseen capacity deficit due to the expiration of its several power supply agreements by 25 December 2019 is 1905 MW. Thus, there is an urgent need for provisional authority and/or interim relief to implement the PSA by 26 December 2019; otherwise, MERALCO will be constrained to source its capacity deficit from the WESM, thereby exposing its customers to volatile WESM prices. More importantly, it should be considered that the immediate approval and implementation of the instant PSA would redound to the best interest of the consumers since aside from the very competitive rate, the supply availability under the instant PSA is guaranteed 100% by PHINMA as no outage allowance is provided therein.

13. In support of this Joint Application, and the prayer for provisional authority and/or interim relief, the Judicial Affidavits of **MR. ELVIN C. JACOB**, Officer of MERALCO's Energy Sourcing – Energy Accounting and Settlement Team, and **MR. HERMAN B. TIMOTELO**, Manager of PHINMA's Power Sales and Customer Management, are attached as **ANNEXES "D"** and **"E"**, respectively, and made integral parts hereof.

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

Description of Document	Annex
MERALCO's Articles of Incorporation and By-Laws	F
MERALCO's latest General Information Sheet (GIS)	G
Demand Side Management Program	H
Write-up on non-applicability of a Certification by NPC re: whether Transition Supply Contract (TSC) capacity and energy is expected to be available	I
Excerpt of Distribution Development Plan – Power Supply Procurement Plan	J
Supply and Demand Scenario	J-1
Average Daily Load Curve scenarios	J-2
Documents showing MERALCO's conduct of a competitive selection process	K and series

PHINMA's Certificate of Registration, Articles of Incorporation and By-Laws	L and series
PHINMA's latest General Information Sheet ("GIS")	M
Document showing information related to the Ultimate Parent Company	N
Environmental Compliance Certificate ("ECC") of the Plant	O
Certificates of Compliance ("COC") of the Plant	P
Transmission Service Agreement and Metering Services Agreement	Q
Pricing Analysis for the PSA with Meralco*	R and series*
Technical Characteristics of the Plant	S
PHINMA's latest Audited Financial Statement ("AFS")	T
Write-up on the non-applicability of the following: (Shareholders' agreement; Board of Investment Certificate of Registration; Certification from DOE regarding Philippine Development Plan or Certificate of Endorsement; Renewable Energy Service/Operating Contract from the DOE; Certificate of Registration or Certificate of Confirmation of Commerciality by an RE Developer; All details in the procurement process of fuel; Certification of the net heat rate; Simulation of the no. of operating units to meet the MEOT; Potential Cost of ancillary services when the IPP or the DU is connected to the main grid)	U

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

MOTION FOR CONFIDENTIAL TREATMENT OF ANNEX "R and series"

15. **Annex "R" and series** contains numbers, methodology, and calculations which provide valuable information and insight on how PHINMA arrives at its contract price and would accordingly reflect PHINMA's bidding strategy for distribution utilities undertaking competitive process for the selection of their power suppliers, and PHINMA's trading in the WESM.

16. Under Rule 4 of the ERC Rules of Practice and 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 such provision, Applicant PHINMA respectfully prays for the issuance of a protective order declaring **Annex "R" and series** as confidential information, since Applicant PHINMA intends to present them as evidence in the instant Application.

17. Even though these will be treated as confidential documents and information and a protective order will be issued, the rules do not preclude the parties of record or their lawyers an access to such confidential information after agreeing to be bound by the terms of the protective order.

18. The data contained in **Annex "R" and series** constitute "trade secrets" of Applicant PHINMA; thus, PHINMA has actual and valuable proprietary interest to protect with respect to such information. The Supreme Court, in the recent case of *Air Philippines Corporation vs. Pennswell, Inc.* (540 SCRA 215 [2007]), had the opportunity to discuss the definition of "trade secrets" and the great extent to which the same are protected under our laws. In other instances, the Supreme Court has held that the confidential nature of trade secrets protects such from disclosure even in the face of the right of inspection given to stockholders or the constitutional right to information. (*Philpotts vs. Philippine Manufacturing Company*, 40 Phil. 471 [1919]; *Garcia vs. Board of Investments*, G.R. 88637 [1989]).

19. Information, which falls within the definition of a trade secret, as defined by jurisprudence is clearly information which merits the confidential treatment provided for under Rule 4 of the ERC Rules of Practice and Procedure. **Annex "R" and series** should therefore be entitled to the protection of confidential information provided under Rule 4 of the ERC Rules of Practice and Procedure.

20. PHINMA hereby submits one (1) copy of the foregoing confidential documents 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:

(i) **ISSUE** an Order treating **Annex "R" and series** as confidential information pursuant to Rule 4, Section 1 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof;

(ii) Immediately **ISSUE** a provisional authority and/or interim relief authorizing the Applicants to implement the Power Supply Agreement by 26 December 2019; and

(iii) After hearing on the merits, render a Decision **APPROVING** the Power Supply Agreement.

Other relief just and reasonable are likewise prayed for.

Pasig City, 21 October 2019.

MANILA ELECTRIC COMPANY

Co-Applicant

MERALCO Compound, Lopez Building,
Ortigas Avenue, Pasig City

By:


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IBP No. 66245; 1/9/19; RSM

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MCLE Compliance No. VI-0000242; 11 July 2016


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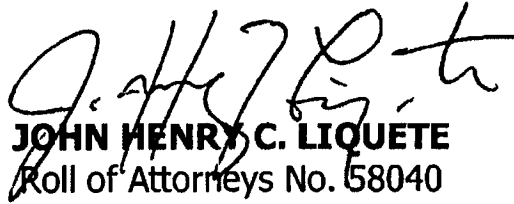
MCLE Compliance No. VI-0025837; 12 April 2019

7th Floor, Lopez Building,
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Tel no. 1622-2260; Fax No: 1622-355

PHINMA ENERGY CORPORATION

Co-Applicant

By:



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MCLE Compliance No. VI-0013575; 02 October 2018



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MCLE Compliance No. VI-0009450; 20 June 2018



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Roll of Attorneys No. 49181

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IBP Lifetime No. 010806; 03/22/12; Iloilo City

MCLE Compliance No. VI-0007146; 13 March 2018

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Roll of Attorneys No. 57132

PTR No. 7340837; 01/07/19; Makati City

IBP No. 059239; 01/07/19; Quezon City

MCLE Compliance No. VI-0015058; 22 November 2018

22nd Floor, 6750 Office Tower,
Ayala Avenue, Makati City
Tel no. 848-5796

REPUBLIC OF THE PHILIPPINES)
CITY OF PASIG) s.s.

VERIFICATION
AND CERTIFICATION OF NON-FORUM SHOPPING

I, **JOSE RONALD V. VALLES**, Filipino, of legal age, married, with office address at 7th Floor, Lopez Building, MERALCO Compound, Ortigas Avenue, Barangay Ugong, Pasig City, after being sworn in accordance with law, hereby depose and say that –

1. I am the Vice President and Head, Regulatory Management Office, of Applicant Manila Electric Company (“MERALCO”). In such capacity, I have caused the preparation and filing of the foregoing Application;

2. Moreover, I have been authorized by the Board of Directors of MERALCO to certify that Applicant has not heretofore filed any similar action, pleading or application involving the same issues before the Supreme Court, the Court of Appeals or any other lower courts or administrative bodies. A copy of the Secretary’s Certificate authorizing me to cause the preparation of the instant Application and sign this Verification and Certification is attached hereto as **ANNEX “A”**;

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

4. To the best of my knowledge, no similar action or proceeding is pending before the Supreme Court, the Court of Appeals, the lower courts or administrative bodies;

5. If I should hereafter learn that a similar action has been filed before the Supreme Court, the Court of Appeals, the lower courts or administrative bodies, I undertake to report such fact to this Honorable Commission within five (5) days from notice of such fact.

IN WITNESS WHEREOF, I have hereunto affixed my signature this OCT 21 2019 at Pasig City, Philippines.


JOSE RONALD V. VALLES
Affiant

SUBSCRIBED and SWORN to before me this OCT 21 2019,
affiant having exhibited to me his Social Security System ID bearing the number 33-10900088.

Doc. No. 221 ;
Page No. 46 ;
Book No. III ;
Series of 2019.

ATTY. EDGAR MICHAEL C. ROBLES
Notary Public
Pasig City, Pasig City, Pasig City
Issued on February 21, 2019 at Pasig City
Appointment No. 76 (2019-2020)
Roll No. 62413/ABP Lifetime No. 011798 RSM Chapter
PTR No. 5312069/01-21-19 Pasig City
MCLE VI-0000249-07/11/16
8th Floor Lopez Bldg. Ortigas Avenue, Pasig City

VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

I, **ROMAN MIGUEL G. DE JESUS**, Filipino, of legal age, with office address at 22F, 6750 Building, Ayala Avenue, Makati City after having been duly sworn to in accordance with law, hereby depose and state that:

1. I am the authorized representative of PHINMA Energy Corporation ("PHINMA"). In such capacity, I have caused the preparation and filing of the foregoing Application;

2. I have been authorized by the Board of Directors of PHINMA to certify that Co-Applicant has not heretofore filed any similar action, pleading or application involving the same issues before the Supreme Court, the Court of Appeals or any other lower courts or administrative bodies. A copy of the Secretary's Certificate authorizing me to cause the preparation of the instant Application and sign this Verification and Certification is attached as **ANNEX "B"**;

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

4. To the best of my knowledge, no other related action or proceeding is pending before the Supreme Court, the Court of Appeals, the lower courts or administrative bodies; and

5. If I should thereafter learn that a similar action has been filed before the Supreme Court, the Court of Appeals, the lower courts or administrative bodies, I undertake to report such fact to this Honorable Commission within five (5) days from notice of such fact.


IN WITNESS WHEREOF, I have signed this Verification and Certification of Non-Forum Shopping this OCT 21 2019 at Makati City, Philippines.


ROMAN MIGUEL G. DE JESUS
Affiant

SUBSCRIBED AND SWORN to before me this OCT 21 2019 at Makati City, affiant exhibiting to me his Passport No. EC6766014 issued at DFA Manila on 18 February 2016.

Doc No: 306 ;
Page No: 103 ;
Book No: VII ;
Series of 2019.




JORDAN MAET T. CHUA
Notary Public for the City of Makati
Appointment No. M-67 until December 31, 2020
Attorney's Roll No. 63561/08 May 2014
PTR No. MKT 7333046/Makati City/03 January 2019
IBP Lifetime No. 012851
MCLE Compliance No. VI - 0015897 valid until 14 April 2022
3/F PHINMA Plaza, 39 Plaza Drive,
Rockwell Center, Makati City



ORTIGAS AVENUE, PASIG CITY
0300 PHILIPPINES

ANNEX " A "

SECRETARY'S CERTIFICATE

I, WILLIAM S. PAMINTUAN, a duly elected, qualified and incumbent Assistant Corporate Secretary of the Manila Electric Company (MERALCO), a corporation duly organized and existing under and by virtue of the laws of the Philippines, do hereby certify that:

At the regular meeting of the Board of Directors of the Company duly convened and held on September 6, 2019, at which meeting a quorum was present, acted throughout and voted, the following resolutions were approved and said resolutions are in full force and effect on the date hereof:

"RESOLVED, in connection with the conduct of a competitive selection process for 1200 MW baseload capacity, the Board of Directors of the Manila Electric Company Electric Company (MERALCO) hereby authorizes the signing of the relevant Power Supply Agreement/s (PSA/s) with the Winning Power Supplier/s upon conclusion of the said competitive selection process;

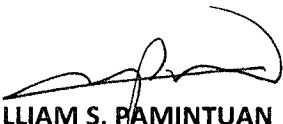
"RESOLVED, FURTHER, that the following officers, namely Messrs. MANUEL V. PANGILINAN, Chairman of the Board, RAY C. ESPINOSA, President & Chief Executive Officer, BETTY C. SIY-YAP, Chief Finance Officer, WILLIAM S. PAMINTUAN, Senior Vice President & Chief Legal Counsel, RONNIE L. APEROCHO, Senior Vice President & Head, Networks, VICTOR S. GENUINO, First Vice President & Head, Corporate Retail Services & Corporate Communications, and JOSE RONALD V. VALLES, Vice President & Head, Regulatory Management, are hereby directed and empowered, for and in behalf of the Company, to sign, execute and deliver any contract, agreement, instrument, and other documents which may be deemed necessary or appropriate for the purpose, and to perform or execute all other acts and deeds as may be necessary or appropriate to carry out or accomplish the said purpose;

"RESOLVED, FURTHERMORE, that the Board of Directors authorize, as it hereby authorizes, MERALCO, through JOSE RONALD V. VALLES, Vice President and Head, Regulatory Management, or any lawyer or employee of MERALCO that any of them may designate, name or appoint:

- (1) To file the appropriate application/s with the Energy Regulatory Commission (ERC) for the approval of the Power Supply Agreement/s between MERALCO and the Winning Power Supplier/s, for the supply and delivery of energy to MERALCO;
- (2) To sign, execute, and deliver in connection therewith the necessary pleadings, motions, verification, affidavit of merit, certificate of non-forum shopping, powers of attorney, and other instruments as may be necessary or proper; and
- (3) To designate, name, and appoint, a representative or an attorney-in-fact in behalf of the Company during the preliminary conference, pre-trial, trial, execution and all

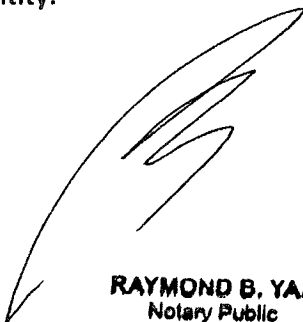
other stages of or incidents related to the case, proceeding or action; to negotiate, enter into, and agree to an amicable settlement, make admissions or stipulations of fact and/or documents; and to perform and execute any and all actions and such other matters as may aid in the prompt disposition of such case, proceeding or action."

WITNESS THE SIGNATURE of the undersigned as such officer of the Company and its corporate seal hereunto affixed on this 13th day of September 2019.


WILLIAM S. PAMINTUAN
 Assistant Corporate Secretary

SUBSCRIBED AND SWORN to before me this 13th day of September 2019, affiant exhibited to me his Taxpayer Identification Number (TIN) 146-473-562, issued by the Bureau of Internal Revenue (BIR) as his competent evidence of identity.

Doc. No. 370 ;
 Page No. 78 ;
 Book No. III ;
 Series of 2019.


RAYMOND B. YAP
 Notary Public
 Pasig, San Juan and Pateros
 Issued on February 11, 2019 at Pasig City
 Appointment No. 104 (2019-2020)
 IBP No. 55859/ IBP No. 66249; 1/9/19; Capiz Chapter
 PTR No. 5229241; 1/9/19; Pasig City

Republic of the Philippines }
Makati City } s.s.

SECRETARY'S CERTIFICATE

I, **Dodjie D. Lagazo**, Filipino, of legal age, with business address at 4F 6750 Building, Ayala Avenue, Makati City, being the duly elected Assistant Corporate Secretary of PHINMA Energy Corporation (the "Corporation"), do hereby certify that at the special meeting of the Board of Directors of the Corporation held on **05 September 2019** at 4F 6750 Building, Ayala Avenue, Makati City, at which meeting, a quorum was present and acted throughout, the Board of Directors approved and adopted the following resolutions:

"RESOLVED, as it is hereby resolved, that the Corporation be and is hereby authorized to participate in the bidding to make available **200MW** Contract Capacity and supply associated energy to Manila Electric Company ("Meralco") (the "Bidding");

RESOLVED, that in the event the Corporation is declared as the winning bidder, the Corporation commits to fulfill all the post-qualification compliances, if deemed necessary by the Third Party Bids and Awards Committee, including the execution of the Power Supply Agreement with Meralco;

RESOLVED, that **JOHN ERIC T. FRANCIA, ROMAN MIGUEL G. DE JESUS, RIOLITA C. INOCENCIO, HERMAN B. TIMOTEO, CHRISTINE GALE PARAS** are hereby appointed as the authorized representative of the Corporation during the Bidding, authorized to execute, sign, submit and receive documents for, and otherwise act in the name of, the Corporation;

RESOLVED, that the Corporation be and is hereby authorized to file the necessary Application with the Energy Regulatory Commission for the approval of the Power Supply Agreement entered into by the Corporation and Meralco;

RESOLVED, that **JOHN ERIC T. FRANCIA, MARIA CORAZON G. DIZON, GABINO RAMON G. MEJIA, DODJIE D. LAGAZO, ROMAN MIGUEL G. DE JESUS**, as each of them is hereby authorized, to file the said Application on behalf of the Corporation, to sign any and all documents, certifications, verifications, and papers in relation to the foregoing, and to do all acts in relation to the foregoing, from the filing thereof until final resolution and termination of the same;

RESOLVED FINALLY, to authorize any of the Corporation's lawyers, including but not limited to **JOHN HENRY C. LIQUETE, ILDRIAN JOSEFH T. ASERON, ESTHER MARIE A. BANTOG**

and **MA. ANGELICA M. SANTOS-DALIT**, or any of the duly appointed external legal counsels, to personally appear for it and in its name, place and stead, be authorized to represent the Corporation, sign and execute such pleadings, attend or appear on all hearings, conference and proceedings and perform such other acts in furtherance of the foregoing authority until final resolution of the Application.

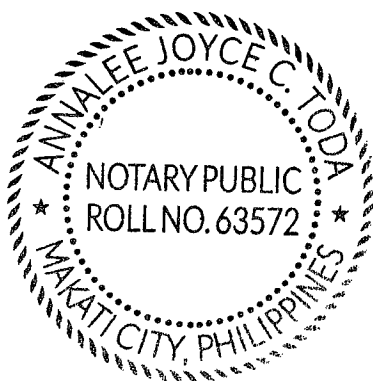
IN WITNESS WHEREOF, I have executed this Secretary's Certificate this 18 September 2019 at Makati City, Philippines.



DODJIE D. LAGAZO
Assistant Corporate Secretary

SUBSCRIBED AND SWORN to before me this 18 September 2019 at Makati City, affiant exhibiting to me his Philippine Passport No. EC815340, issued at DFA NCR South on February 20, 2016.

Doc No.: 141
Page No.: 30
Book No.: II
Series of 2019.

Notarial DST pursuant to
Sec. 188 of the Tax Code
affixed on Notary Public's copy.




ANNALEE JOYCE C. TODA
Notary Public - Makati City
Appt. No. M-471 until December 31, 2019
Attorney's Roll No 63572
PTR No. 7350777; 1-11-19; Makati City
IBP Lifetime No. 019058
MCLE Compliance No. VI-0021540 - Valid until 04-14-2022
4th Floor 6750 Office Building,
Ayala Avenue, Makati City