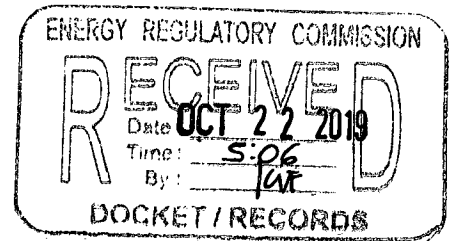


Republic of the Philippines
ENERGY REGULATORY COMMISSION
 San Miguel Avenue, Pasig City

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



2019-083
 ERC CASE NO. _____-RC

**MANILA ELECTRIC COMPANY
 (MERALCO) AND SAN MIGUEL
 ENERGY CORPORATION
 (SMEC),**

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 **SAN MIGUEL ENERGY CORPORATION ("SMEC")**, 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 SMEC is a private corporation duly organized and existing under the laws of the Philippines, with principal address at 808 Building, Meralco Avenue Cor. General Lim Street, San Antonio Village, Pasig City. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated below.

4. Pursuant to and in accordance with the IPPA Agreement executed between SMEC and the Power Sector Assets and Liabilities Management Corporation ("PSALM"), with the conformity of National Power Corporation ("NPC"), SMEC assumed management and control of the 1000 MW (net) contracted capacity of the 1200 MW (net) coal-fired power generating facility in Sual, Pangasinan on the island of Luzon ("**Plant**"). SMEC offered to supply and sell to MERALCO electric energy corresponding to 330 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 SMEC, for the purchase of electric energy

corresponding to 330 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 power generation companies 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 9 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, SMEC's bid was declared as one of the possible best bids.

8.3. On 10 September 2019, the TPBAC sent a letter-notice to SMEC, 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 SMEC.

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 SMEC, 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.

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".

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 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 PhP4.0459² per kWh, subject to twelve percent (12%) 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.

²

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

xxx

Article 7. Outages

- 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. 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

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.

XXX

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 4.5314 per kWh (at plant gate, VAT-inclusive), as shown in the rate impact analysis below:

**SMEC PSA (330 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)	4.1496	2,174,040,000	(kWh)	9,021,396,384.00
Excess Energy Price for energy greater than MEOT PCF up to 100% pcf	(Php/kWh)	3.7346	724,680,000	(kWh)	2,706,418,915.20
Total Energy Payment (VAT exclusive)	(Php/kWh)	4.0459	2,898,720,000	(kWh)	11,727,815,299.20
VAT Payment ^[c]	(Php)				1,407,337,835.90
Total Payment (VAT inclusive)	(PhP)				13,135,153,135.10
Effective Rate at Plant Gate (VAT Inclusive)	(Php/kWh)				4.5314
WESM Line Rental Rate ^[d]	(Php/kWh)				0.1000
Delivered Rate (VAT Inclusive)	(Php/kWh)				4.6314
Effective Cost at current Baseload PSAs ^[e]	(Php/kWh)				5.4748
Increase / (Decrease) over current Baseload PSAs	(Php/kWh)				(0.8434)
Meralco Captive Energy Demand ^[f]	(kWh)				35,005,615,519
Increase / (Decrease) in Generation Cost	(PhP)				(2,444,782,967.47)
Increase / (Decrease) in Generation Cost	(Php/kWh)				(0.0698)

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 (330,000 kW).
- ^[c] VAT rate of 12.00% as stated in the PSA.
- ^[d] Line Rental rate for SMEC is based on the maximum allowable value as stated in the PSA.
- ^[e] Cost if equivalent volume of SMEC 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 4.6314 per kWh (VAT and line rental inclusive) is **lower** by about PhP 0.8434 per kWh than the effective cost of PhP 5.4748 per kWh (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 charge rate³ of PhP 5.84 per kWh (VAT and line rental inclusive) will be reduced by about by about **PhP**

³ Prior twelve (12)-month period.

0.0698 per kWh (as seen in the rate impact above) resulting in savings to consumers of about PhP 2.44 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 SMEC 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. RYAN S. MORALES**, Head of MERALCO's Energy Sourcing Office, and **MR. ALBERTO REYES III**, Authorized Representative of SMEC, 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
SMEC's Certificate of Registration with the Securities and Exchange Commission ("SEC")	"L"

SMEC's Shareholders' Agreement	"M"
SMEC's latest GIS showing list of Shareholders	"N"
SMEC's Corporate Structure showing the Ultimate Parent Company, its Subsidiaries, and all its Affiliates	"O"
SMEC's Board of Investments ("BOI") Certificate of Registration No. BOI 2011-024 dated 26 January 2011	"P"
Environmental Compliance Certificate ("ECC") No. 9406-003-206 dated 08 November 1994	"Q"
SMEC's Certificate of Compliance No. 19-04-M-00039L	"R"
Certification stating the Consistency or Inconsistency of the Sual Coal-fired Power Station with the DOE Philippine Development Plan ("PDP")	"S"
- Transmission / Grid Connection Projects of SMEC - Certification of Non-Applicability of Renewable Energy Service/Operating Contract from the DOE Certification of Non-Applicability of Certificate of Registration or Certification of Commerciality by an RE Developer and After Due Confirmation by the DOE	"T" and Series
Executive Summary (technical and economic characteristics of the generation capacity, salient features of the PSA)	"U"
- Sources of Funds/Financial Plans; Generation Rate and Derivation - Financial model in compact disc containing derivation of rates	"V" and Series*
SMEC's Explanation on the Fuel Procurement Process	"W"
- SMEC's latest Audited Financial Statements - Certification regarding the net heat rate - Simulation of the number of operating units necessary to meet the minimum energy off-take ("MEOT") and/or additional energy/demand requirements of MERALCO - Explanation on the Non-Applicability of Potential Cost of Ancillary Service	"X" and Series
SMEC's Secretary Certificate on the authorized personnel to signed and deliver contracts, agreements, instruments and/or securities	"Y"
SMEC's Secretary Certificate on the authority of the authorized representatives to appoint and designate representative to prosecute, defend, arbitrate, settle and/or collect in behalf of the company	"Z"

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

MOTION FOR CONFIDENTIAL TREATMENT OF
ANNEX "V" and series

15. **Annex "V" and series** contain numbers, methodology, and calculations which provide valuable information and insight on how SMEC arrives at its power generation rate and would accordingly reflect SMEC's bidding strategy for distribution utilities undertaking competitive process for the selection of their power suppliers, and SMEC's trading in the WESM. It also contains information regarding the debt or equity ratio, capital costs, weighted average cost of capital, and fuel cost, among other information.

15.1. It is therefore submitted that **Annex "V" and series** fall within the bounds of proprietary "trade secrets" which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.

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 SMEC respectfully prays for the issuance of a protective order declaring **Annex "V" and series** as confidential information, since Applicant SMEC 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 "V" and series** constitute "trade secrets" of Applicant SMEC; thus, SMEC 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 "V"** 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. SMEC hereby submits one (1) copy of each 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 "V"** 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:



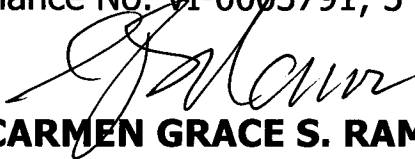
FRANCIS DINO S. ANTONIO

Roll of Attorneys No. 48145

PTR No. 5229236; 1/9/19; Pasig City

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

MCLE Compliance No. VI-0003791; 3 November 2017



CARMEN GRACE S. RAMOS

Roll of Attorneys No. 55945

PTR No. 5229238; 1/9/19; Pasig City

IBP No. 66246; 1/9/19; RSM

MCLE Compliance No. VI-0000248; 11 July 2016



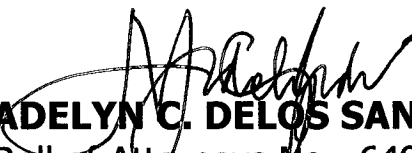
ANGELICA DIANE B. MONTEZA

Roll of Attorneys No. 55575

PTR No. 5229239; 1/9/19; Pasig City

IBP No. 66247; 1/9/19; RSM

MCLE Compliance No. VI-0000242; 11 July 2016



MADELYN C. DELOS SANTOS

Roll of Attorneys No. 64977

PTR No. 5312076; 1/21/19; Pasig City

IBP No. 060140; 1/9/19; RSM

MCLE Compliance No. VI-0025837; 12 April 2019

7th Floor, Lopez Building,
Ortigas Avenue, Barangay Ugong, Pasig City
Tel no. 1622-2260; Fax No: 1622-3550

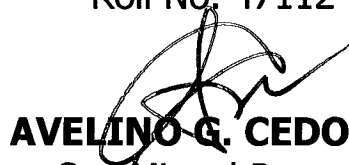
SAN MIGUEL ENERGY CORPORATION

Co-Applicant



JUPITER M. CABAGUIO

23rd Floor, San Miguel Properties Centre,
No. 7 St. Francis Street, Mandaluyong City
Telephone No. (02) 702-4512 / jmcabaguio@gmail.com
PTR No. 3823276 / 4 January 2019 / Mandaluyong City
IBP No. 06372 / Lifetime / Makati City
MCLE Compliance No. VI-0015891/ 13 December 2018
Roll No. 47112



AVELINO G. CEDDO III

23rd Floor, San Miguel Properties Centre,
No. 7 St. Francis Street, Mandaluyong City
Telephone No. (02) 702-4509 / agcedo3@gmail.com
PTR No. 3823277 / 4 January 2019 / Mandaluyong City
IBP No. 010380 / Lifetime / PPLM
MCLE Compliance No. VI-0011960 / 3 September 2018
Roll No. 54500

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;

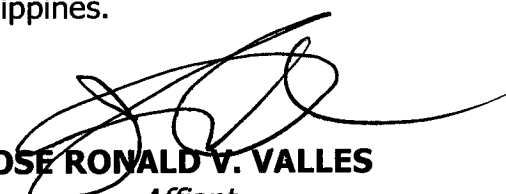
2. Moreover, I have been authorized by the Board of Directors of MERALCO to certify that Applicant has not heretofore filed any similar action, pleading or application involving the same issues before the Supreme Court, the Court of Appeals or any other lower courts or administrative bodies. A copy of 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. 219 ;
Page No. 45 ;
Book No. 11 ;
Series of 2019.

ATTY. EDGAR MICHAEL C. ROBLES
Notary Public
Pasig San Juan, Rizal
Issued on January 27, 2019 at Pasig City
Appointment No. 10 (2019-2020)
Roll No. 62413/IBP 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

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

VERIFICATION AND
CERTIFICATION OF NON-FORUM SHOPPING

I, **BERNARD PAUL D. CAUSON**, Filipino, of legal age, and with office address at the 19th Floor, San Miguel Properties Centre, No. 7 St. Francis Street, Mandaluyong City, after having been duly sworn to in accordance with law, depose and state, that:

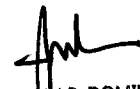
1. I am the authorized representative of San Miguel Energy Corporation ("SMEC") and have caused the preparation and filing of this Joint Application;
2. I have read the contents thereof and all the allegations contained therein are true and correct to the best of my personal knowledge and based on authentic and official records; and
3. I further certify that I have not filed any action involving the same issues in the Supreme Court, Court of Appeals, or any other courts or tribunals. If ever there is a case pending before the said courts or tribunals involving the same issues, I undertake to inform the Honorable Commission of such fact within five (5) days from knowledge thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of October 2019 at Mandaluyong City, Philippines.


PAUL BERNARD D. CAUSON
Affiant

SUBSCRIBED AND SWORN to before me this 21st day of October 2019 at Mandaluyong City. Affiant personally appeared and exhibited to me his Philippine Passport with No. **P8120059A** issued on **27 July 2018** at the **Department of Foreign Affairs (DFA), NCR East** as his competent proof of identity.

Doc. No. 711 ;
Page No. 64 ;
Book No. 111 ;
Series of 2019.


JULIE ANN B. DOMINO-PABLO
Appointment No. 0470-18
Notary Public for Mandaluyong City
Until December 31, 2019
No. 155 EDSA, Brgy. Wack-Wack, Mandaluyong City
Roll No. 57163
PTR No. 3823278; 01/04/2019; Mandaluyong City
IBP Lifetime Member No. 012880; 6/17/14; Quezon City Chapter
MCLE Compliance No. VI-0016980; 12/28/2018; Pasig 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."

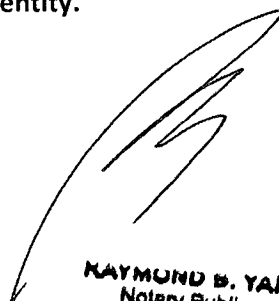
WITNESS THE SIGNATURE of the undersigned as such officer of the Company and its corporate seal hereunto affixed on this 13th day of September 2019.



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. 75;
Book No. III;
Series of 2019.



KAYMUND B. YAP
Notary Public
Pasig, San Juan and Pateros
Issued on February 11, 2019 at Pasig City
Appointment No. 104 (2019-2020)
No. 55889/IBP No. 66249; 1/9/19; Capiz Chapter
PTR No. 5229241; 1/9/19; Pasig City
5th Floor, Level 5, Pasig City