

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



**IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE POWER PURCHASE AND SALE AGREEMENT (PPSA), AS AMENDED, BETWEEN NUEVA ECIJA I ELECTRIC COOPERATIVE, INC. AND GNPOWER LTD. CO., WITH PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION AND THE ISSUANCE OF PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2016-037 RC**

**NUEVA ECIJA I ELECTRIC COOPERATIVE, INC. (NEECO I) AND GNPOWER LTD. CO. (GNPOWER),  
Applicants.**

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**D O C K E T E D**  
Date: AUG 31 2017  
By: W

**ORDER**

On 04 April 2016, Nueva Ecija I Electric Cooperative, Inc. (NEECO I) and GNPower Ltd. Co. (GNPOWER), filed their *Application* for approval of their Power Purchase and Sale Agreement (PPSA), with prayer for the issuance of provisional authority.

On 17 June 2016, pursuant to Commission's power to provisionally approve the PPSA between NEECO I and GNPOWER, as provided under Section 4 (e), Rule 3 of the Implementing Rules and Regulations of Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001 (EPIRA-IRR), the Commission issued an Order granting Applicants provisional authority to implement their PPSA, the dispositive portion of which reads:

**IN VIEW OF THE FOREGOING, Applicants Nueva Ecija I Electric Cooperative, Inc. (NEECO I) and GNPower Ltd. Co.**

(GNPOWER) are hereby **GRANTED PROVISIONAL AUTHORITY** to implement their Power Purchase and Sales Agreement (PPSA), as amended, subject to the following rates and conditions:

1) Applicable Rates:

a) Capacity Fee

| Capacity Utilization Factor (%) | Capacity Fee (\$/kWh) |
|---------------------------------|-----------------------|
| 100%                            | 0.0466                |
| 99%                             | 0.0470                |
| 98%                             | 0.0474                |
| 97%                             | 0.0477                |
| 96%                             | 0.0481                |
| 95%                             | 0.0485                |
| 94%                             | 0.0489                |
| 93%                             | 0.0493                |
| 92%                             | 0.0497                |
| 91%                             | 0.0502                |
| 90%                             | 0.0506                |
| 89%                             | 0.0510                |
| 88%                             | 0.0515                |
| 87%                             | 0.0519                |
| 86%                             | 0.0524                |
| 85%                             | 0.0529                |
| 84%                             | 0.0534                |
| 83%                             | 0.0539                |
| 82%                             | 0.0544                |
| 81%                             | 0.0549                |
| 80%                             | 0.0555                |
| 79%                             | 0.0561                |
| 78%                             | 0.0567                |
| 77%                             | 0.0573                |
| 76%                             | 0.0579                |
| 75%                             | 0.0585                |
| 74%                             | 0.0592                |
| 73%                             | 0.0599                |
| 72%                             | 0.0606                |
| 71%                             | 0.0613                |
| 70%                             | 0.0621                |
| 69%                             | 0.0629                |
| 68%                             | 0.0637                |
| 67%                             | 0.0645                |
| 66%                             | 0.0653                |
| 65%                             | 0.0662                |

b) Energy Fee

Initial Energy Fee = \$0.0370/kWh

- 2) The final generation cost that can be recovered shall be determined by the Commission in its Decision in the instant Application; and
- 3) In the event that the final rate is higher than that provisionally granted, the resulting additional charges

shall be collected by GNPOWER from NEECO I. On the other hand, if the final rate is lower than that provisionally granted, the amount corresponding to the reduction shall be refunded by GNPOWER to NEECO I.

XXX

**SO ORDERED.**

In interpreting the power of the Commission to grant provisional authority, the Supreme Court in the case of *Freedom from Debt Coalition vs. Energy Regulatory Commission*<sup>1</sup> explained that a provisional authority is effective for only twelve (12) months.

Inasmuch as the Commission has initiated the evaluation of the *Application* taking into consideration all submissions made by the parties, prudence dictates that a meticulous review of Applicants' PPSA be made pursuant to the Commission's mandate under Section 23 of the EPIRA to ensure that distribution utilities supply electricity in the least cost manner to its captive market.

**WHEREFORE**, premises considered, the provisional authority granted to Applicants NEECO I and GNPOWER in the Order dated 17 June 2016 is **EXTENDED** until revoked or made permanent by the Commission.

**SO ORDERED.**

Pasig City, 16 June 2017.

**JOSE VICENTE B. SALAZAR\***  
*Chairman and CEO*

  
**ALFREDO J. NON**  
*Commissioner*

  
**GLORIA VICTORIA C. YAP-TARUC**  
*Commissioner*

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Commissioner*

  
**GERONIMO D. STA. ANA**  
*Commissioner*

LS: ARG/LSP/AFV TWG-C: CIA/ECE

<sup>1</sup> G.R. No. 161113, 15 June 2014.

\*The Chairman was placed on preventive suspension as per Order of the Office of the President (OP-DC Case No. 17-D- 094) dated 02 May 2017 and received on 04 May 2017.

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Quezon City, Metro Manila
8. President  
Philippine Chamber of Commerce and Industry (PCCI)  
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9. Office of the City Mayor  
Pasig City
10. Office of the Local Government Legislative Body  
Pasig City
11. Office of the Provincial Governor  
Province of Nueva Ecija
12. Office of the Local Government Legislative Body  
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14. Office of the Local Government Legislative Body  
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15. Office of the Municipal Mayor  
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