

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
PENINSULA ELECTRIC
COOPERATIVE, INC. AND
GNPOWER LTD. CO., WITH
MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
ISSUANCE OF
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2016-036 RC

**PENINSULA ELECTRIC
COOPERATIVE, INC.
(PENELCO) AND GNPOWER
LTD. CO. (GNPOWER),
Applicants.**

D O C K E T E D
Date: AUG 31 2017
By: [Signature]

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ORDER

On 04 April 2016, Peninsula Electric Cooperative, Inc. (PENELCO) 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 PENELCO 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 Peninsula Electric Cooperative, Inc. (PENELCO) and GNPower Ltd. Co.

(GNPOWER) are hereby **GRANTED PROVISIONAL AUTHORITY** to implement their Power Purchase and Sale Agreement (PPSA), as amended, subject to the following 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 PENELCO. 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 PENELCO.

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*¹ 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 PENELCO 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

¹ 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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