

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
SAN MIGUEL AVENUE, PASIG CITY

**IN THE MATTER OF THE APPLICATION
FOR APPROVAL OF THE POWER
SUPPLY AGREEMENT BETWEEN
OCCIDENTAL MINDORO ELECTRIC
COOPERATIVE, INC. AND OCCIDENTAL
MINDORO CONSOLIDATED POWER
CORPORATION FOR MAMBURAO,
PALUAN, STA. CRUZ, AND ABRA DE
ILOG (MAPSA), WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE No. 2022-027RC

April 13, 2022

**OCCIDENTAL MINDORO ELECTRIC
COOPERATIVE, INC. (OMEKO) AND
OCCIDENTAL MINDORO
CONSOLIDATED POWER
CORPORATION (OMCPC),**

Applicants.

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JOINT APPLICATION

Joint Applicants, Occidental Mindoro Electric Cooperative, Inc. (“OMEKO”) and Occidental Mindoro Consolidated Power Corporation (“OMCPC”), by their respective undersigned counsel, respectfully state:

THE APPLICANTS

1. OMEKO is a non-stock, non-profit electric cooperative organized and existing under Presidential Decree No. 269, as amended, with principal office at M.H. del Pilar Street, San Jose, Occidental Mindoro. OMEKO has a franchise to distribute electricity in the municipalities of Abra de Ilog, Mamburao, Sta. Cruz, Sablayan, Calintaan, Rizal, San Jose, Paluan, and Magsaysay, all within the Province of Occidental Mindoro.

Copies of OMEKO’s Certificate of Registration, By-Laws, Certificate of Franchise, Certification on the members of the Board of

Directors and single line diagram of its distribution system are attached hereto as **Annexes “A”** to **“A-4”** respectively.

2. OMPC is a corporation duly authorized and existing under the laws of the Republic of the Philippines, with office address at Units 1003 and 1004, 10th floor, Galleria Corporate Center, EDSA corner Ortigas Avenue, Barangay Ugong Norte, Quezon City.

Copies of OMPC’s Certificate of Incorporation, Articles of Incorporation (“AOI”), By-Laws, Certificates of Filing of Amended AOI with the attached copies of the Amended AOI, latest General Information Sheet, Audited Financial Statements, OMPC’s corporate structure, and certification on its Board of Directors are attached hereto as **Annexes “B”** to **“B-9,”** respectively.

3. Joint Applicants may be served with orders and other processes through their respective undersigned counsel.

NATURE OF THE APPLICATION

4. Pursuant to Rule 20 (B) of the Revised Rules of Practice and Procedure (“ERC Rules”), approved by this Honorable Commission on 17 December 2020 in Resolution No. 01, Series of 2021, this Joint Application is submitted to this Honorable Commission for its review and approval of the Power Supply Agreement (“PSA”) between OMECO and OMPC for Mamburao, Paluan, Sta. Cruz, and Abra de Ilog (“MAPSA”).

A copy of the PSA is attached hereto as **Annex “C”**.

COMPLIANCE WITH PRE-FILING REQUIREMENTS

5. In compliance with Rule 6 of the ERC Rules, Joint Applicants have furnished the executive and legislative bodies of each of the local government units where they principally operate a copy of the present Joint Application with all its annexes and accompanying documents.

The corresponding proofs of receipt are attached hereto as **Annexes “D”** and **series**.

6. Furthermore, Joint Applicants have caused the publication of the present Joint Application in its entirety, excluding its annexes, in a newspaper of general circulation within OMECO’s franchise area.

Copies of the newspaper and the corresponding Affidavit of Publication are attached hereto as **Annexes “E” and “E-1”**, respectively.

STATEMENT OF FACTS

7. **Necessity of Power Supply.** The total electricity power requirements of consumers in the Province of Occidental Mindoro is estimated to exceed 28 MW in 2022. Such total power requirements is projected to further increase by over six percent (6%) annually and to reach more than 36 MW in 2026.

8. The MAPSA area in the northern part of the province typically accounts for about twenty five percent (25%) of the total power demand of OMECO.

9. The expected increase is indicated in OMECO’s Distribution Development Plan (“DDP”) and supply-demand projections.

Copies of OMECO’s DDP Summary, and Supply-Demand Scenario, Average Daily Load Curve and Interruption Report are attached hereto as **Annexes “F,” “F-1,” “F-2,” and “G”**, respectively.

10. **OMECO Procurement Process.** It is the duty of OMECO, being the distribution utility with the franchise over Occidental Mindoro, to ensure that its customers shall have sufficient, stable, secure and reliable power supply.

11. In order to procure its power supply requirements, OMECO, through its Third-Party Bids and Awards Committee (“TPBAC”), conducted a Competitive Selection Process (“CSP”) as required under the relevant regulations.

12. OMECO published its Invitation to Bid and the Terms of Reference (“TOR”) for the CSP in the following newspapers on the dates provided:

- a) Mindoro Guardian – September 2 and 9, 2019;
- b) Philippine Daily Inquirer – September 1 and 8, 2019; and
- c) The Philippine Star – September 1 and 8, 2019.

13. However, due to numerous factors including the COVID-19 pandemic, OMECO was only able to conclude the CSP in August of 2021.

Copies of the above-enumerated newspaper publications and the TOR are attached hereto as **Annexes “H” and “I”**, respectively.

14. Under the TOR, the total power supply requirements are divided into three (3) lots based on the required power supply and plant locations as follows:

- a) San Jose, Magsaysay, Rizal, and Calintaan or SAMARICA;
- b) Sablayan; and
- c) MAPSA;

15. The terms and conditions for the MAPSA lot had the following unique features:

- a) Five-year term from 2022 to 2026;
- b) Required net dependable capacity increasing from 7 MW to 9 MW; and
- c) P/kWh fees based on a capacity utilization factor; and
- d) Absence of actual fuel cost pass-through and consumption efficiency cap, with the bidders taking on the cost and consumption risks.

16. For the MAPSA lot, the participating bidders were OMCP, DMCI Power Corp., and Siquijor Island Power Corp.

Copies of the offers received from the said bidders are attached hereto as **Annexes “J”** and **series**.

17. During the submission and opening of bids on 16 July 2021, initial evaluation of bids for the MAPSA lot was conducted through the agreed formula and electronic process in the Bidding Documents. Thereafter, the TPBAC presented the results as follows:

Bidder	Levelized Bid Price	Rank
OMCPC	P 13.1333/kWh	1
DMCI	P 15.0444/kWh	2
SIPCOR	P 17.6134/kWh	3

18. OMCPC's bid was declared as the Lowest Calculated Bid. After the post-qualification evaluation, the TPBAC declared the bid of OMCPC as the Lowest Calculated and Responsive Bid.

19. On 18 August 2021, TPBAC recommended to issue a Notice of Award in favor of OMCPC and the same was approved by the Board of Directors. Thereafter, OMECO and OMCPC executed the subject PSA.

Copies of the Evaluation Report of the TPBAC, the OMECO Board Resolution confirming the said Report, the Notice of Award, matrix and type of CSP, and general manager's certification are

attached hereto as **Annexes “K”, “L,” “M,” “N” and “O”**, respectively.

20. Under the law, no contract for the supply of power can become legally effective unless approved by this Honorable Commission. Hence, this Joint Application.

**ABSTRACT OF THE POWER SUPPLY AGREEMENT
AND RELATED INFORMATION**

21. **The Generation Facilities.** OMCPD shall supply power to OMECO using modular diesel-fired power generating units with a total net capacity of up to 9.8 MW to be located in Barangay Tayamaan, Mamburao, Occidental Mindoro (the “OMCPD Power Station”). The Power Station will be connected to the Occidental Mindoro 69 kV backbone through a 13.8 kV connection.

22. The Specific Fuel Oil Consumption (“SFOC”) rate of the OMCPD Power Station shall not be greater than 0.280 liter/kWh.

A brief description of the technical characteristics of the OMCPD Power Station and a copy of a single line diagram showing its connection are attached hereto as **Annexes “P” and “Q,”** respectively. A copy of a certification on the SFOC rate is attached hereto as **Annex “R”**.

23. **Salient Features of the PSA.** The PSA is based on the template PSA issued by the TPBAC as part of the CSP. It contains the following salient features:

23.1. **Supply of Power Requirements.** OMCPD shall supply the following Net Dependable Capacity and its associated energy in accordance with the dispatch schedule of the System Operator.

Year	2022	2023	2024	2025	2026
Capacity	7 MW	8 MW	8 MW	9 MW	9 MW

23.2. **Commercial Operation Date (“COD”).** The COD shall occur on 26 December 2021 or ninety (90) days upon issuance of a provisional authority or final approval of the PSA by this Honorable Commission.

23.3. **Cooperation Period.** The PSA shall have a cooperation period of five (5) years from the COD, unless earlier terminated.

23.4. **Merit Order Dispatch.** OMECO shall dispatch the Power Station for its power requirements in accordance with economic merit order.

24. **Purchased Power Rate.** OMECO shall pay the monthly payment based on the following formulas, which were established by the TPBAC and formed part of the Bidding Documents for the CSP:

1. Contract Price

Base Prices (Reference February 2021)

INDEXATION (Portion of Price Component that will be indexed)	k (%)
Fixed Cost No. 1 (FC1) - Capital Recovery	0.00%
Fixed Cost No. 2 Local (FC2L) - Fixed O&M	100.00%
Fixed Cost No. 2 Foreign (FC2F) - Fixed O&M	0.00%
Variable Cost No. 1 Local (VC1L) - Variable O&M	100.00%
Variable Cost No. 1 Foreign (VC1F) - Variable O&M	0.00%
Variable Cost No. 2 (VC2) – Fuel, including Transport	100.00%

As prescribed in the CSP, Schedule A of the PSA contains an extensive table showing the values of the Contract Price Components (FC1, FC2, VC1 and VC2) from 0% to 100% Capacity Utilization Factor (“CUF”) in 1% increments. The following table contains sample values from the table in the PSA.

CUF	FC1 (P/kWh)	FC2L (P/kWh)	FC2F (P/kWh)	VC1L (P/kWh)	VC1F (P/kWh)	VC2 (P/kWh)	Total Price
100%	0.2799	0.1721	0.0000	0.7476	0.0000	9.8750	11.0745
80%	0.3499	0.2151	0.0000	0.7476	0.0000	9.8750	11.1875
50%	0.5598	0.3441	0.0000	0.7476	0.0000	9.8750	11.5265
30%	0.9330	0.5735	0.0000	0.7476	0.0000	9.8750	12.1291

Unit Start-Up Price (PhP)	0.0000
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2. Computation of Monthly Fees

The Monthly Fees for each power plant shall be calculated according to the following formula:

$$Fees_{month}^{TOTAL} = \sum_{Plant, Tech} Fees_{month}^{PlantTech}$$

$$Fees_{month}^{PlantTech} = [FC1_{month} + FC2_{month} + VC1_{month} + VC2_{month}] \times Q_{month}^{PlantTech} + StartUp_{Month}$$

Where:

$Fees_{month}^{Plant}$ – Total charges for a billing month in PhP

$FC1_{month}$ – Applicable Capital Recovery Rate for the billing month
 $FC2_{month}$ – Applicable Fixed O&M Rate for the billing month
 $VC1_{month}$ – Applicable Variable O&M Rate for the billing month
 $VC2_{month}$ – Applicable Fuel Rate for the billing month
 $StartUp_{month}$ – Start-up fees for the billing month
 Q_{month}^{Plant} – Quantity in kWh delivered by the NPP/s power plant
 VAT – Value Added Tax, applicable for non-RE Power Plant only

3. Capital Recovery Rate, FC1

The Capital Recovery Rate for the billing month shall be calculated as follows:

$$FC1_{month} = FC1L_{Base}^{Plant} (CUF_{month})$$

$$CUF_{month} = \frac{Q_{month}}{TDCC \times (H_T - H_{TO} - H_{TFM})}$$

Where:

$FC1_{month}$ – Applicable Price of the fixed capital recovery cost component for the billing month
 $FC1L_{Base}^{Plant} (CUF_{month})$ – the local fixed capacity recovery rate ($FC1L$) of the Contract Price which depends on the actual CUF in the billing month
 CUF_{month} – Capacity utilization factor in the billing month
 $TDCC$ – Total Dependable Contracted Capacity
 H_T – Total number of hours of the billing month
 H_{TO} – Equivalent Outage Hours for the billing month
 H_{TFM} – Equivalent Hours of Outages due to Forced-Majeure for the billing month

4. Fixed O&M Rate, FC2

The Fixed O&M Rate for the billing month shall be calculated as follows:

$$\begin{aligned}
 FC2_{month} = & k_L^{FC2} \times FC2L_{Base}^{Plant} (CUF_{month}) \times \frac{PHCPI_{month-1}}{PHCPI_{Feb2021}} \\
 & + (1 - k_L^{FC2}) \times FC2L_{Base}^{Plant} (CUF_{month}) \\
 & + k_F^{FC2} \times FC2F_{Base}^{Plant} (CUF_{month}) \times \frac{USCPI_{month-1}}{USCPI_{Feb2021}} \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}} \\
 & + (1 - k_F^{FC2}) \times FC2F_{Base}^{Plant} (CUF_{month}) \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}}
 \end{aligned}$$

Where:

$FC2_{month}$ – Applicable Price of the fixed O&M cost component for the billing month
 $FC2L_{Base}^{Plant} (CUF_{month})$ – is the value of local fixed O&M cost component ($FC2L$) at a given CUF in the billing month
 $FC2L_{Base}^{Plant}$ – the bid price of local fixed O&M cost component ($FC2L$) at 100% CUF
 $FC2F_{Base}^{Plant} (CUF_{month})$ – is the value of foreign fixed cost component ($FC2F$) at a given CUF
 $FC2F_{Base}^{Plant}$ – the bid price of foreign fixed cost component ($FC2F$) at 100% CUF
 $PHCPI_{month-1}$ – is the value of the Philippine Consumer Price Index on the month preceding the billing month

$PHCPI_{Feb2021}$ – is the base value of the Philippine Consumer Price Index (2012-100) of All Income Households of All Items for the reference month February 2021, equal to 128.100, published by Philippine Statistics Authority. www.psa.gov.ph

$USCPI_{month-1}$ – is the value of the US Consumer Price Index on the month preceding the billing month

$USCPI_{Feb2021}$ – is the average of the US Consumer Price Index for All Urban Consumers (CPI-U) (1982-84=100), by expenditure category, for the reference month February 2021, equal to 263.014, published by US Bureau of Labor Statistics. www.bls.gov

$FOREX_{month-1}$ – is the value of Monthly Average of Daily Pesos per US Dollar Rate on the month preceding the billing month published by Bangko Sentral ng Pilipinas. www.bsp.gov.ph

$FOREX_{Feb2021}$ – is the value of Monthly Average of Daily Pesos per US Dollar Rate for the reference month February 2021, equal to PHP48.2042/USD, published by Bangko Sentral ng Pilipinas. www.bsp.gov.ph

k_L^{FC2} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for local fixed O&M ($FC2L$)

k_F^{FC2} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for foreign fixed O&M ($FC2F$)

5. Variable O&M Rate, VC1

The Variable O&M Rate for the billing month shall be calculated as follows:

$$\begin{aligned}
 VC1_{month} = & k_L^{VC1} \times VC1L_{Base}^{Plant}(CUF_{month}) \times \frac{PHCPI_{month-1}}{PHCPI_{Feb2021}} \\
 & + (1 - k_L^{VC1}) \times VC1L_{Base}^{Plant}(CUF_{month}) \\
 & + k_F^{VC1} \times VC1F_{Base}^{Plant}(CUF_{month}) \times \frac{USCPI_{month-1}}{USCPI_{Feb2021}} \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}} \\
 & + (1 - k_F^{VC1}) \times VC1F_{Base}^{Plant}(CUF_{month}) \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}}
 \end{aligned}$$

Where:

$VC1_{month}$ – Applicable Price of the variable O&M cost component for the billing month

$VC1L_{Base}^{Plant}(CUF_{month})$ – is the value of local variable O&M cost component ($VC1L$) at a given CUF

$VC1F_{Base}^{Plant}(CUF_{month})$ – is the value of foreign variable O&M cost component ($VC1F$) at a given CUF

k_L^{VC1} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for local variable O&M ($VC1L$)

k_F^{VC1} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for foreign variable O&M ($VC1F$)

Note: No need to include variables and parameters previously defined above.

6. Fuel Rate, VC2

The Fuel Rate for the billing month shall be calculated as follows:

$$VC2_{month} = k_L^{VC2} \times VC2L_{Base}^{Plant}(CUF_{month}) \times \frac{FuelIndex_{month-1}}{FuelIndex_{Feb2021}} \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}} + (1 - k_L^{VC2}) \times VC2L_{Base}^{Plant}(CUF_{month})$$

Where:

$VC2_{month}$ – Applicable Price of the fuel cost component for the billing month
 $VC2L_{Base}^{Plant}(CUF_{month})$ – is the value of local fuel cost component (VC2L) at a given CUF

$FuelIndex_{month-1}$ – is the value of applicable fuel index on the month preceding the billing month (e.g. if the billing month is May 2023, the fuel index shall be taken for the month of April 2023)

$FuelIndex_{Feb2021}$ – is the base value of applicable fuel index for the reference month February 2021

For Diesel (LFO) – the calculated average of Low/Hi of all weeks of all stations in Occidental Mindoro published by DOE (DOE Price Watch, South Luzon Prevailing Retail Pump Prices, Occidental Mindoro). For February 2021, equal to PHP38.89/LITER. <https://www.doe.gov.ph/oil-monitor?q=retail-pump-prices-south-luzon>

For Bunker Diesel – the Monthly Average of Daily Prices of Singapore – IFO380 published by Ship&Bunker. For February 2021, equal to US\$ 381.80/mt. <https://www.shipandbunker.com>

For Biodiesel – Monthly prices for coconut oil in nominal U.S. dollars per metric ton published by Statista. For February 2021, equal to US\$ 1,438/mt. <https://www.statista.com/statistics/673372/monthly-prices-for-coconut-oil-worldwide/>

For LNG – the World Bank Commodities Price Data (The Pink Sheet), Natural Gas, LNG Japan published by World Bank. February 2021, equal to USD9.88/MMBTU. <https://www.worldbank.org/commodities>

k_L^{VC2} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for local fuel cost (VC2L)

7. Monthly Start Up Fees

$$StartUp_{month} = UnitStartUpPrice \times \frac{FuelIndex_{month-1}}{FuelIndex_{Feb2021}} \times NumStartUp_{Month}$$

Where:

$UnitStartUpPrice$ - is the value of the bid price for the start-up of a generating unit
 $NumStartUp_{Month}$ - is the number of guaranteed maximum start-up of generating units in the billing Month

8. Computation of Monthly Payment of the Buyer (PHP)

$$Payment\ of\ Buyer = SAGR \times Q_{month}^{Plant} \times (1 + VAT)$$

Where:

$SAGR$ – Subsidized Approved Generation Rate

Q_{month}^{Plant} – Quantity in kWh delivered by the NPP/s power plant

VAT – Value Added Tax

24.1. **Commissioning Energy Fees.** The Buyer shall purchase and pay the commissioning energy output at a rate equivalent to the Monthly Fees, excluding the Capital Recovery Rate, subject to this Honorable Commission's approval. The Buyer shall pay only the Subsidized Approved Generation Rate ("SAGR"), while the balance shall be recovered from the Universal Charge for Missionary Electrification ("UCME") subsidy.

24.2. **Fuel costs and consumption efficiency.** The PSA does not contemplate the pass-through of actual fuel costs and the implementation of a fuel consumption efficiency cap.

24.3. Under the Bidding Documents, the bidders were required to submit VC2L values as part of their bids. Each bidder was given discretion to factor in its anticipated fuel procurement cost and fuel consumption, or to set its VC2L values higher or lower depending on how competitive it wanted its bid to be. Thus, the bidder assumes all risks with regard to actual fuel costs and fuel efficiency.

24.4. **Sample computation.** A sample computation of the rate is attached hereto as **Annex "S"**.

24.5. **Basis for indexation.** As indicated in the formulas above, the monthly fees are subject to adjustments based on changes in local and foreign inflation, foreign exchange rates and fuel indices to reflect the fluctuation of the costs in producing electricity. The formulas were prescribed in the CSP.

24.6. **Financial Model.** A copy of OMCP's financial model for the rates is attached hereto as **Annex "T"**. As discussed below, the financial model is the subject of a Motion for Confidential Treatment of Information.

25. **Sources of Funds/Financial Plans.**

25.1. **Cost of Equity.** The project shall be funded through loans and equity, with a debt-equity ratio of 70:30. A breakdown of the weighted cost of capital and a copy of proof of OMCP's cost of debt are attached hereto as **Annexes "U"** and **"V,"** respectively.

25.2. **Project Cost.** A breakdown of the total project cost and the corresponding derived rate are contained in **Annex "W"** hereof.

26. **Cash Flow.**

26.1. **Breakdown of Operating and Maintenance Expenses.** Breakdowns of the projected fixed and variable operating expenses and the corresponding derived rates are contained in **Annex “X”** hereof.

26.2. **Offtake Arrangement.** There is no minimum energy offtake under the PSA.

27. **Reduced PSA rates.** As shown in Annexes “W” and “X”, the rates in the PSA are lower than the rates computed based on OMCP’s costs.

28. **Fuel supply.** The fuel for the OMCP Power Station will be supplied by the supplier who offered the best terms after offers were solicited from available suppliers in the area.

A copy of an affidavit on the fuel procurement process is attached hereto as **Annex “Y”**.

29. **Environmental Compliance Certificate.** OMCP is currently processing the necessary application with the Department of Environment and Natural Resources for the issuance of an environmental compliance certificate for the OMCP Power Station.

Proof of such application is attached hereto as **Annex “Z”**.

30. **Certificate of Endorsement.** The Department of Energy has issued a Certificate of Endorsement (“COE”) to OMCP.

A copy of the COE is attached hereto as **Annex “AA”**.

31. **Certificate of Compliance.** The necessary Certificate of Compliance (“COC”) for the Power Station is still being processed with this Honorable Commission.

Proof of the pre-filing of the COC application is attached hereto as **Annex “AA-1”**.

RATE IMPLICATIONS

32. The approval of the PSA will have no direct rate impact to OMECO’s member-consumers as they will continue paying the SAGR as approved by this Honorable Commission.

MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

33. As mentioned above, the financial model attached as **Annex “T”** is hereby submitted under a motion to treat information confidential.

34. The financial model discloses the basis for the tariff under the PSA. It includes all the formulas and calculations as well as the assumptions and values considered therein.

35. In accordance with Section 1, Rule 4 of the ERC Rules, Applicant OMCPG respectfully moves that the financial model be treated as confidential information for the following reasons:

35.1. The financial model qualifies as a “trade secret” as contemplated under existing jurisprudence.

35.2. In the case “Air Philippines Corporation vs. Pennswell Inc,”¹ the Supreme Court defined “trade secret” as follows:

“A trade secret is defined as a plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having commercial value. A trade secret may consist of any formula, pattern, device, or compilation of information that (1) is used in one’s business; and (2) gives the employer an opportunity to obtain advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights.”

36. Also, the financial model was prepared and developed for the exclusive use of OMCPG, and is designed for the specific use of the company in its power generation business. Consequently, should the financial model be disclosed to the public, it could easily be copied or used by OMCPG’s competitors or other entities engaged in the power business for their own benefit, and to the prejudice of OMCPG. Thus, the commercial value of the said model will be diminished significantly.

37. Given the foregoing, the financial model qualifies as “confidential information” as defined under Section 2, Rule 4 of the ERC Rules.

¹ G. R. No. 172835, 13 December 2007.

38. In accordance with Section 1 (b), Rule 4 of the ERC Rules, an electronic copy of the financial model is contained in one compact disc and submitted in a sealed envelope marked with the word “Confidential.”

39. Further, all parties furnished copies of the present Joint Application are not furnished copies of the documents subject of the present motion.

40. In accordance with Sections 3 and 4, Rule 4 of the ERC Rules, Applicant OMCPG reserves the right to use the financial model and its contents as evidence, and respectfully moves for the issuance of a Protective Order.

ALLEGATIONS IN SUPPORT OF THE MOTION FOR PROVISIONAL AUTHORITY

41. As mentioned earlier, the power requirements of the Province of Occidental Mindoro is estimated to exceed 28 MW in 2022, and will increase over 6% annually.

42. At present, OMECO has only 24 MW of supply available, which is already insufficient to meet its power needs. OMECO sources 20 MW from OMCPG’s bunker-fired power plant in San Jose, and 4 MW from the National Power Corp.’s diesel power plant in Mamburao.

43. Worse, OMECO will lose the supply from OMCPG’s bunker-fired power plant by 22 March 2022. In its Order dated 16 December 2021 in ERC Case No. 2014-102 RC, this Honorable Commission allowed OMECO to source supply from OMCPG’s bunker-fired power plant only until 22 March 2022.

44. Thus, by 22 March 2022, OMECO will have only 4 MW of supply to serve the total demand of its customers which will exceed 28 MW.

45. This will result in widespread and prolonged blackouts throughout the province. The blackouts would have disastrous consequences on the lives of the people of Occidental Mindoro who are already struggling due to the current unprecedented economic and health crisis. The blackout would further cripple local businesses that are yet to recover after being devastated by the COVID-19 pandemic. Hospitals and healthcare facilities would also lose power at this most critical of times.

46. The implementation of the PSA subject of the present Joint Application will provide much needed additional supply to OMECO and will greatly help alleviate the power shortage.

47. However, the PSA cannot lawfully be implemented absent a provisional authority from this Honorable Commission. Hence, there is an urgent need for the issuance of a provisional authority.

48. In view of the foregoing, Joint Applicants respectfully move for the provisional approval of the instant Application pursuant to Rule 14 of the ERC Rules.

A copy of an affidavit in support of the prayer for provisional authority is attached hereto as **Annex "BB"**.

INAPPLICABILITY OF CERTAIN REQUIREMENTS

49. Certain documentary requirements contained in this Honorable Commission's Checklist of Pre-Filing Requirements for Applications for Approval of Power Supply Agreement are not applicable to the present Joint Application.

Written explanations on the inapplicability of the said requirements to OMECO and to OMCPG are attached hereto as **Annexes "CC" and "DD"**, respectively.

PRAYER

WHEREFORE, premises considered, Joint Applicants OMECO and OMCPG respectfully pray that this Honorable Commission:

1. issue an Order declaring the financial model attached hereto as **Annex "T"** as confidential information within the purview of Rule 4 of the ERC Rules, as well as directing that the financial model be treated with confidentiality and be protected from public disclosure;

2. issue the corresponding Protective Order in accordance with the said Rule 4;

3. immediately issue an Order provisionally approving the PSA subject of the instant Joint Application as well as the generation rate and adjustment mechanisms indicated therein, and allowing OMCPG to recover the difference between OMECO's SAGR and the provisionally approved TCGR from the UCME Subsidy Fund being managed by NPC; and

4. after due hearing, render a decision approving with finality the PSA subject of the instant Joint Application, as well as the generation rate and adjustment mechanisms indicated therein, and allowing OMCPG to recover the difference between OMECO's SAGR

and the approved TCGR from the UCME Subsidy Fund being managed by NPC.

Joint Applicants pray for other just and equitable relief under the premises.

Pasig City, 18 February 2022.

**DECHAVEZ LERIOS-AMBOY AND EVANGELISTA
LAW OFFICES²**

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By:



LORAIN B. BOBILES

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PTR No. 8131626, January 04, 2022, Pasig City
IBP Member No. 195220, January 03, 2022, RSM Chapter
MCLE Compliance No. Admitted 2019³

² Pursuant to Office of the Court Administrator Circular No. 56-2015, hereunder are the MCLE Compliance Numbers of the undersigned Firm's name partners, to wit:

Partners	MCLE Compliance No. VI	Date of Issuance
Joseph Ferdinand M. Dechavez	Certificate No. 000893	Sept. 18, 2018
Ditas A. Lerios-Amboy	Certificate No. 0022789	March 29, 2019
Nelson V. Evangelista	Certificate No. 0026811	May 24, 2019

³ Explanation (Re: MCLE Compliance) - Admitted to the Philippine Bar in June 2019. Pursuant to Board Order No. 1, s. 2008 of the MCLE Governing Board, otherwise known as "Guidelines for MCLE Compliance of New Lawyers in view of Bar Matter No. 1922, S. 2008", she is exempted from complying with the last MCLE compliance period.

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