

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE POWER
PURCHASE AND SALE
AGREEMENT BETWEEN
ANTIQUE ELECTRIC
COOPERATIVE, INC. AND
GNPOWER MARIVELES
COAL PLANT LTD. CO., WITH
MOTIONS FOR
CONFIDENTIAL TREATMENT
OF INFORMATION AND THE
ISSUANCE OF PROVISIONAL
AUTHORITY**

ERC Case No. 2019-006 RC

**ANTIQUE ELECTRIC
COOPERATIVE, INC.
(ANTECO) AND GNPOWER
MARIVELES COAL PLANT
LTD. CO. (GMCP),**

Applicants.

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Promulgated:
January 07, 2022

ORDER

On 30 January 2019, Antique Electric Cooperative, Inc. (ANTECO) and GNPower Mariveles Coal Plant Ltd. Co. (GMCP)¹ filed an *Application* dated 10 January 2019, seeking the Commission's approval of their Power Purchase and Sale Agreement (PPSA), with motions for confidential treatment of information and issuance of provisional authority.

¹ In a *Manifestation (Entry of Appearance and Notice of Change of Partnership Name)* dated 14 June 2021 filed on 18 June 2021 by GNPower Mariveles Energy Center Ltd. Co. (GMEC), the latter informed the Commission that the Securities and Exchange Commission approved the change in its partnership name from GNPower Mariveles Coal Plant Ltd. Co. to GNPower Mariveles Energy Center Ltd. Co., attaching thereto as proof the Certificate of Filing of Amended Articles of Partnership dated 14 October 2020. Thus, all notices, orders, processes and other correspondences from the Commission were requested to be addressed henceforth to GMEC.

On 06 January 2021, pursuant to Section 8 of Executive Order No. 172,² in relation to Sections 44 and 80 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), the Commission issued an *Order* dated 11 November 2020 (hereinafter referred to as IR Order), granting the Applicants' motion for interim relief to implement their PPSA. The dispositive portion of the said *IR Order* provides:

WHEREFORE, the foregoing premises considered, the Antique Electric Cooperative, Inc. (ANTECO) and GNPower Mariveles Coal Plant Ltd. Co. (GMCP) are hereby **GRANTED INTERIM RELIEF** to implement their Power Purchase and Sale Agreement (PPSA) for a period of one (1) year or until the issuance of a Final Authority, whichever comes earlier, subject to the following modifications and conditions:

1. The Applicable Rates shall be as follows:

Particulars	Rates	In PhP/kWh³
Capacity Fee at 100% CUF	US\$0.0468/kWh	2.3314
Initial Energy Fees	US\$0.0250/kWh	1.2454
Total		3.5768

The rates shall be subject to the adjustment formula as indicated in Schedule 1 of the subject PPSA, except for the adjustment in the foreign exchange.

2. Under Section 3.2 of the PPSA, the rate to be imposed by GMCP for the contracted capacity delivered as replacement power must be the rate of: (a) the actual price of the alternative supply; or (b) the Contract Price under the PPSA, whichever is lower;
3. Any extension and/or increase in contracted capacity on the Applicants' PPSA must be subject to prior approval by the Commission pursuant to its rules and regulations and policies on the Competitive Selection Process (CSP);
4. Pursuant to existing rules, ANTECO shall share to its member-consumers, the Prompt Payment Discount (PPD) availed from GMCP;
5. ANTECO is reminded to implement *diligent planning*, particularly in addressing its supply deficit in the franchise area;

² Entitled, "Creating Energy Regulatory Board".

³ Foreign exchange rate of PhP49.8160:1US\$ based on Final Bid Bulletin No. 3 FITB 25.4, Annex "M-26" of the *Application*.

6. ANTECO is likewise reminded to ensure proper implementation of the contract with respect to the outage and replacement power provisions; and
7. ANTECO is directed to include in its monthly calculation of its generation rate in accordance with the Automatic Generation Rate Adjustment (AGRA) Rules, all indices used by GMCP in the calculation of the monthly fees and the details of the fuel cost calculation, including the relevant heat rates and actual consumption.

Finally, the Applicants are required to submit the necessary supporting documents that will show how the specific components of the updated project cost were computed, particularly the breakdown of the dollar-denominated items. The said documents shall be required to be submitted within a non-extendible period of fifteen (15) days from receipt of this *Order*.

Pursuant to the *IR Order*, the interim relief granted by the Commission to the Applicants is effective for a period of one (1) year and will expire on 11 November 2021. Thus, in consideration of ensuring the unimpaired supply of electricity to the customers of ANTECO, the Commission, after due consideration and deliberation, resolves to extend the interim relief granted to Applicants.

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

WHEREFORE, the foregoing premises considered, the interim relief granted to Applicants Antique Electric Cooperative, Inc (ANTECO) and GNPowder Mariveles Coal Plant Ltd. Co. (GMCP) [now GNPowder Mariveles Energy Center Ltd. Co. (GMEC)] is hereby **EXTENDED**, subject to the same conditions provided in the *IR Order* dated 11 November 2020, until revoked or until issuance of a final decision by the Commission, whichever comes earlier.

Finally, the Applicants are directed to comply with the following:

1. The rates shall be subject to the adjustment formula as indicated in Schedule 1 of the subject Power Purchase and Sale Agreement (PPSA), except for the adjustment in the foreign exchange.

Further, the Applicants should submit a confirmation that the PPSA is being implemented in accordance with the *IR Order* dated 11 November 2020, including the directives in dealing with the foreign exchange provisions;

2. The allowed outages should be in accordance with the Commission's Resolution No. 10, Series of 2020⁴ which shall be reckoned from the date of effectivity of the said Resolution; and
3. Beyond the allowable outage, GMCP (now GMEC) should have the obligation to source replacement power, based on the actual cost or approved rates, whichever is lower, in order to fulfill the contracted capacity at its own cost. In the event that GMCP (now GMEC) fails to source replacement power/capacity, ANTECO should be allowed to find replacement power/capacity, the incremental cost of which shall be for the sole account of GMCP (now GMEC).

SO ORDERED.

Pasig City, 10 November 2021.





AGNES VST DEVANADERA
Chairperson and CEO


ALEXIS M. LUMBATAN
Commissioner


CATHERINE P. MACEDA
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMFO L. FUENTES
Commissioner


LS: ARG/MCCG


ROS: KGEV/FPG/AJMO/LLG

⁴ A Resolution Adopting the Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units.

COPY FURNISHED:

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Counsel for Co-Applicant GMCP (now GMEC)
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Ortigas Center, Pasig City
3. Antique Electric Cooperative, Inc. (ANTECO)
Co-Applicant
Brgy. Funda, San Jose de Buenavista, Antique
4. GNPowder Mariveles Coal Plant Ltd. Co. [now GNPowder Mariveles Energy Center Ltd. Co. (GMEC)]
Co-Applicant
28th Floor, The Orient Square, F. Ortigas Jr. Road
Ortigas Center, Pasig City
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City 1121
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City 1307
8. House Committee on Energy
Batasan Hills, Quezon City 1126
9. Office of the Governor
Province of Antique
10. Office of the Local Government (LGU) legislative body
Province of Antique
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Municipality of Anini-y, Antique
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Municipality of Barbaza, Antique

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