

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER SUPPLY
AGREEMENT DATED 3
FEBRUARY 2023 BETWEEN
MANILA ELECTRIC COMPANY
AND GNPOWER DINGININ
LTD. CO., WITH MOTION FOR
CONFIDENTIAL TREATMENT
OF INFORMATION**

ERC CASE NO. 2023-031 RC

**MANILA ELECTRIC COMPANY
AND GNPOWER DINGININ
LTD. CO.,**

Promulgated:
August 26, 2026

Applicants.

X-----X

DECISION

For resolution before the Commission is the *Joint Application* dated 21 February 2023, filed by Manila Electric Company (MERALCO) and GNPowder Dinginin Ltd. Co. (GNPD) on 13 April 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with a contracted capacity of 300 MW, which shall commence on the Operations Effective Date and shall expire on 25 February 2023, unless terminated earlier in accordance with the terms of the EPSA, with motion for confidential treatment of information.

FACTUAL ANTECEDENTS

On 27 April 2023, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both of even date, setting the instant case for hearing on the following dates: (a) 09 June 2023 for the determination of compliance with jurisdictional requirements and expository presentation; and (b) 16 June 2023 for the Pre-Trial Conference and presentation of evidence.

On 06 June 2023, MERALCO and GNPD filed their *Joint Compliance (with the Jurisdictional Requirements)* dated 05 June 2023.

On even date, MERALCO filed its *Pre-Trial Brief* dated 05 June 2023.

On 09 June 2023, GNPD filed its *Pre-Trial Brief* of even date.

During the 09 June 2023 hearing, only MERALCO and GNPD appeared. No petition for intervention or opposition was filed, and no intervenor or oppositor appeared. In the said hearing, MERALCO and GNPD presented their compliance with the posting and publication requirements of the Commission. The Commission then found MERALCO and GNPD's submissions to be compliant with the jurisdictional requirements pursuant to the *Order* dated 27 April 2023. Thus, the Commission declared that it had acquired jurisdiction over the instant case.¹

Thereafter, the hearings for the expository presentation, Pre-Trial Conference, and presentation of evidence proceeded as scheduled.²

On 15 June 2023, GNPD filed a *Motion for Interim Relief* dated 15 June 2023.

During the hearings set by the Commission, the parties were directed to submit additional documents to aid the Commission in the evaluation of the instant case.³

On 03 July 2023, MERALCO filed its *Formal Offer of Evidence with Manifestation* dated 01 July 2023.

On 04 July 2023, GNPD filed its *Formal Offer of Evidence* dated 30 June 2023.

¹ MERALCO and GNPD presented their *Joint Compliance (with the Jurisdictional Requirements)* dated 05 June 2023, including the publication of the *Notice of Virtual Hearing* in the newspaper issues of *BusinessWorld* dated 22 May 2023 and 29 May 2023, and *The Philippine Star* dated 22 May 2023 and 29 May 2023.

² The hearings were held on 09 June 2023 and 16 June 2023.

³ The following compliances and manifestations were submitted by the parties: (1) MERALCO's *Partial Compliance with Motion for Extension* dated 19 June 2023; (2) MERALCO's *Compliance with Manifestation* dated 01 July 2023; (3) MERALCO's *Manifestation* dated 03 July 2023; (4) MERALCO's *Manifestation* dated 10 July 2023; and (5) GNPD's *Compliance with Motion for Confidential Treatment of Information* dated 13 July 2023.

On 29 June 2026, the Commission issued an *Order*, resolving Applicants’ motion for confidential treatment of information.

The Commission found the exhibits contained in the respective *Formal Offers of Evidence* of MERALCO and GNPDP, as well as their various submissions, to be relevant and material to the resolution of the case. Thus, the Commission admitted the same and declared the case submitted for resolution.

ISSUE

The issue for the Commission’s resolution is whether the EPSA between MERALCO and GNPDP, subject of the instant *Joint Application* dated 21 February 2023, should be approved.

THE COMMISSION’S RULING

After due deliberation and evaluation of all evidence submitted, and consideration of the information gathered, the Commission, pursuant to its regulatory powers, hereby resolves to **APPROVE** the EPSA between MERALCO and GNPDP under the *Joint Application* dated 21 February 2023, subject to certain conditions.

DISCUSSION

In determining the merits of the instant *Joint Application*, the Commission considered the following parameters: 1) Procurement Process; 2) Supply-Demand Scenario; 3) Salient Features of the EPSA; and 4) Rate Evaluation.

I. Procurement Process

On 02 September 2022, MERALCO sent a *Letter*⁴ of even date to the Department of Energy (DOE), requesting the issuance of a *Certificate of Exemption* (COE) from the conduct of a CSP for a total contracted capacity of 1,070 MW, from 05 October 2022 to 04 October 2023, for EPSAs with the following power suppliers:

Power Supplier	Contract Capacity
SEM-Calaca Power Corporation (SCPC-Calaca)	200 MW
GNPower Dinginin Ltd. Co. (GNPD)	300 MW

⁴ Attached as Annex “C” of the *Application*.

Masinloc Power Partners Co. Ltd. (MPPCL)	250 MW
SMC Consolidated Power Corp. (SCPC-Limay)	200 MW
South Premiere Power Corp. (SPPC)	120 MW
Total	1,070 MW

In the said *Letter*, MERALCO alleged that it resorted to the negotiated procurement of an EPSA by soliciting proposals from the above power suppliers, in view of the pendency of the *Motions for Price Adjustments* filed in the *Joint Application* for the approval of the Power Supply Agreement (PSA) entered into by MERALCO with South Premiere Power Corp. (SPPC), San Miguel Electric Corporation (SMEC), and Panay Energy Development Corporation (PEDC), and the alleged imminent effectivity of the *Notices of Termination* for the said PSAs. The relevant portion of the *Letter* is as follows:

MERALCO’s search for EPSA/s to replace the PSAs with impending termination

As shown above, MERALCO was not remiss in exerting its best efforts to preserve and avoid termination of the SPPC PSA, SMEC PSA, and 2021 PEDC PSA, by agreeing to join the filings for price adjustment with the ERC as a form of relief due to the CIC Claims, after MERALCO’s detailed evaluation that the grant of the CIC Claims – and preservation of the PSAs – is compliant with its least cost mandate under EPIRA, given the circumstances.

However, considering the Motions for Price Adjustments are still pending and with the imminent effectivity of the Notices of Termination (October 4, 2022 for the SPPC PSA and SMEC PSA and October 22, 2022 for the 2021 PEDC PSA), MERALCO has very limited time to seek replacement PSA/s through conduct of a regular CSP, which can take about 8 months, or until around April 2022 (inclusive of the DOE’s approval of the TOR and ERC’s approval of the PSA/s).

Thus, with the unforeseen and sudden termination of the said PSAs beyond the control of MERALCO, the 1,070 MW Contract Capacity shortfall cannot be addressed through any reasonable means, considering MERALCO’s recent experience of lack of participating power suppliers in the 180 MW Baseload CSP that it conducted last March to April 2022. For the said 180 MW requirement, no proposal or expression of interest was received, resulting in two failed biddings, and when direct negotiation was resorted to subsequently, MERALCO was still unable to find a willing power supplier with readily available capacity. It is worthy to note that for the PSAs about to be terminated, the Contract Capacity involved is even much larger – a huge total of 1,070 MW baseload supply.

More importantly, upon detailed evaluation, the 1,070 MW Contract Capacity shortfall of MERALCO poses great concerns if its replacement will purely be supplied by the WESM – its significance will likely drive up the prices in the spot market due to spike in demand. This will invariably result in the sheer detriment not only of the customers of MERALCO, but also of all electric power consumers whose portion of supply requirements is also being sourced from WESM. Based on the foregoing, MERALCO's 1,070 MW supply requirement is clearly emergency in nature. (*Emphasis supplied.*)

On 29 November 2022, the DOE issued a COE⁵ to MERALCO, exempting the latter from the conduct of a CSP for the negotiated procurement of an EPSA with GNPD, MPPCL, SEM-Calaca Power Corporation (SCPC), and SPPC, with a total contract capacity of 670 MW, for the period from 25 November 2022 to 24 November 2023, or until the Temporary Restraining Order (TRO) for the PSA between MERALCO and SPPC expires, whichever comes earlier but shall not exceed the one (1) year period allowed in the said COE, or until 24 November 2023.

On 02 February 2023, MERALCO sent a *Letter*⁶ of even date to the DOE, informing the latter of the execution of the subject EPSA dated 03 February 2023. The pertinent portions of the said *Letter* are hereunder quoted:

Update on GNPD EPSA under COE-CSP-2022-11-55 issued by the DOE on 29 November 2022

xxx

Pursuant to said COE-CSP, MERALCO successfully negotiated and executed an EPSA with GNPD on 14 December 2022 for a contracted capacity of 300 MW, xxx, the said EPSA was implemented starting 12:01 A.M. of 15 December 2022 until 25 January 2023, subject to the evaluation and final decision of the Energy Regulatory Commission ("ERC") on the application for approval of such EPSA. The rate under said EPSA is PhP5.96/kWh, exclusive of VAT and line rental.

On 25 January 2023, MERALCO wrote GNPD to follow up on its request for possible extension of the EPSA considering the continued unavailability of Contract Capacity and non-delivery of Associated Energy under the SPPC PSA. Notably, the CA has since granted a writ of preliminary injunction, to replace the TRO (through a Resolution promulgated on even date). On 26 January 2023, GNPD sent its response to MERALCO agreeing to an EPSA, under the same terms and conditions, albeit (1) a different term from signing thereof

⁵ DOE COE-CSP-2022-11-055, attached as Annex "C-1" of the *Application*.

⁶ Attached as Annex "C-2" of the *Application*.

until 25 February 2023, and (2) under a new two-part tariff rate that allows fuel pass through. MERALCO and GNPD have agreed to enter into this new PSA and shall implement the same on the basis of COE-CSP-2022-11-055.

On 03 February 2023, MERALCO and GNPD executed the EPSA subject of the instant *Application*, with contracted capacity of 300 MW, which shall commence on the Operations Effective Date until 25 February 2023.

On 13 April 2023, MERALCO and GNPD filed the instant *Application* dated 21 February 2023. The pertinent portions of the *Application* regarding the negotiated procurement of the subject EPSA are as follows:

II. STATEMENT OF FACTS

A. MERALCO's Power Situation Outlook for 2023

5. Based on its power situation outlook for 2023, MERALCO foresees a capacity deficit in its portfolio. In addition, MERALCO's bilateral power supply contracts portfolio was reduced by 670 MW starting 07 December 2022, due to the suspension of the MERALCO and South Premiere Power Corp. ("SPPC") 670 MW power supply agreement (dated 13 September 2019; docketed as ERC Case No. 2019-081 RC) ("MERALCO-SPPC PSA") as a result of Temporary Restraining Order ("TRO") and, subsequently, a Writ of Preliminary Injunction ("WPI") issued by the Court of Appeals on 23 November 2022 and 25 January 2023, respectively, in connection with SPPC's *Petition for Certiorari with application for [TRO] and Writ of Preliminary Injunction* dated 4 November 2022 (docketed as CA G.R. SP No. 176036).
6. The abovementioned suspension of the MERALCO-SPPC PSA resulted in the imperative need to replace the 670 MW and contribute to the availability and affordability of the supply of electricity to MERALCO's customers. That said, the Applicants respectfully submit that there is a need to execute an Emergency Power Supply Agreement ("EPSA") up to 25 February 2023 (the "MERALCO-GNPD February 2023 EPSA").

B. Nature of the Application and exemption from Competitive Selection Process ("CSP")

7. On 3 February 2023, MERALCO and GNPD executed the MERALCO-GNPD February 2023 EPSA for the purchase of capacity and energy from the Plant from Operations Effective Date until 25 February 2023. MERALCO started sending the corresponding nominations to the Wholesale Electricity Spot Market (“WESM”) as of 12:01 a.m. of 3 February 2023.
8. Under Section 45(b) of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (“EPIRA”), it is provided that *"Distribution utilities [“DUs”] may enter into bilateral power supply contracts subject to review by the ERC xxx"*.
9. Corollary to that, Section 2.2 of DOE Department Circular No. DC2018-02-0003 (the “2018 CSP Rules”), as amended by DOE Department Circular No. DC2021-09-0030 (the “2021 Revised CSP Rules”), reads as follows: xxx
10. Likewise, the 2021 Revised CSP Rules defines emergency power as follows: xxx
11. On 2 September 2022, MERALCO submitted its letter to the DOE requesting for a COE-CSP. On 29 November 2022, the DOE issued the COE-CSP. On 2 February 2023, MERALCO submitted its letter to the DOE informing it of the execution of the MERALCO-GNPD February 2023 EPSA and its implementation based on the COE-CSP. On 3 February 2023, MERALCO and GNPD executed the MERALCO-GNPD February 2023 EPSA.

In relation to the subject EPSA between MERALCO and GNPD, the applicable policy is provided under Section 2.2.1.2 of the DOE Department Circular No. DC 2018-02-0003⁷ (2018 DOE CSP Circular), as amended by the DOE Department Circular No. DC 2021-09-0030⁸ (2021 DOE CSP Circular), which states:

2.2. EXEMPTION FROM CSP.

- 2.2.1. The following instances shall warrant a Certificate of Exemption from the conduct of Competitive Selection Process (COE-CSP) from the DOE:

xxx

- 2.2.1.2. Negotiated procurement of emergency power supply wherein the cooperation period of the corresponding Emergency Power Supply Agreement (EPSA) shall not exceed one (1) year, and such EPSA shall be filed

⁷ Entitled, “Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market.”

⁸ Entitled, “Amending Certain Provisions of and Supplementing Department Circular No. DC2018-02-0003 on the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market,” issued on 24 September 2021.

immediately before the Energy Regulatory Commission (ERC) upon the issuance and within the effectivity of the COE-CSP; *Provided*, that the DU shall prove and certify that it has performed all the necessary and required due diligence, and solicited proposal from at least one (1) power supplier for EPSA to address the emergency situation and to avert and/or mitigate its consequences, and the offer/s from the available Power Supplier/s shall be attached in the request for COE-CSP; *Provided also*, that the procurement of emergency power supply shall be not be (*sic*) entitled to any form of subsidy. *Provided finally*, that the rate shall be equivalent to or lower than the latest ERC-approved generation tariff for same or similar technology in comparable areas.

Pursuant to the above-cited provision, the following requisites and conditions must be complied with for the negotiated procurement of EPSAs:

1. The Cooperation Period for the subject EPSA shall not exceed one (1) year;
2. The subject EPSA shall be filed immediately upon issuance and within the effectivity of the COE;
3. The concerned Distribution Utilities (DU) shall prove and certify that it performed all the necessary and required due diligence to address the emergency situation, and to avert and/or mitigate its consequences;
4. The subject EPSA is not entitled to any form of subsidy; and
5. The rate to be implemented in the interim prior to any approval from the Commission shall be equivalent to or lower than the latest ERC-approved generation tariff or similar technology for the comparable areas.

In view thereof, the Commission evaluated whether MERALCO complied with the provisions of the 2018 DOE CSP Circular, as amended by the 2021 DOE CSP Circular, on the negotiated procurement of its EPSA with GNPD, based on the five (5) identified requisites and/or conditions, as shown in Table 1:

Table 1. MERALCO’s Compliance with the 2018 DOE CSP Circular, as amended by the 2021 DOE CSP Circular.

	Exemption Requirement/ Condition	Remarks
1	Cooperation Period	Compliant. The 2021 DOE CSP Circular requires that the cooperation period of the corresponding EPSA shall not exceed one (1) year. In the issued COE from the DOE, the contract term provided was for the period from 25 November 2022 to 24 November 2023. Meanwhile, the provision of the subject EPSA dated 03 February 2023 relative to the contract term states that the same shall commence on the Operations Effective Date and shall expire on 25 February 2023. Considering that the term only covers a period of almost a month, MERALCO is compliant with this requirement.
2	Immediate Filing of EPSA Application	Compliant. Pursuant to the 2021 DOE CSP Circular, Applicants are required to file their EPSA for approval by the Commission immediately upon issuance and within the effectivity of the COE. In the instant case, the subject EPSA between MERALCO and GNPD was executed on 03 February 2023. Meanwhile, the <i>Application</i> was filed and docketed on 13 April 2023, with the pre-filing procedure commencing on 23 February 2023. Considering that MERALCO initiated its pre-filing request for the instant EPSA <i>Application</i> less than a month after the execution of the EPSA, and in view of the filing of the same within the effectivity of the COE for the period 25 November 2022 to 24 November 2023, MERALCO is deemed compliant with the subject requirement.
3	Due Diligence in Addressing the Emergency Situation	Compliant. The 2021 DOE CSP Circular requires the DU to prove and certify that it has performed all the necessary and required due diligence to address the emergency situation, and to avert and/or mitigate its consequences.

	Exemption Requirement/ Condition	Remarks
		MERALCO, in its <i>Letter</i> to the DOE relative to the former’s request for exemption, provided the background of its emergency power supply requirement, along with its explanation and justifications on why it was resorting to the procurement of an EPSA. In the said <i>Letter</i>, MERALCO primarily alleged that it resorted to the negotiated procurement of an EPSA, in view of the pendency of the <i>Motions for Price Adjustments</i> filed in the <i>Application</i> for the approval of the PSA entered into by MERALCO with SPPC, SMEC, and PEDC, and the alleged imminent effectivity of the <i>Notices of Termination</i> for the said PSAs. Moreover, it alleged that the impending termination would result in MERALCO’s exposure to high spot market prices. Furthermore, MERALCO provided updates on the EPSAs it procured with GNPD, pursuant to the same COE issued by the DOE, through its <i>Letter</i> dated 02 February 2023 to the DOE.
4	Non-Entitlement to Subsidy	Compliant. Applicants who are seeking exemption from conduct of CSP are not entitled to any form of subsidy, pursuant to the 2021 DOE CSP Circular. In the instant case, MERALCO did not pray for nor move for any form of subsidy.
5	Interim Implementing Rate Cap	Compliant Section 2.2.2 of the 2021 DOE CSP Circular allows the immediate implementation of the subject EPSA, <i>to wit</i>: 2.2.2. For EPSAs contemplated under Section 2.2.1.2, the grant of the COE-CSP authorizes the DU to immediately implement the EPSAs executed by virtue of such certificate, without prejudice to the evaluation and final decision of the ERC on the application for the approval of such EPSAs. Relative thereto, Section 2.2.1.2 of the 2021 DOE CSP Circular provides for an interim implementing rate cap equivalent to or lower than the latest Commission-approved generation tariff for the same or similar technology in comparable areas, subject to the final evaluation of the Commission.

	Exemption Requirement/ Condition	Remarks
		Upon verification, the Commission notes that the EPSA rate is lower than the latest approved generation tariff for the same or similar technology in comparable areas.

Based on Table 1, MERALCO was able to comply with all five (5) requisites and conditions provided under the 2018 DOE CSP Circular, as amended by the 2021 DOE CSP Circular.

Furthermore, apart from the requisites provided in the table above, the 2018 DOE CSP Circular, as amended by the 2021 DOE CSP Circular, provides that parties seeking exemption from the conduct of a CSP relative to the negotiated procurement of emergency power supply shall likewise comply with the conditions set forth under Section 3.13 of the said Circular, defining *Emergency Power* as follows:

- 3.13. ‘*Emergency Power*’ refers to the power required by the DU in the event that a DU’s actual power supply falls beyond its load demand due to Force Majeure or Fortuitous Events that are beyond the control of the DU, and such shortfall cannot be addressed through any reasonable means and cannot be supplied by the Wholesale Electricity Spot Market (WESM), subject to the final determination.

Based on the foregoing provision, the issuance of the COE by the DOE is premised on the existence of an urgent need to procure emergency power and is aimed at providing an interim measure to relieve the DU from the conduct of a CSP, to immediately address the lack of supply.

In view of the Commission’s determination and considering the COE issued by DOE in favor of MERALCO, the Commission finds the existence of an emergency pursuant to existing CSP rules, and of the propriety of undergoing a negotiated procurement of the EPSA with GNPd.

II. Supply-Demand Scenario

Shown below is MERALCO’s submitted forecasted Supply-Demand Scenario for February 2023:⁹

⁹ Annex “J” of the *Joint Application*.

Table 2. DU’s Forecasted Supply-Demand Scenario

Supply Demand Outlook	Forecast
	Feb-23
Captive Peak Demand [1], MW	4,714
Contracted Supply [2], MW	3,480
Baseload Supply	2,155
Quezon Power Philippines Ltd	0
San Buenaventura Power Ltd. Co.	455
First Gas Power Corporation (FGPC – Sta. Rita) [Baseload]	640
FGP Corp. (FGP – San Lorenzo) [Baseload]	320
First NatGas Power Corporation (FNPC - San Gabriel) [Baseload]	210
AC Energy Philippines, Inc. [Baseload 2019]	200
San Miguel Energy Corp. -Sual Plant [Baseload 2019]	330
Mid-merit Supply	1,400
First Gas Power Corporation (FGPC – Sta. Rita) [Mid-merit]	462
FGP Corp. (FGP – San Lorenzo) [Mid-merit]	236
First NatGas Power Corporation (FNPC - San Gabriel) [Mid-merit]	202
AC Energy Philippines, Inc. [Mid-merit 2019]	110
First Gen Hydro Power Corporation [Mid-merit 2019]	100
South Premiere Power Corp. - Ilijan Plant [Midmerit 2019]	290
Peaking and/or Renewable Energy Supply	125
Solar Philippines Tarlac Corporation (Phase 1)	75
PowerSource First Bulacan Solar, Inc.	50
Uncontracted Demand [3], MW	1,034

Notes:
[1] Forecasted Captive Peak Demand is based on Meralco's April 2022 PSPP submission to the DOE.
[2] Scheduled outages of contracted suppliers with outage allowance that coincided with the monthly captive peak demand were considered.
[3] Uncontracted Demand represents the difference between the Captive Peak Demand and Contracted Supply (net of scheduled outages).

The above table shows that during the contract term of the EPSA, MERALCO still has a deficit of 1,034 MW even with the supply coming from the subject EPSA with GNPD.

Table 3 below, meanwhile, shows MERALCO’s actual supply-demand profile from the implementation of the EPSA on 03 February 2023. The Commission examined MERALCO’s submitted Uniform Reportorial Requirement (URR) covering 03 February to 25 February 2023 billing period as presented below:

Table 3. MERALCO Energy Data (per URR)

Period Covered	03 to 25 February 2023 (Implementation of the EPSA)	
	Energy Purchased by MERALCO supplier, In kWh	Percentage Share to the Total Energy Purchased, Percentage (%)
WESM	601,375,819	21.93%
QPPL	32,386,307	1.18%
FGPC - Sta. Rita	616,028,755	22.46%
FGP - San Lorenzo	310,990,836	11.34%

Period Covered	03 to 25 February 2023 (Implementation of the EPSA)	
Suppliers	Energy Purchased by MERALCO supplier, In kWh	Percentage Share to the Total Energy Purchased, Percentage (%)
FNPC	146,432,316	5.34%
SBPL	249,797,111	9.11%
SPTC -Tarlac	12,094,033	0.44%
ACEPH (baseload)	148,800,000	5.43%
SMEC	230,424,000	8.40%
ACEPH (mid-merit)	49,104,000	1.79%
SPPC (mid-merit)	129,456,000	4.72%
EDC (mid-merit)	44,640,000	1.63%
PFBS	10,804,004	0.39%
GNPD (EPSA)	160,176,557	5.84%
TOTAL	2,742,509,739	100.00%

III. GNPD’s Power Plant

The following are the relevant technical characteristics of the power plant, as submitted by GNPD:

Table 4. Relevant Details of GNPD’s Power Plant¹⁰

Particulars	GNPD Unit 1	GNPD Unit 2
Installed Capacity (MW)	724.965	724.965
Pmax (MW)	668	668
Scheduled Outages	22.5 Days	
Forced Outages	22.5 Days	

IV. Salient Features of the EPSA

The Commission looked into the salient features of the subject EPSA, to wit:

Table 5. Salient Features of the EPSA

Relevant Provisions
Term 2.2.1. Subject to Article 3, this Agreement shall become effective on the Execution Date. 2.2.2. The term of this Agreement shall commence on the Operations Effective Date, and shall expire on February 25, 2023, unless terminated earlier in accordance with the terms of this Agreement (the “Term”).

¹⁰ Annex “X” of the Joint Application.

<u>Operations Effective Date</u> <i>The obligations of Power Supplier with respect to the Contract Capacity and Associated Energy shall commence upon the later of effectivity of the CA Resolution and grant of DOE certificate of exemption from competitive selection process (the “Operations Effective Date”); provided that the conditions set out in Section 3.2.1 have been satisfied.</i> Discussion: The EPSA implementation was from 03 to 25 February 2023 based on the submitted power bill.
<u>Contract Capacity</u> <i>Contract Capacity shall be set at 300MW sourced from the Plant, as may be adjusted from time to time in accordance with Article 8.</i> Discussion: GNPD and MERALCO implemented the contracted capacity as indicated in the EPSA.
<u>Outage Allowances and Replacement Power</u> <i>7.1.1. After Operations Effective Date, Power Supplier shall be allowed, on an annual basis, Scheduled Outages not exceeding 22.5 Full Load Equivalent Outage Days (“Full Load Equivalent Scheduled Outage Allowance Days”) and Forced Outages not exceeding 22.5 Full Load Equivalent Outage Days (“Full Load Equivalent Forced Outage Allowance Days”). For clarity, Power Supplier shall be entitled to Full Load Equivalent Scheduled Outage Allowance Days and Full Load Equivalent Forced Outage Allowance Days, as pro-rated to the number of days of the Term, computed in accordance with Appendix D.</i> <i>7.1.2. During Scheduled Outages within the Full Load Equivalent Scheduled Outage Allowance Days and Forced Outages within the Full Load Equivalent Forced Outage Allowance Days, Meralco shall procure Replacement Power from the WESM and Power Supplier shall not bill Meralco for these quantities. For clarity, the cost of Replacement Power shall form part of the price that Meralco will charge to its customers.</i> <i>7.1.3. During Scheduled Outages that exceed the Full Load Equivalent Scheduled Outage Allowance Days and Forced Outages that exceed the Full Load Equivalent Forced Outage Allowance Days, Power Supplier shall purchase Replacement Power, which shall be declared as BCQ and paid by Meralco at Contract Price.</i> <i>7.1.4. During any period in which an Event of Force Majeure affects Power Supplier or Meralco, Meralco shall procure replacement energy from the WESM to the extent supply or offtake is so affected. For clarity, the cost of such replacement energy shall form part of the price that Meralco will charge to its customers.</i> <i>7.1.5. The supply by Power Supplier of quantities of Replacement Power under this Section 7.1 shall be deemed fulfilment of Power Supplier’s obligation to make available the Contract Capacity and to deliver the Associated Energy during such period.</i> Discussion: The information below shows the actual outage of GNPD coal plant as of May 2023:

▪ <i>Scheduled Outages = 0,</i> ▪ <i>Remaining scheduled outage allowance=269.26 hours</i> ▪ <i>Unscheduled Outages= 116.93 hours</i> ▪ <i>Remaining Forced outage allowance=152.33 hours</i> ▪ <i>Force Majeure Outages=24.9 hours</i> Any outages that had already occurred shall be reconciled such that when the actual outage exceeded the allowable outage days pursuant to Commission’s Resolution No. 10, Series of 2020, the procurement of replacement power was the responsibility of GNPD, with the applicable rates set at either: (a) the actual price of the alternative supply; or (b) the approved Electricity Fees under the EPSA, whichever was lower. Since the outages consumed by the Plant fall within the allowable outage days, GNPD did not arrange for replacement power and did not bill MERALCO for the corresponding quantities.
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V. The Commission’s Rate Evaluation

The Commission looked into the following: 1) proposed rates as compared with previously approved rates involving the same plant; 2) implemented rates; and 3) MERALCO’s suppliers.

Shown below is GNPD’s *Contract Price*, as indicated in Schedule 1 of the subject EPSA:

Table 6. Proposed Contract Price	
Particulars	Rate
Capacity Fee	USD0.0471/kWh
Initial Energy Fee	USD0.0328/kWh
Initial CIF Cost of Fuel	USD10.2514/million kcal

The Commission likewise reviewed MERALCO’s URR covering the billing period from 03 February 2023 to 25 February 2023, as shown below:

Table 7. Rates based on MERALCO’s URR 03 to 25 February 2023 (Implementation of the EPSA)	
Suppliers	PhP/kWh
WESM	8.2279
QPPL	28.6708
FGPC - Sta. Rita	7.6759
FGP - San Lorenzo	7.5863
FNPC	5.2840
SBPL	12.1100
SPTC -Tarlac	3.1754
ACEPH (baseload)	3.7415
SMEC	4.2049

03 to 25 February 2023 (Implementation of the EPSA)	
Suppliers	PhP/kWh
ACEPH (mid-merit)	4.9876
SPPC (mid-merit)	4.5836
EDC (mid-merit)	5.4126
PFBS	4.7329
GNPD (EPSA)	5.8987¹¹
AVERAGE	7.4396

As shown in the table above, the Commission finds that the implemented rate is lower than the actual WESM rates for the specified period.

Pursuant to Section 6.2 of DC2023-06-0021, the Commission compared the proposed rates with the previously approved generation tariff involving the same plant of GNPD, as shown below:

Table 8. Comparison of Rates

Applicants	QUEZELCO I	MERALCO
ERC Case No.	2017-048 RC	2023-031 RC
Capacity Fee	USD 0.0456 /kWh (@100% CUF)	\$0.0471/kWh
	USD 0.0651 /kWh (@65% CUF) (MEOT)	N/A (no CUF)
Initial Energy Fee	USD0.0328 /kWh	\$0.0328/kWh
Fuel Fee	Base CIF = \$10.2541 per million kcal	\$10.2514 per million kcal
ERC Status	With Interim Relief Order dated 21 September 2018	-

For purposes of comparison, the Commission likewise updated the actual rates using the submitted power bills of the above cases and found that the proposed rate in this case is reasonable and lower than the previously approved rate involving the same power plant.

WHEREFORE, the Emergency Power Supply Agreement (EPSA) between Manila Electric Company (MERALCO) and GNPower Dinginin Ltd. Co. (GNPD) filed under the *Application* dated 21 February 2023 is hereby **RESOLVED** as follows:

- (1) The EPSA between MERALCO and GNPD is hereby **APPROVED**; and

¹¹ Adjustment in March 2023 generation charge (In accordance with Meralco’s Letter to ERC dated 03 March 2023 and ERC letter reply dated 07 March 2023).

- (2) The applicable rate for the duration of the EPSA is the proposed rate, as follows:

Particulars	Rate
Capacity Fee, USD/kWh	0.0471
Initial Energy Fee, USD/kWh	0.0328
Initial CIF Cost of Fuel, USD/million kcal	10.2514

SO ORDERED.

Pasig City.

(On Official Business)
FRANCIS SATURNINO C. JUAN
Chairperson and CEO


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMEO L. FUENTES
Commissioner


AMANTE A. LIBERATO
Commissioner


PARIS G. REAL
Commissioner


LS: VMA/MVM/MCCG


ROS: KGEY/AJMO

**Deliberated and approved during the 21 July 2026 Commission Meeting.*

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12. Office of the Local Government Unit (LGU) Legislative Body
City of Las Pinas
13. Office of the City Mayor
City of Makati
14. Office of the Local Government Unit (LGU) Legislative Body
City of Makati

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- 19. Office of the City Mayor
City of Manila
- 20. Office of the Local Government Unit (LGU) Legislative Body
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- 21. Office of the City Mayor
City of Marikina
- 22. Office of the Local Government Unit (LGU) Legislative Body
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- 23. Office of the City Mayor
City of Muntinlupa
- 24. Office of the Local Government Unit (LGU) Legislative Body
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- 25. Office of the City Mayor
City of Navotas
- 26. Office of the Local Government Unit (LGU) Legislative Body
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- 27. Office of the City Mayor
City of Paranaque
- 28. Office of the Local Government Unit (LGU) Legislative Body
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- 29. Office of the City Mayor
City of Pasay
- 30. Office of the Local Government Unit (LGU) Legislative Body
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- 31. Office of the City Mayor
City of Pasig
- 32. Office of the Local Government Unit (LGU) Legislative Body
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- 33. Office of the Municipal Mayor
Municipality of Pateros
- 34. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Pateros
- 35. Office of the City Mayor
City of Quezon
- 36. Office of the Local Government Unit (LGU) Legislative Body
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- 37. Office of the City Mayor
City of San Juan

- 38. Office of the Local Government Unit (LGU) Legislative Body
City of San Juan
- 39. Office of the City Mayor
City of Taguig
- 40. Office of the Local Government Unit (LGU) Legislative Body
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- 41. Office of the City Mayor
City of Valenzuela
- 42. Office of the Local Government Unit (LGU) Legislative Body
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- 43. Office of the Mayor
Angat, Bulacan
- 44. Office of the Local Government Unit (LGU) Legislative Body
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Balagtas, Bulacan
- 46. Office of the Local Government Unit (LGU) Legislative Body
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- 47. Office of the Mayor
Baliwag, Bulacan
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- 49. Office of the Mayor
Bocaue, Bulacan
- 50. Office of the Local Government Unit (LGU) Legislative Body
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- 51. Office of the Mayor
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- 53. Office of the Mayor
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- 55. Office of the Mayor
Calumpit, Bulacan
- 56. Office of the Local Government Unit (LGU) Legislative Body
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- 57. Office of the Mayor
Dona Remedios Trinidad, Bulacan
- 58. Office of the Local Government Unit (LGU) Legislative Body
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- 65. Office of the Mayor
Marilao, Bulacan
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- 73. Office of the Mayor
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- 75. Office of the Mayor
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- 77. Office of the Mayor
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- 95. Office of the Mayor
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- 107. Office of the Mayor
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Indang, Cavite
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- 170. Office of the Local Government Unit (LGU) Legislative Body
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- 214. Office of the Local Government Unit (LGU) Legislative Body
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- 221. Office of the Mayor
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Candaba, Pampanga
- 234. Office of the Local Government Unit (LGU) Legislative Body
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- 235. Office of the Mayor
San Simon, Pampanga

- 236. Office of the Local Government Unit (LGU) Legislative Body
San Simon, Pampanga
- 237. Office of the Governor
Province of Bulacan
- 238. Office of the Local Government Unit (LGU) Legislative Body
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- 241. Office of the Governor
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