REPUBLIC OF THE PHILIPPINES
**ENERGY REGULATORY COMMISSION**
Pasig City

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE POWER SUPPLY AGREEMENT BETWEEN BATANGAS II ELECTRIC COOPERATIVE, INC. AND THERMA LUZON, INC., WITH PRAYERS FOR PROVISIONAL AUTHORITY OR INTERIM RELIEF AND MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION,

ERC Case No. 2026-145 RC

BATANGAS II ELECTRIC COOPERATIVE, INC. and THERMA LUZON, INC. (TLI),
*Applicants*.

October 12, 2026

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**JOINT APPLICATION FOR APPROVAL OF POWER SUPPLY AGREEMENT (with Prayers for Provisional Authority or Interim Relief and Motion for Confidential Treatment of Information)**

Applicants **BATANGAS II ELECTRIC COOPERATIVE, INC.** ("***BATELEC II***") and **THERMA LUZON, INC.** ("***TLI***"); collectively, the "***Applicants***"), by their respective counsels, respectfully state:

## The Nature of the Application

1. The Applicants are filing this Application, pursuant to Rule 20(B.1), Rule 4, Section 1, and Rule 14, Section 1 of the *Revised Rules of Practice and Procedure of*

*the Energy Regulatory Commission* (the "***ERC Rules***"),[1] and Article VII of the Honorable Commission's Resolution No. 07, Series of 2026[2] (the "***ERC 2026 Amended CSP Guidelines***"), to ask this Honorable Commission to approve their *Power Supply Agreement* dated September 9, 2026 (the "***PSA***"). A copy of the PSA is attached as **Annex 1**.

## The Parties

2. TLI is a private corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at NAC Tower, 32nd Street, Bonifacio Global City, Fort Bonifacio, Taguig, Metro Manila 1630. TLI manages and operates Units 1 and 2 of the Pagbilao Coal-Fired Thermal Power Plant (the "***Power Plant***").

3. BATELEC II is a distribution utility duly authorized to engage in distribution of light and power within its franchise area covering the cities of Lipa and Tanauan, and the municipalities of Alitagtag, Balete, Cuenca, Laurel, Lobo, Mabini, Malvar, Mataas na Kahoy, Padre Garcia, Rosario, San Jose, San Juan, Talisay, Taysan and Tingloy, all in the Province of Batangas.

4. The Applicants may be served with notices, orders, and processes of the Honorable Commission through their respective counsels at the addresses indicated below.

## Statement of Facts

5. Under Section 7.4 of the Department of Energy ("***DOE***") Department Circular ("***DC***") No. DC2023-06-0021,[3] as amended and supplemented by DOE Department Circular No. DC2025-10-0022[4] (the "***DOE CSP Policy***"),it is provided

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[1] Resolution No. 01, Series of 2021.

[2] Entitled "*Amended Implementing Guidelines for the Procurement, Execution, and Evaluation of Power Supply Agreements Entered Into by Distribution Utilities for the Supply of Electricity to their Captive Market*"

[3] Entitled "*Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market*".

[4] Entitled "*Prescribing Policies to Enhance the Procurement of Power Supply by Distribution Utilities for the Captive Market, amending and Supplementing for this purpose Department Circular No. DC2023-06-0021*".

that in case an Electric Cooperative ("EC") is unable to complete the Competitive Selection Process ("CSP") one (1) year before said scheduled date as indicated in its Power Supply Procurement Plan ("PSPP"), the NEA shall undertake or continue the CSP on behalf of the EC. For this purpose, the NEA can mobilize its own manpower complement and structure, the manpower of the EC itself, as well as those of other ECs to undertake the CSP process, as necessary.[5]

6. Furthermore, Section 7.2 of the DOE CSP Policy provides that "*ECs with limited capability to undertake CSP may request the NEA to provide the necessary assistance and resources to conduct the same xxx*".

7. Article 13.1 of NEA Memorandum No. 2023-057 (the "***NEA 2023 CSP Guidelines***"), which reiterates Sections 7.2 and 7.4 of the DOE CSP Policy, provides that:

> In case an EC (or aggregated ECs) requests the NEA assistance xxx or is unable to complete its CSP one (1) year before the scheduled date as indicated in the PSPP, the NEA shall undertake the CSP on behalf of the EC. For this purpose, the NEA can mobilize its own manpower complement and structure, the manpower of the EC itself, as well as those of other ECs to undertake the CSP process, as necessary.

8. Moreover, Article 13.2 of the NEA 2023 CSP Guidelines provides that the NEA Bids and Awards Committee ("***BAC***") shall conduct the CSP on behalf of the EC or aggregated ECs, and that the CSP to be conducted by the NEA BAC shall follow the rules and procedures under the DOE CSP Policy, ERC CSP Guidelines, and the NEA Guidelines.[6]

9. Based on the latest PSPPs of on-grid ECs connected to the Luzon and Visayas grids, several ECs faced baseload power supply deficits that needed to be addressed through the timely conduct of CSPs to ensure sufficient and reliable power supply for their respective captive markets.

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[5] DOE CSP Policy, Section 7.4.
[6] *Text in brackets supplied.*

10. In fact, BATELEC II's Supply-Demand Scenario for the years 2021 to 2041 shows that the peak demand within its franchise area increased from 169.05 MW in 2021 to 223.02 MW in 2025. The Supply-Demand Scenario also shows that BATELEC II expects the peak demand within its franchise area to continuously increase from 237.92 MW in 2026 to 426.41 MW in 2041. As of 2026, BATELEC II has a supply deficit of 87.92 MW in its portfolio, with an expected supply deficit of 416.41 MW by 2041. A copy of BATELEC II's Supply-Demand Scenario is attached as **Annex 3**.

11. The required CSPs to address the baseload supply shortfalls of some on-grid ECs connected to the Luzon and Visayas grids, including BATELEC II, were not conducted within one (1) year prior to the expiration of their existing PSAs or prior to the increase in demand of the Luzon and Visayas ECs, as provided in their respective PSPPs. Thus, it became necessary for NEA to conduct a joint CSP pursuant to Section 7.4 of the DOE CSP Policy.

12. On February 3, 2026, the NEA issued Office Order No. 2026-043, Series of 2026 where the NEA - Special Bids and Awards Committee ("***NEA-SBAC***"), its Secretariat, and the Technical Working Group ("***NEA-SBAC-TWG***") for the joint CSP for the Luzon and Visayas ECs were constituted. A copy of NEA Office Order No. 2026-043, Series of 2026 is attached as **Annex I**.

13. In accordance with the foregoing, the NEA-SBAC conducted the joint CSP for the aggregated baseload supply of the following on-grid Luzon and Visayas ECs (collectively, the "***Member ECs***"):

**Luzon Electric Cooperatives (the "*Luzon Member ECs*")**

| | |
|---|---|
| ABRECO | Abra Electric Cooperative |
| AURELCO | Aurora Electric Cooperative, Inc. |
| BATELEC II | Batangas II Electric Cooperative, Inc. |
| CAGELCO I | Cagayan I Electric Cooperative, Inc. |
| CASURECO II | Camarines Sur II Electric Cooperative, Inc. |
| CASURECO III | Camarines Sur III Electric Cooperative, Inc. |
| FLECO | First Laguna Electric Cooperative, Inc. |
| LUELCO | La Union Electric Cooperative, Inc. |
| NEECO I | Nueva Ecija I Electric Cooperative, Inc. |
| NUVELCO | Nueva Vizcaya Electric Cooperative |

| | |
|---|---|
| PANELCO I | Pangasinan I Electric Cooperative |
| PELCO III | Pampanga III Electric Cooperative, Inc. |
| QUEZELCO I | Quezon I Electric Cooperative, Inc. |
| QUEZELCO II | Quezon II Electric Cooperative, Inc. |
| QUIRELCO | Quirino Electric Cooperative |
| SAJELCO | San Jose City Electric Cooperative |
| TARELCO I | Tarlac I Electric Cooperative, Inc. |
| ZAMECO I | Zambales I Electric Cooperative, Inc. |
| ZAMECO II | Zambales II Electric Cooperative, Inc. |

**Visayas Electric Cooperatives**

| | |
|---|---|
| CAPELCO | Capiz Electric Cooperative, Inc. |
| CEBECO I | Cebu I Electric Cooperative, Inc. |
| CEBECO II | Cebu II Electric Cooperative, Inc. |
| GUIMELCO | Guimaras Electric Cooperative |
| ILECO I | Iloilo I Electric Cooperative, Inc. |
| ILECO II | Iloilo II Electric Cooperative, Inc. |
| ILECO III | Iloilo III Electric Cooperative, Inc. |
| NOCECO | Negros Occidental Electric Cooperative |
| NORECO I | Negros Oriental I Electric Cooperative, Inc. |
| NORECO II | Negros Oriental II Electric Cooperative |

## Conduct of the CSP

14. On April 13 and 14, 2026, the NEA-SBAC-TWG presented the draft Terms of Reference ("***TOR***"), Invitation to Bid ("***ITB***"), and bidding documents to the NEA-SBAC.

15. On April 15, 2026, or at least five (5) calendar days before the first publication of the ITB, the NEA-SBAC informed the DOE and ERC of the conduct of the joint CSP. On the same date, the NEA issued the Certificate of Conformity NEA-RAO-COC-2026-02, which certified that the respective contract quantities and cooperation periods covered by the Joint CSP were consistent with the latest posted PSPPs of each Member EC. A copy of the Certificate of Conformity is attached as **Annex L**.

16. Accordingly, the NEA-SBAC commenced and conducted the Joint CSP, which was structured into two (2) Lots: Lot 1, covering the Luzon Member ECs, and Lot 2, covering the Visayas Member ECs.

17. On April 21 and April 28, 2026, the ITB and the TOR were duly published in *The Manila Times* newspaper. . The proof of publication of the ITB is attached as **Annex M**

and copies of the ITB and TOR are attached as **Annexes K** and **P**, respectively. The NEA-SBAC and the Member ECs likewise caused the posting of the ITB and TOR on the DOE CSP e-based portal, the NEA website, and the Member EC's respective official websites or social media accounts. The proof of posting of the ITB is attached as **Annex N**.

18. On May 6, 2026, copies of the Invitation for CSP Observers were sent to the Philippine Chamber of Commerce and Industry, Institute of Integrated Electrical Engineers of the Philippines, Nationwide Association of Consumers, Inc., and DOE. A general invitation for CSP Observers was likewise posted on the NEA website. A copy of the Invitation for CSP Observers and its proof of posting is attached as **Annex J**.

19. On May 14, 2026, the NEA-SBAC held the pre-bid conference and subsequently issued bid bulletins from May 25 to August 12, 2026. On June 17, 2026, the NEA-SBAC issued the Final Transaction Documents, which were subsequently amended on June 25, 2026, setting July 10, 2026 as the deadline for submission of bids and the date for the opening and evaluation thereof.

20. The submission, opening, and evaluation of bids for the Joint CSP were conducted on July 10, 2026. For Lot 1, Sual Power Inc. ("SPI"), Mariveles Power Generation Corporation ("MPGC"), and TLI timely submitted their bids, while GN Power Dinginin Ltd. Co. ("GNPD"), GNPower Mariveles Energy Center Ltd. Co. ("GMEC"), and Panay Energy Development Corporation ("PEDC") withdrew from the Joint CSP. For Lot 2, Malita Power, Inc. ("MPI"), Palm Concepcion Power Corporation ("PCPC"), Therma Visayas, Inc. ("TVI"), Energy Development Corporation ("EDC"), Cebu Energy Development Corporation ("CEDC"), and PEDC timely submitted their bids, while FDC Misamis Power Corporation, GN Power Kauswagan, Ltd. Co., Therma South, Inc., and Toledo Power Co. withdrew from the Joint CSP. Copies of the bids submitted by the Bidders are attached as **Annex S and Series**.

21. The NEA-SBAC determined that the Bidders passed the preliminary evaluation for their respective *(a)* Eligibility Requirements, *(b)* Technical Proposal, and *(c)* Bid Security. The Bidders also submitted bids for 50% of the Aggregated Contract Capacity of the Member ECs for Lot 1 and paid the additional participation fees as required by the Final Transaction Documents.

22. After careful consideration of the submitted bids, the NEA-SBAC determined that SPI's and TLI's bids were the most advantageous for the Lot 1 Luzon Member ECs' captive markets.

23. Thus, on August 17, 2026, the NEA-SBAC issued Resolution No. 13, Series of 2026 ("***Resolution No. 13***") declaring TLI's bid as the Second-Ranked Lowest Calculated and Responsive Bid ("***LCRB***") for 50% of the Aggregated Contract Capacity under Lot 1 of the joint CSP. It likewise recommended and endorsed to the Office of the NEA Administrator the issuance of the Notice of Award to TLI. A copy of BAC Resolution No. 13 is attached as **Annex U-1**.

24. On August 20, 2026, NEA issued a Notice of Award to TLI dated August 18, 2026 (the "***Notice of Award***") declaring that it is the winning bidder for Lot 1 of the Aggregated Baseload Supply of Luzon and Visayas On-Grid ECs, having submitted the second LCRB. A copy of the Notice of Award is attached as **Annex U**.

25. The Joint Body representatives of the Member ECs negotiated and finalized the PSAs with the winning bidders. On September 04, 2026, the negotiated and finalized PSAs for Lots 1 and 2 were submitted to the NEA-SBAC for approval. Through Resolution No. 14, series of 2026, the NEA-SBAC approved the negotiated PSAs and endorsed the issuance of the corresponding Notices to Execute the Agreement.

26. On September 08, 2026, the Notices to Execute the Agreement were issued to and received by the Member ECs, directing the Luzon Member ECs to execute their PSAs with SPI and TLI, and the Visayas Member ECs to execute their PSAs with MPI, PCPC, TVI, and EDC.

27. On September 09, 2026, following the issuance of the Notices to Execute the Agreement, the Member ECs executed their respective PSAs with the successful bidders under the Joint CSP.

28. Through such aggregated procurement, the participating ECs, including Applicant CASURECO II, were able to pursue the procurement of the required power supply, consistent with the projected supply requirements and timelines set forth in their respective PSPPs.

29. However, notwithstanding the foregoing, the subject PSA may not be implemented without the prior approval of this Honorable Commission. Hence, this instant Joint Application.

## The Salient Features of the PSA

30. The duly executed PSA contains the following salient provisions:

30.1. ***Contracted Capacity***. The contracted capacity under the PSA is 5 MW.[7]

30.2. ***Term***. The PSA shall take effect immediately from the Effective Date, and from such date shall remain in force and effect for fifteen (15) years from Delivery Date unless sooner terminated in accordance with the PSA and upon approval by the ERC.[8] The Effective Date shall commence at the time of the parties' signing of the PSA, provided that *(a)* corporate approvals and *(b)* government authorizations have been duly obtained.[9] TLI shall commence delivery of the Contract Capacity, which shall be the later of *(a)* December 26, 2026, or *(b)* the next immediate 26th day of the month immediately following the ERC's issuance of a Provisional Authority ("***PA***") or Interim Relief ("***IR***"), as applicable, or Final Authority if no PA or IR is issued.[10]

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[7] *See* PSA (**Annex 1**), p.38.
[8] *See* PSA (**Annex 1**), Section 3.1.
[9] *See* PSA (**Annex 1**), Section 3.2.
[10] *See* PSA (**Annex 1**, Section 3.3.

30.3. ***Outages And Replacement Power***. TLI is allowed a Scheduled Outage Allowance and Unscheduled Outage Allowance not to exceed the number of days for each year as set forth in Schedule 6, during which times, reduced or no deliveries shall be available to BATELEC II, subject to ERC rules and regulations on reliability performance indices applicable for the Power Plant.[11]

**SCHEDULE 6. OUTAGE ALLOWANCE**

TLI shall have an Outage Allowance for each Contract Year not exceeding:

Scheduled Outages: ___0__ Days

Unscheduled Outages: ___0__ Days

30.4. ***Contract Capacity and Contract Energy***.[12]

Beginning on the Delivery Date and throughout the term of the PSA, TLI shall deliver the Contract Capacity to BATELEC II at the Delivery Point, and BATELEC II shall purchase and pay for the same in accordance with the table below:

| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2027 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2028 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2029 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2030 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2031 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2032 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2033 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2034 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2035 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2036 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2037 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2038 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2039 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |
| 2040 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |

[11] *See* PSA (**Annex 1**, Section 10.2.
[12] *See* PSA (**Annex 1**), Schedule 2.

| Year | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2041 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 | 5.00 |

## 30.5. ***Monthly Payment, Indexation, and Adjustment***.[13]

*Total Generation Charge* = $CRF_{CUFt}$ + $FOMF_{CUFt}$ + $VOMF_t$ + $FC_t$ + E

**A. Capital Recovery Fee (CRF)**

The $CRF_{CUFt}$ shall be calculated as the product of the Capital Recovery Rate ("$CRR_{CUFt}$"), in PhP/kWh, and the actual energy delivered from the Facility during the Billing Period or the equivalent associated energy based on the Monthly Minimum CUF, whichever is higher. The formula to calculate the $CRF_{CUFt}$ shall be:

$$CRF_{CUFt} = CRR_{CUFt} \times max(AED_t, AE_t)$$

$$CRR_{CUFt} = \frac{CRR_{100\%CUF}}{CUF_t}$$

| | |
|---|---|
| $CRF_{CUFt}$ | Corresponding $CRF_{CUFt}$ to calculate the Total Generation Charge, expressed in Php, for a Billing Period |
| $CRR_{CUFt}$ | Component to calculate $CRF_{CUFt}$, expressed in Php/kWh |
| $AE_t$ | Associated Energy, in kWh, based on the Minimum CUF for a Billing Period |
| $AED_t$ | Actual Energy Delivered, in kWh, from the Facility during the Billing Period |
| $CRR_{100\%CUF}$ | Corresponding $CRR_{CUF}$ at 100% CUF, which is **Php 2.3370/kWh**. For reference, see Table 1 for $CRR_{CUFt}$ from 65% to 100%. |
| $CUF_t$ | Actual Capacity Utilization Factor for a Billing Period. The CUF shall be calculated in accordance with the formula below: |
| $t$ | Billing period |

*Table 1 is for reference only. The applicable $CRR_{CUFt}$ for the Billing Period shall be calculated in accordance with the formula above.

[13] *See* PSA (**Annex 1**), Schedule 7.

Table 1: Capital Recovery Rate per Capacity Utilization

| **Capacity Utilization Factor, %** | **$CRR_{CUFt}$, Php/kWh** |
|---|---|
| 100% | 2.3370 |
| 99% | 2.3606 |
| 98% | 2.3847 |
| 97% | 2.4093 |
| 96% | 2.4344 |
| 95% | 2.4600 |
| 94% | 2.4862 |
| 93% | 2.5129 |
| 92% | 2.5402 |
| 91% | 2.5681 |
| 90% | 2.5967 |
| 89% | 2.6258 |
| 88% | 2.6557 |
| 87% | 2.6862 |
| 86% | 2.7174 |
| 85% | 2.7494 |
| 84% | 2.7821 |
| 83% | 2.8157 |
| 82% | 2.8500 |
| 81% | 2.8852 |
| 80% | 2.9213 |
| 79% | 2.9582 |
| 78% | 2.9962 |
| 77% | 3.0351 |
| 76% | 3.0750 |
| 75% | 3.1160 |
| 74% | 3.1581 |
| 73% | 3.2014 |
| 72% | 3.2458 |
| 71% | 3.2915 |
| 70% | 3.3386 |
| 69% | 3.3870 |
| 68% | 3.4368 |
| 67% | 3.4881 |
| 66% | 3.5409 |
| 65% | 3.5954 |

$$CUF_t = \frac{Q_t}{CCt \times (H_T - H_O - H_{FM})}$$

*Where:*

| | |
|---|---|
| $CUF_t$ | Capacity Utilization Factor |
| $Q_t$ | Energy delivered, expressed in kWh, during the Billing Period or the equivalent associated energy based on the Monthly Minimum CUF, whichever is higher. |
| $CC_t$ | Contract Capacity, stated in kW, for the Billing Period as indicated in Schedule 2. |
| $H_T$ | Total number of hours in the Billing Period |
| $H_O$ | Total Equivalent Hours of actual Planned Outages and Unplanned Outages in the Billing Period. In this case, Zero (0) for each Billing Period, as the Seller has no Outage Allowance |
| $H_{FM}$ | The Equivalent Hours of Force Majeure in the Billing Period |

- The formula to calculate the $H_{FM}$ shall be:

$$H_{FM} = \sum_{i=1}^{y} (1 - \frac{Seller\ Actual\ BCQ\ Declared, due\ to\ force\ majeure}{Buyer\ Day\ Ahead\ Nomination})$$

*Where:*

| | |
|---|---|
| y | Total number of Hours in a Billing Period |
| *Seller Actual BCQ Declared, due to force majeure* | The actual reconciled quantity of BCQ declared by the Seller to the Buyer for the relevant hour *i*, expressed in kW, which was affected by or reduced due to an event of force majeure for either the Buyer or the Seller, in accordance with the BCQ Nomination Protocol under the PSA. |
| *Buyer Day-Ahead Nomination* | The quantity of BCQ nominated by the Buyer for delivery for the relevant hour *i* in the Day-Ahead Nomination, expressed in kW, submitted in accordance with the BCQ Nomination Protocol under the PSA. |

- Formula to calculate the $Q_t$:

$$Q_t = max(AE_t, TED_t)$$

$$AE = 65\% \times CC \times \left(H_T - H_O - H_{FM}\right)$$

*Where:*

| | |
|---|---|
| $Q_t$ | As previously defined |

| | |
|---|---|
| $AE_t$ | As previously defined |
| CC | As previously defined |
| $H_T$ | As previously defined |
| $H_O$ | As previously defined |
| $H_{FM}$ | As previously defined |
| $TED_t$ | Total Energy Delivered, which is Actual Energy Delivered from the Facility and replacement power energy, during the Billing Period in kWh |

**B. Fixed Operation and Maintenance Fee (FOMF)**

The $FOMF_{CUFt}$ shall be calculated as the product of the Fixed Operation and Maintenance Rate ("$FOMR_{CUFt}$"), in PhP/kWh, and the actual energy delivered from the Facility during the Billing Period or the equivalent associated energy based on the Monthly Minimum CUF, whichever is higher.

The formula to calculate $FOMF_{CUFt}$ shall be:

$$FOMF_{CUFt} = FOMR_{CUFt} \times max(AED_t, AE_t)$$

$$FOMR_{CUFt} = \frac{FOMR_{100\%CUF}}{CUF_t}$$

*Where:*

| | |
|---|---|
| $FOMF_{CUFt}$ | Corresponding $FOMF_{CUFt}$ to calculate the Total Generation Charge, expressed in Php, for a Billing Period |
| $FOMR_{CUFt}$ | Component to calculate $FOMF_{CUFt}$, expressed in Php/kWh |
| $AE_t$ | As previously defined |
| $AED_t$ | As previously defined |
| $FOMR_{100\%CUF}$ | Corresponding FOMR at 100% CUF, which is **Php 0.6575/kWh**. For reference, see Table 2 for $FOMR_{CUFt}$ from 65% to 100%. |
| $CUF_t$ | As previously defined |
| $t$ | As previously defined |

*Table 2 is for reference only. The applicable $FOMR_{CUFt}$ for the Billing Period shall be calculated in accordance with the formula above.

Table 2: Fixed Operations and Maintenance Rate per Capacity Utilization

| Capacity Utilization Factor, % | $FOMR_{CUFt}$, Php/kWh |
|---|---|
| 100% | 0.6575 |
| 99% | 0.6641 |
| 98% | 0.6709 |
| 97% | 0.6778 |
| 96% | 0.6849 |
| 95% | 0.6921 |
| 94% | 0.6995 |
| 93% | 0.7070 |
| 92% | 0.7147 |
| 91% | 0.7225 |
| 90% | 0.7306 |
| 89% | 0.7388 |
| 88% | 0.7472 |
| 87% | 0.7557 |
| 86% | 0.7645 |
| 85% | 0.7735 |
| 84% | 0.7827 |
| 83% | 0.7922 |
| 82% | 0.8018 |
| 81% | 0.8117 |
| 80% | 0.8219 |
| 79% | 0.8323 |
| 78% | 0.8429 |
| 77% | 0.8539 |
| 76% | 0.8651 |
| 75% | 0.8767 |
| 74% | 0.8885 |
| 73% | 0.9007 |
| 72% | 0.9132 |
| 71% | 0.9261 |
| 70% | 0.9393 |
| 69% | 0.9529 |
| 68% | 0.9669 |
| 67% | 0.9813 |
| 66% | 0.9962 |
| 65% | 1.0115 |

**C. Variable Operations Maintenance Fee ("VOMF")**

The VOMF shall be calculated as the product of the Variable Operation and Maintenance Rate ("VOMR"), in PhP/kWh, and the actual energy delivered for the Billing Period.

$$VOMF_t = VOMR_t \times AED_t$$

*Where:*

| | |
|---|---|
| $VOMF_t$ | Corresponding $VOMF_t$ to calculate the Total Generation Charge, expressed in Php, for a Billing Period |
| $VOMR_t$ | Corresponding $VOMR_t$ at **Php 0.1851/kWh** |
| $AED_t$ | As previously defined |
| *t* | As previously defined |

**D. Fuel Cost ("FC")**

The FC shall be calculated as follows:

$$FC_t = \left(\frac{FP_t \times FCR_t}{1000}\right) x\ AED_t$$

$$FP_t = (FCC + NFCC_{foreign})\ x\ FX_m + NFCC_{local}$$

*Where:*

| | |
|---|---|
| $FC_t$ | Corresponding FC to calculate the Total Generation Charge, expressed in PhP, for the Billing Period |
| $FP_t$ | Applicable Fuel Price for a Billing Month, expressed in PhP/MT |
| FCC | Fuel Commodity Cost in USD/MT calculated using the formula below:<br>$98.3643 \times \left[100\% \times \left(\frac{NFI\ 1_{3m\ avg}}{NFI\ 1_o}\right)\right]$ |
| NFI $1_{3m\ avg}$ | the average value for the three (3) months preceding the Billing Period for which the Invoice is being prepared of the Indonesian Coal Index 2 (5800 GAR / 5500 NAR) as published by the Argus/Coalindo for Indonesian Coal Index Report, in USD/MT |
| NFI $1_o$ | Value of Indonesian Coal Index 2 (5800 GAR / 5500 NAR) for the month of May 2026, which is 100.0900, in USD/MT |
| $NFCC_{foreign}$ | Weighted average of the actual **Freight, Service Fee, and Letter of Credit (LC) Opening Charges** that the Seller needs to recover as part of its Non-Fuel Commodity Cost for the corresponding shipments used in the current Billing Period, in USD/MT.<br><br>Demurrage costs arising from this Agreement shall be a pass-through cost subject to the following: |

| | |
|---|---|
| | (a) Any demurrage arising from the Seller's procurement of coal in excess of its requirements, including demurrage resulting from the use of a port or vessel as temporary storage for such excess coal, shall be solely for the account of the Seller and shall not be passed on to the Buyer; provided, however, that this limitation shall not apply where such excess procurement or the resulting demurrage is attributable (i) to a directive of a relevant government agency, regulatory authority, or market operator, such as the Department of Energy, the Energy Regulatory Commission, the System Operator, or the Independent Electricity Market Operator of the Philippines; or (ii) to comply with applicable laws, regulations, or mandatory fuel inventory requirements, in which case the resulting demurrage cost shall be passed on to the Buyer notwithstanding item (c) below or **4.50 USD/MT**, whichever is lower.<br><br>(b) Demurrage arising from the negligence or fault of the Seller shall be solely for the account of the Seller and shall not be passed on to the Buyer.<br><br>(c) Demurrage costs arising from causes other than the Seller's excess procurement of coal, negligence, or fault, as stated above, shall be passed on to the Buyer and shall be the lower of **4.0 USD/MT** or the actual demurrage cost.<br><br>(d) Any penalty, fine, surcharge, or similar charge imposed by the DOE or BOC arising from the failure to timely secure, submit, or comply with the requirements relating to the Certificate of Compliance for coal importation issued by the DOE shall be solely for the account of the Seller. |
| $NFCC_{local}$ | Weighted average of the actual **Insurance, Stevedoring, Bureau of Customs (BOC) Charges, Ferry Service Fee, Draft Survey and Sampling Fee, and Analysis Fee** that the Seller needs to recover as part of its Non-Fuel Commodity Cost for the corresponding shipments used in the current Billing Period, in Php/MT.<br><br>For the avoidance of doubt, the $NFCC_{local}$ shall also contain the applicable taxes related to the fuel cost, if any. |
| $FX_m$ | the monthly average of the PHP/USD exchange rate, as published in the *Bangko Sentral ng Pilipinas website,* for the month (i.e., first until last day of the month) for which the invoice is being prepared. |
| $AED_t$ | As previously defined |
| *t* | As previously defined |

In the event that the index (a) becomes unavailable, (b) is replaced by a new benchmark rate as determined by the relevant authorized entity, its successor-in-interest, or (c) ceases to exist, the Parties shall agree to adopt a new price index.

The $FP_t$ to be billed by Seller shall be the lower between:

1. The sum of the (i) resulting value using the Fuel Commodity Cost Formula and (ii) the Non-Fuel Commodity Cost; or

2. The actual Fuel Commodity Cost and Non-Fuel Commodity Cost as billed by the suppliers supported by actual invoices and other documents for the relevant Billing Period.

The Seller's Invoice shall include the relevant fuel supplier's invoice, certified by Seller, detailing the actual fuel cost incurred to produce the delivered energy to Buyer. If any index or indices are used, the Seller must provide the Buyer with a screen/snapshot of the relevant excerpt of the actual published price from the index provider for the applicable period. The Seller must also attach the monthly fuel inventory report submitted to the DOE.

Buyer reserves the right to refuse payment of the Fuel Cost if Seller fails to provide either the fuel supplier's invoice or the monthly inventory report referred to above.

$$FCR_t = FCR_{CUF1} + \frac{(FCR_{CUF2} - FCR_{CUF1})\, x\, (CUF_t - CUF_1)}{(CUF_2 - CUF_1)}$$

*Where:*

| | |
|---|---|
| $FCR_t$ | The computed Fuel Consumption Rate (FCR) or the actual plant FCR for the relevant Billing Period, whichever is lower, in kg/kWh.<br><br>If Buyer fails to utilize the Contract Capacity at the Monthly Minimum CUF, Seller may apply the higher of its actual consumption rate or the consumption rate corresponding to the Minimum CUF for that Billing Period. |
| $FCR_{CUF2}$ | Corresponding FCR for $CUF_2$ as set forth in the table below |
| $FCR_{CUF1}$ | Corresponding FCR for $CUF_1$ as set forth in the table below |
| $CUF_t$ | As previously defined |
| $CUF_2$ | CUF increment of the nearest upper value, in % |
| $CUF_1$ | CUF increment of the nearest lower value, in % |
| $t$ | As previously defined |

| Capacity Utilization Factor (%) | FCR (kg/kWh) |
|---|---|
| 100% | 0.4617 |
| 99% | 0.4622 |
| 98% | 0.4627 |
| 97% | 0.4632 |
| 96% | 0.4637 |
| 95% | 0.4643 |
| 94% | 0.4648 |
| 93% | 0.4654 |
| 92% | 0.4659 |
| 91% | 0.4665 |
| 90% | 0.4671 |
| 89% | 0.4677 |
| 88% | 0.4683 |
| 87% | 0.4690 |
| 86% | 0.4696 |
| 85% | 0.4703 |
| 84% | 0.4710 |
| 83% | 0.4717 |
| 82% | 0.4725 |
| 81% | 0.4732 |
| 80% | 0.4739 |
| 79% | 0.4747 |
| 78% | 0.4755 |
| 77% | 0.4763 |
| 76% | 0.4772 |
| 75% | 0.4780 |
| 74% | 0.4789 |
| 73% | 0.4798 |
| 72% | 0.4808 |
| 71% | 0.4817 |
| 70% | 0.4827 |
| 69% | 0.4837 |
| 68% | 0.4847 |
| 67% | 0.4858 |
| 66% | 0.4870 |
| 65% | 0.4881 |

**E** = Value Added Tax (VAT) and other taxes chargeable to the Buyer if prevailing laws expressly allow its passing on by the Seller.

Except for VAT, which shall be a pass-through component of the price, all other taxes pursuant to Section 13.1 and government dues, the WESM market fees, and ER 1-94 (Benefits to Host Community) shall be to the account of the Seller.

**Replacement Power Charge**

If Seller provides Replacement Power, Seller shall attach to the Seller Invoice the computation showing both the actual rate of the

Replacement Power and the generation rate based on the approved tariff for this Agreement.

In computing the actual rate of the Replacement Power, Seller shall declare whether the replacement energy was generated from a renewable energy source/s or from sources exempt from Value-Added Taxes and shall provide the invoice issued to it by the replacement power plant clearly showing the breakdown of the rate for the replacement energy delivered.

The generation rate based on this Agreement shall be computed as follows:

- The $CRF_{CUF}$, $FOMF_{CUF}$, and VOMF shall be based on the utilization of the Contract Capacity as provided in SCHEDULE 2 for the relevant Billing Period.

- Further, the Fuel Cost shall be calculated using a fuel rate based on the current $FP_t$ as calculated above and the Seller's Fuel Consumption Rate at the CUF level associated with the $CRR_{CUF}$ and $FOMR_{CUF}$.

- In the event that the $FP_t$ is unavailable due to the Facility being unable to utilize fuel and generate power, the fuel rate shall be based on the most recent 3-month average fuel cost, in PhP/kWh.

Thus, the Replacement Power cost shall be:

$$RP_t = \left[Min\left(RP_r, CP_r\right) x RE_t\right] + VAT_t, \text{ if applicable}$$

$$CP_r = \left[\left(CRR_{CUFt} + FOMR_{CUFt} + VOMR_t\right) + \left(\frac{FP_t \, x \, FCR_{CUFt} \, x \, FX_m}{1000}\right)\right]$$

*Where:*

| | |
|---|---|
| $RP_t$ | Replacement Power cost for the Billing Period, in Php |
| $RP_r$ | Actual rate of the Replacement Power exclusive of VAT, in PhP/kWh |
| $CP_r$ | Generation rate based on this Agreement exclusive of VAT, in PhP/kWh. |
| $RE_t$ | Replacement Power Energy supplied by the Seller to the Buyer for the Billing Period, in kWh |
| $CRR_{CUFt}$ | As previously defined |
| $FOMR_{CUFt}$ | As previously defined |
| $VOMR_t$ | As previously defined |
| $FP_t$ | As previously defined or the average fuel cost for the past three (3) Billing Periods in PhP/kWh, whichever is applicable |
| $FCR_t$ | As previously defined |
| $FX_m$ | As previously defined |

| | |
|---|---|
| *t* | As previously defined |

## BATELEC II's Rate Impact Analysis

31. The estimated rate impact on BATELEC II's overall generation rate with and without the additional supply from TLI is as follows:

| **Generation Rate Impact (inclusive of VAT) of TLI PSA** | |
|---|---|
| Generation rate without TLI | PhP6.5370/kWh |
| Generation rate with TLI | PhP6.4985/kWh |
| *Rate Impact* | PhP(0.0385)/kWh |

A copy of BATELEC II's Rate Impact Analysis is attached as **Annex 5C**.

32. In addition to the rate impact analysis, Joint Applicants wish to emphasize that the conduct of CSP was mandated to ensure the provision of least cost supply to consumers.

33. In the case of *Alyansa Para sa Bagong Pilipinas, Inc. vs. Energy Regulatory Commission, et. al.*[14] ("*Alyansa Case*"), the Supreme Court held that the competitive public bidding is the most efficient, transparent, and effective guarantee that there will be no price gouging by distribution utilities, thus:

> As part of its regulation of this monopoly, the State requires distribution utilities to subject to **competitive public bidding** their purchases of electricity from power generating companies. Competitive public bidding is **essential** since the power cost purchased by distribution utilities is entirely passed on to consumers, along with their operating expenses of distribution utilities. **Competitive public bidding is the most efficient, transparent, and effective guarantee that there will be no price gouging by distribution utilities.**[15]

34. In the same *Alyansa Case*, the Supreme Court pronounced that **the purpose of the CSP is to ensure transparency and competition in the procurement of power supply by distribution utilities (DUs) so as to**

[14] G.R. No. 227670, Decision dated 3 May 2019.
[15] Emphasis retained.

**provide the least-cost electricity to the consuming public**, *to wit*:

> The 2015 DOE Circular recognized that under the EPIRA, the DOE has the mandate to **"formulate such rules and regulations as may be necessary to implement the objective of the EPIRA**," where the State policy is to "**[p]rotect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power.**" The 2015 DOE Circular reiterated the EPIRA's mandate that "all Distribution Utilities (DUs) shall have the obligation to supply electricity **in the least-cost manner to their Captive Market,** subject to the collection of retail rate duly approved by the [ERC]."
>
> The 2015 DOE Circular mandated that DUs, including electric cooperatives, obtain their PSAs through CSP. Section 1 of the 2015 DOE Circular state the principles behind CSP:
>
> > Section 1. General Principles. Consistent with its mandate, the DOE recognizes that Competitive Selection Process (CSP) in the procurement of PSAs by the DUs ensures security and certainty of electricity prices of electric power to end-users in the long-term. **Towards this end, all CSPs undertaken by the DUs shall be guided by the following principles:**
> >
> > > **(a) Increase the transparency needed in the procurement process to reduce risks;**
> > >
> > > **(b) Promote and instill competition in the procurement and supply of electric power to all end-users;**
> > >
> > > **(c) Ascertain least-cost outcomes that are unlikely to be challenged in the future as the political and institutional scenarios should change; and**
> > >
> > > **(d) Protect the interest of the general public.** (Boldfacing added)
>
> In sum, the raison d'etre of CSP is to ensure transparency and competition in the procurement of power supply by

> DUs so as to provide the least-cost electricity to the consuming public.[16]

35. Considering that the subject PSA was a result of the conduct of a CSP facilitated by the NEA, pursuant to the prevailing CSP Rules and the *Alyansa Case*, it follows that the rates in the subject PSA and the other provisions contained therein already assure that BATELEC II and its customers will be provided with reliable, secure, and quality supply of power in the least-cost manner. Thus, the rates in the subject PSA should be implemented, as is, based on the subject PSA itself.

36. Since the rates provided in the subject PSA are the result of a valid CSP, Applicants respectfully submit that the rates in the subject PSA should be approved by the Honorable Commission, as is and without any adjustments, because such rates will ultimately redound to the benefit of BATELEC II's Member-Consumer-Owners ("***MCOs***").

37. In support of this Joint Application, copies of the following documents are attached as annexes:

| Description of Document | Annex |
|---|---|
| PSA bet TLI and BATELEC II dated 9 Sep 2026 | **1** |
| TLI's Certificate of Incorporation | **2** |
| TLI's Amended AOI | **2A** |
| TLI's By-Laws.pdf | **2B** |
| TLI's GIS 2025 | **2C** |
| BATELEC II's Certificate of Registration | **2D** |
| BATELEC II's Supply and Demand Scenario | **3** |
| BATELEC II's Distribution Development Plan | **3A** |
| BATELEC II's PSPP | **3B** |
| TOR vs PSA Provision Matrix | **4** |
| TLI's Bid Form (confidential)* | **5** |
| TLI's Certification of Non-Applicability | **5A** |
| Sample Bill | **5B** |
| BATELEC II's Rate Impact Analysis | **5C** |
| TLI's PAO | **6** |

[16] Underscoring supplied.

| Description of Document | Annex |
|---|---|
| TLI's WESM Certification | **7** |
| BATELEC II's WESM Registration | **7A** |
| TLI's AFS 2025 | **8** |
| TLI's Verified Certification showing list of BOD | **9** |
| BATELEC II's Estimation of potential reduction | **11** |
| TLI's BOI | **12** |
| TLI's ECC | **13** |
| TLI's DOE COE-PDP | **14** |
| TLI's Transmission Services Agreement (TSA) | **18** |
| TLI's Metering Service Agreement (MSA) | **18A** |
| TLI's Connection Agreement (CA) | **18B** |
| TLI's Coal Supply Agreement (confidential)* | **20** |
| TLI 1&2 Coal Procurement Plan (Confidential)* | **20A** |
| Sworn Statement Re_ TLI's Explanation on Coal Procurement Process (Confidential)* | **21** |
| Brief Description of the CSP Conducted | **H** |
| BAC/Joint BAC | **I** |
| CSP Observers | **J** |
| Invitation to Bid (ITB) | **K** |
| Certificate of Conformity from the NEA | **L** |
| Publication of the ITB | **M** |
| Posting of the ITB | **N** |
| Instruction to Bidders | **O** |
| Terms of Reference (TOR) | **P** |
| Pre-bid Conference | **Q and Series** |
| Eligibility Requirements | **R and Series** |
| Submission of Bids | **S and Series** |
| Evaluation of Bids | **T and Series** |
| Award of Contract | **U and Series** |
| Execution of Contract | **V-Series** |
| Affidavit to Support Provisional Approval or Interim Relief | **X** |

* *Subject of the Motion for Confidential Treatment of Information.*

## ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PA OR IR

38. Under Rule 14, Section 1 of the ERC Rules, this Honorable Commission is authorized to issue a PA or IR before rendering a final decision, provided that the circumstances and allegations presented warrant the issuance of such remedy.

39. As mentioned above, BATELEC II currently has a 87.92 MW deficit in its supply portfolio and the deficit is only expected to increase in the coming years. In fact, even if the PSA with TLI is implemented, the deficit may reach as high as 416.41 MW during the PSA's term.[17] Thus, if the PSAs will not be implemented, BATELEC II will be constrained to purchase the contracted capacity under the PSA from the WESM.

40. As shown in its PSPP, there is currently under-contracting by 87.92 MW.[18] Hence, BATELEC II requires additional baseload supply to meet the demands of its MCOs.

41. If the PSA with TLI is not implemented, the forecasted amount that BATELEC II will have to pay if it will source power from the WESM is PhP489,673,192.32, thereby denying BATELEC II's member-consumers the opportunity to enjoy its advantageous and beneficial effect of a rate reduction of **PhP0.0385/kWh**. Thus, the issuance of the PA or IR will facilitate the prompt implementation of the PSA pending the final determination of this Honorable Commission, while effectively providing its MCOs with stable, reliable, and secure power supply in the least cost manner.

42. Considering the foregoing, the Applicants respectfully pray that this Honorable Commission issues a PA or IR to allow the immediate implementation of the PSA, pending final evaluation, that BATELEC II's MCOs may be insulated from the volatility of the prices in the WESM and enjoy all other benefits arising from the PSA.

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[17] *See* Supply-Demand Scenario (**Annex 3**).
[18] *See* PSPP (**Annex 3B**), p. 14.

## ALLEGATIONS IN SUPPORT OF THE PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION

43. Section 1, Rule 4 of the ERC Rules provides that a party to any proceeding before this Honorable Commission may request that documents and/or information in this Honorable Commission's possession be treated as confidential and not be disclosed.

44. TLI respectfully requests that the information contained in TLI's Bid Form (**Annex 5**), Coal Supply Agreement (**Annex 20**), Coal Procurement Plant (**Annex 20A**), and Sworn Statement Re: TLI's Explanation on Coal Procurement Process (**Annex 21**) (collectively, the "***Confidential Documents***") be treated as confidential information pursuant to Rule 4 of the ERC Rules and not be disclosed to any persons other than the officers and staff of this Honorable Commission.

45. According to this Honorable Commission's *Matrix of Confidential and Non-Confidential Information* dated October 16, 2024 (the "***Matrix***"), documents which contain *computation and calculation for rate determination/cost components*,[19] and those which reflect *business/management strategy*[20] warrants confidential treatment because these documents contain proprietary value which constitute trade secrets.

46. **Annex 5** (TLI's Bid Form) contains its financial proposal, including the computation and calculation for rate determination/cost components and other relevant parameters which were considered in arriving at TLI's bid. This document should not be disclosed to any other party or third person because the information contained therein is confidential and proprietary to TLI. TLI has an actual and valuable proprietary interest in protecting the information contained in this document, which is not available to the public. The information in TLI's Bid Form forms part of TLI's competitive advantage in the power generation industry with an economic value (actual or potential) derived from not being generally known to, and not being readily

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[19] *See* Matrix, (A)(5).
[20] *See* Matrix, (A)(7).

ascertainable by, other persons, such as TLI's competitors, who can obtain economic value from the disclosure of the information to the detriment of TLI.

47. In addition, *(a)* **Annex 20** (TLI's Coal Supply Agreement) is TLI's contract with its fuel supplier containing the terms, including the rate, at which TLI purchases or procures fuel for the Power Plant; *(b)* **Annex 20-A** (TLI's Coal Procurement Plan) contains TLI's business strategies in relation to the procurement of coal; and *(c)* Annex **21** (TLI's Sworn Statement on its procurement process) is an affidavit containing further information on TLI's coal procurement strategies. TLI respectfully submits that all the Confidential Documents warrant confidential treatment because they contain information that is considered trade secrets.

48. The Confidential Documents contain information and data involving TLI's rate calculations and financial model, as well as how these are derived, which, if disclosed to the public, might adversely affect TLI's competitiveness in future projects. Furthermore, the information contained in these documents are in the possession of this Honorable Commission only on a confidential basis and has not been declared as non-confidential in nature in any previous decision or policies by the Commission. TLI respectfully submits that the information in the Confidential Documents is not generally available to the public, proprietary, privileged, and confidential in nature, and should be protected as trade secrets.

49. In *Air Philippines Corporation vs. Pennswell, Inc.*,[21] the Supreme Court held that:

> 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 an advantage over competitors who do not possess the information**. Generally, a trade secret is a process or device intended for continuous use in the 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.** The inventor,

[21] G.R. No. 172835, December 13, 2007.

> discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information "in confidence" or through a "confidential relationship." American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:
>
> > (1) the extent to which the information is known outside of the employer's business;
> >
> > (2) the extent to which the information is known by employees and others involved in the business;
> >
> > (3) the extent of measures taken by the employer to guard the secrecy of the information;
> >
> > (4) the value of the information to the employer and to competitors;
> >
> > (5) the amount of effort or money expended by the company in developing the information; and
> >
> > (6) the extent to which the information could be easily or readily obtained through an independent source.[22]

50. In the *Decision* in ERC Case No. 2015-111 RC dated May 30, 2017 entitled *In the Matter of the Application for Approval of the Power Supply Agreement Between Nueva Ecija II Electric Cooperative, Inc.-Area 2 (NEECO II – Area 2) and PNOC Renewables Corporation (PNOC RC),* this Honorable Commission categorically stated that formulas and pricing structures of a generation company must be treated as confidential and may not be publicly disclosed, thus:

> In the case of PNOC RC, the documents sought to be protected from disclosure contains formula and pricing structures used in arriving at their proposed tariff. In fact, all three (3) documents were used by the Commission in evaluating the reasonableness of the proposed rate. **In the electric power industry w(h)ere prices is[sic] a major consideration in selecting one's supplier, it is**

[22] *Emphasis and underscoring supplied*.

> **apparent that the assumptions used in arriving at one's proposed tariff is considered a competitive leverage by one player against its competitors**.
>
> **Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed**.[23]

51. Thus, this Honorable Commission has recognized the importance of maintaining pricing structures as confidential to ensure the competitiveness of the generation sector. Such information, which falls within the definition of a trade secret as defined by jurisprudence, is clearly information that merits the confidential treatment provided for under Rule 4 of the ERC Rules.

52. Furthermore, TLI's Confidential Documents are all covered by the Matrix, as explained below.

52.1. **Annex 20** (TLI's Coal Supply Agreement) is covered by Part A(1) of the Matrix, which states that "*contracts and agreements with third parties not privy to the case*" are private documents, which should not be disclosed.

52.2. **Annexes 20-A and 21** (TLI's Coal Procurement Plan and Sworn Statement) are covered by Part A(7) of the Matrix because these documents reflect TLI's management or business strategy, specifically with respect to the procurement of fuel. The Matrix categorically provides that such documents have "*proprietary value that constitutes trade secrets*."[24]

53. The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the PSA by this Honorable Commission, without the need to disclose the contents of Confidential Documents. The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of TLI's operating costs and expenses.

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[23] *Emphasis supplied.*
[24] Matrix, Part A(7).

54. As discussed above, if the Confidential Documents and the information contained therein are leaked to TLI's competitors, they will gain undue advantage and could use such information and documents in their operations. Furthermore, the negotiating power of TLI with parties they plan to contract with or with whom they are currently doing business, will be impeded if they will be compelled to disclose such information.

55. Accordingly, one (1) copy each of the Confidential Documents is placed in a sealed envelope, with the said envelope and each page of the documents stamped with the word "*Confidential*."

## PRAYER

**WHEREFORE**, the Applicants respectfully pray that this Honorable Commission:

*(a)* After an initial review of this Application and pending trial on the merits, ISSUE an Order granting the Applicants PA or IR to implement the PSA, pending the issuance of a final decision on the merits.

*(b)* After due proceedings, ISSUE a Decision GRANTING this Application and APPROVING the PSA, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein at the rates provided in the PSA, and authorizing BATELEC II to charge and collect the fees therein from its customers reckoned from the start of power supply by TLI to BATELEC II under the PSA.

*(c)* ISSUE an Order –

*(i)* GRANTING the Motion for Confidential Treatment of Information and DECLARING as confidential the information contained in the Confidential Documents (**Annexes 5**, **20**, **20-A**, and **21**);

*(ii)* DIRECTING the NON-DISCLOSURE of the

Confidential Documents to persons other than the officers and staff of this Honorable Commission;

*(iii)* continuously PROTECTING the information contained in the Confidential Documents from public disclosure by maintaining the same separate and apart from the records of the case; and

*(iv)* ensuring that the Confidential Documents, and the information in them are NOT DIVULGED to unauthorized persons.

Other just and equitable reliefs are likewise prayed for.

Quezon and Makati for Pasig City, September 24, 2026.

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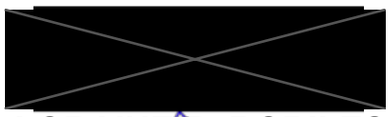

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## VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

I, **OCTAVIOUS M. MENDOZA,** Filipino, of legal age, and with office address at **Batangas II Electric Cooperative, Inc.** (**BATELEC II**), Antipolo Del Norte, Lipa City, after having been duly sworn in accordance with law, do hereby depose and state that:

1. I am the Acting General Manager and authorized representative of **BATELEC II**, applicant in this ***Joint Application***, as evidenced by the attached **Board Resolution No. 237, Series of 2026;**

2. I have caused the preparation of the instant ***Joint Application*** and read the contents thereof, and I attest to the authenticity and veracity of all the documents attached herein as based on existing and authentic records of **BATELEC II**;

3. I also attest that the factual allegations in the ***Joint Application*** are not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

4. I also attest that the factual allegations in the ***Joint Application*** have evidentiary support, or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;

5. I further attest that I have not commenced or filed any claim involving the same issues herein with any other Court, Tribunal or Quasi-Judicial Agency or I am not aware of any such other case or claim pending before any other court, tribunal or quasi-judicial agency; and

6. Should I hereinafter learn that the same or a similar action or claim has been filed or is pending in the Supreme Court, the Court of Appeals or any court, tribunal, or quasi-judicial agency, I shall report said fact within five (5) days from discovery thereof to this Honorable Commission.

[redacted]

**OCTAVIOUS M. MENDOZA**
*Declarant*

**SUBSCRIBED AND SWORN** to before me this day of SEP 24 2026 in LIPA CITY. Declarant exhibited to me his Driver's License ID bearing No. D01-88-038137. Said ID bears his picture and signature.

[redacted]

NOTARY PUBLIC
ATTY. MARIETA BAROJA IGARTA
NOTARY PUBLIC
NC No. 2025-0025 Until December 31, 2027
116 Tanco Drive, Marawoy, Lipa City, Batangas
PTR No. 6857132; 01/05/2026 Lipa City
IBP Life Member No. 04827; Roll of Attorney No. 25111
MCLE Compliance No. VIII-0017186

Doc. No. 489;
Page No. 99;
Book No. 6;
Series of 2026.

**VERIFICATION**
**and**
**CERTIFICATION AGAINST FORUM SHOPPING**

I, **LAWRENCE M. CUA**, Filipino, of legal age, and with principal office address at 12th Floor Ayala Triangle Gardens Tower 2, Paseo de Roxas corner Makati Ave., Makati City after having been sworn in accordance with law, hereby depose and state that:

1. I am the authorized representative of **THERMA LUZON, INC.** ("*TLI*"), Co-Applicant in the above-captioned *Joint Application*, per attached Secretary's Certificate;

2. On behalf of TLI, I caused the preparation of the foregoing *Joint Application*. I have read and understood the contents of the foregoing *Joint Application* and attest that all the allegations therein are true and correct based on my own personal knowledge or authentic records. The *Joint Application* is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation. Moreover, the factual allegations in the *Joint Application* have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

3. Neither I nor TLI has commenced any action or proceeding involving the same issues raised in the foregoing *Joint Application* before any court, tribunal, or quasi-judicial agency, and to the best of my knowledge, no such other action or claim is pending.

4. Should I and/or TLI thereafter learn that the same or similar action or claim has been filed or is pending, I shall report such fact to this Honorable Commission within five (5) calendar days therefrom.

IN WITNESS WHEREOF, I have executed this *Verification and Certification Against Forum Shopping* this 24 SEP 2026 day of _____ 2026.

[redacted]

**LAWRENCE M. CUA**
*Authorized Representative*

**SUBSCRIBED AND SWORN** to before me, a notary public in and for Makati City, affiant having exhibited to me his Driver's License with No. N04-95-339651, valid until 17 June 2034, who is personally known to me to be the same person who signed the foregoing instrument in my presence and who took an oath before me as to such instrument.

Doc. No. 122;
Page No. 26;
Book No. I;
Series of 2026.

ATTY. MARIAN L. GERONIMO
ROLL NO. 81679
NOTARY PUBLIC
MAKATI CITY, PHILIPPINES

[redacted]

**ATTY. MARIAN L. GERONIMO**
Notary Public for Makati City
Notarial Commission No: M-495 (2026-2027)
Until December 31, 2027
11F & 12F Ayala Triangle Gardens Tower 2, Paseo De Roxas corner Makati Avenue, Makati City
Roll No: 81679, Admitted to the Bar 24 May 2022
PTR No: MKT 10766493, 07 January 2026, Makati City
IBP No: 578617, 31 December 2025 Makati Chapter