

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
EMERGENCY POWER  
PURCHASE AND SALE  
AGREEMENT (“EPPSA”)  
BETWEEN ILOILO III  
ELECTRIC COOPERATIVE,  
INC. AND GNPOWER  
KAUSWAGAN LTD. CO., WITH  
MOTION FOR CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2024-066 RC**

**ILOILO III ELECTRIC  
COOPERATIVE, INC. (ILECO  
III) AND GNPOWER  
KAUSWAGAN LTD. CO.  
(GNPK),**

*Applicants.*

X-----X

**Promulgated:**  
**October 16, 2024**

**NOTICE OF VIRTUAL HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 13 May 2024, Iloilo III Electric Cooperative, Inc. (“ILECO III) and GNPower Kauswagan Ltd. Co. (“GNPK”) filed their *Joint Application (With Motion for Confidential Treatment of Information)* dated 19 April 2024, seeking the Commission’s approval of their Emergency Power Purchase and Sale Agreement (EPPSA).

The pertinent allegations in the said *Joint Application* are hereunder quoted, as follows:

1. Applicant ILECO III is a non-stock electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at

Barangay Preciosa, Sara, Iloilo. It was granted an exclusive franchise by the National Electrification Commission to own and operate an electric distribution system in the Municipalities of Ajuy, Anilao, Balasan, Banate, Batad, Barotac Viejo, Cales, Concepcion, Estancia, Lemery, San Dionisio, San Rafael, and Sara, all in the Province of Iloilo (the “**Franchise Area**”).

- 1.a. ILECO III is represented herein by its Board President, Engr. Vincent H. Belita, and its General Manager, Atty. James G. Balsomo II, who were authorized by its Board of Directors to initiate, prepare, file and pursue the instant Joint Application pursuant to its Board Resolution No. 30, Series of 2024, a copy of which is hereto attached and marked as **Annex “A”**.
2. Applicant GNPk is a duly registered limited partnership duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at Brgy. Libertad, Kauswagan, 9202, Lanao del Norte. GNPk is the project company established to engage in the business of developing, constructing, operating and owning a 4 x 138MW (net) coal-fired power plant.
  - 2.a. GNPk is represented herein by its Vice President for Energy Sales and Trading, Engr. Arnel O. Bilaoen, and its Authorized Representatives, Ms. Mariflor M. Guba and Mr. Gino Lorenzo R. Ilagan, who have been authorized to initiate, prepare, file, and pursue the instant Joint Application, as evidenced by its Secretary’s Certificates dated 4 March 2024 and 12 March 2024, the copies of which are hereto attached and marked as **Annexes “B” and “B-1”**.

#### **NATURE AND TIMELINESS OF THE JOINT APPLICATION**

3. This is an application for the approval of the Emergency Power Purchase and Sale Agreement (“**EPPSA**”) entered into by and between ILECO III and GNPk on 4 March 2024. A copy of which is attached hereto as **Annex “C”**.
4. Section 24 of Resolution No. 16, Series of 2023 entitled “*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*” mandates that “*the application for approval of the EPSA shall be filed with the ERC within thirty (30) calendar days after the occurrence of the Force Majeure or Fortuitous Event.*”
5. Under the foregoing provisions pertaining to the exemption from conducting a Competitive Selection Process (CSP), Applicant ILECO III respectfully asserts its legal authorization to procure electricity through negotiated procurement due to circumstances beyond its control. As elaborated hereunder, it is essential for the cooperative to pursue this approach to ensure the cost-effective provision of electricity to its consumers.

**NARRATION OF FACTS**

6. The demand for electricity within the franchise area of ILECO III has seen a notable yearly increase of 6% following the Covid-19 Pandemic. From 2020 to 2023, this consistent growth trend has been observed. Additionally, the number of billed consumers had surged from 99,096 in 2020 to 114,665 in 2023, with expectations of reaching 122,860 by 2024. Concurrently, the peak demand has risen from 24.614 MW in 2020 to 29.25 MW by December 31, 2023, and projections indicate a further increase to 32.33 MW by 2024.
7. Foreseeing the imminent increase in demand, as early as 2019, ILECO III was already a part of the efforts to secure Aggregate Supply through Panay - Guimaras Electric Cooperative Power Consortium, Inc. (PGECPCI) for a capacity of 4MW.
8. In the procurement process for the Power Supply Requirement for Base Load – Firm Open Technology conducted by PGECPCI, ILECO III participated in Lot No. 1, the timeline of events transpired, as follows:
  - 8.1 The Invitation to Bid (ITB) was published twice, on 26 April 2022 and 03 May 2022;
  - 8.2 Bid documents became available on 12 May 2022, enabling interested parties to access the necessary paperwork;
  - 8.3 A pre-bid conference was held on 31 May 2022;
  - 8.4 Throughout the process, several Supplemental Bid Bulletins (SBB) were issued, namely:
    - a. SBB No. 01, issued on 14 May 2022, amended the schedule of CSP activities and addressed other concerns;
    - b. SBB No. 02, issued on 24 May 2022, specified the venue for the Pre-Bid Conference.
    - c. SBB No. 03, issued on 26 May 2022, outlined the submission requirements for proof of authorization during the Pre-Bid Conference.
    - d. SBB No. 04, issued on 01 July 2022, designated the venue for the Opening of Bids.
    - e. SBB No. 07, issued on 08 July 2022, addressed queries regarding the pass-on cost of fossil fuel.
  - 8.5 The submission and opening of Technical and Financial Bids took place on 19 July 2022. Ultimately, the Bids and Awards Committee (BAC) passed Resolution No. 01, Series of 2022, declaring the failure of the bidding process for the CSP on the

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specified Power Supply Requirement for Base Load – Firmed Open Technology

9. Thereafter, a second round of the CSP was conducted by PGEPCCI which transpired, as follows:
  - 9.1 The ITB was published twice, on 5 January 2023 and 12 January 2023.
  - 9.2 Bid documents became available on 24 January 2023, allowing interested parties to access the necessary paperwork
  - 9.3 A pre-bid conference was held on 31 January 2023
  - 9.4 Throughout the process, several SBB were issued:
    - a. SBB No. 01, issued on 23 January 2023, amended the schedule of CSP activities
    - b. SBB No. 02, issued on 27 January 2023, specified the submission requirements for proof of authorization during the Pre-Bid Conference
    - c. SBB No. 03, issued on 03 February 2023, addressed matters discussed during the Pre-Bid Conference
    - d. SBB No. 06, issued on 13 February 2023, provided replies to additional queries raised
  - 9.5 The submission and opening of Technical and Financial Bids took place on 01 March 2023
  - 9.6 Subsequently, on 01 March 2023, the BAC passed Resolution No. 03, Series of 2023, declaring the failure of the bidding process for Lot No. 1 for the specified Power Supply Requirement. Consequently, it was decided to proceed with direct negotiation
  - 9.7 On 02 March 2023, the Head of Procuring Entity (HOPE) passed HOPE Resolution No. 02, Series of 2023, approving and adopting the BAC's resolution declaring the failure of bidding for Lot No. 1 in the second round of the CSP. This resolution also endorsed proceeding with direct negotiation
10. Thereafter, the direct negotiation for the procurement of Lot No. 1 was initiated by the PGEPCCI in accordance with the CSP rules which transpired, as follows:
  - 10.1 On 7 March 2023, the BAC issued the terms of reference (TOR) for the evaluation of proposals for negotiated procurement.
  - 10.2 On 16 March 2023, a pre-negotiation conference was held followed by the opening of proposals on 30 March 2023.

- 10.3 On 28 July 2023, the BAC issued BAC Resolution No. 6 approving and adopting the amended TOR for the second round of direct negotiation.
- 10.4 The opening of proposals for second round of direct negotiation was held on 31 August 2023.
- 10.5 The said proposals were evaluated by the joint technical working group (JTWG) on 22 September 2023 followed by the submission of recommendation to the BAC. The JTWG suggested initiating another round of negotiated procurement and extending invitations to all interested bidders and requested that bidders provide proof or billing records that outline the actual breakdown of rates, with a particular focus on fuel costs for June 2023. It was further suggested to specify the trading node of the plant to further enhance the evaluation process because, as stipulated in the terms of reference (TOR), the line rental charges were originally based on the average line rental for the historical year 2022. However, due to the recent interconnection of the Mindanao grid with the Luzon and Visayas systems, the use of 2022 data no longer accurately reflects the actual effective generation rate and fair evaluation for all bidders
- 10.6 After thorough consideration of the proposals, on 27 September 2023, BAC issued BAC Resolution No. 7, Series of 2023 approving and adopting the amended TOR and authorizing the conduct of the third round of the direct negotiation.
- 10.7 The opening of the proposals for the third round of direct negotiation was held on 27 October 2023 which were evaluated by the JTWG on 9 November 2023 and followed by the conduct of the post qualification with the power supplier of the lowest calculated offer on 17 November 2023.
- 10.8 With the recommendation of the JTWG, the BAC issued Resolution No. 10, Series of 2023 determining the offer of Panay Energy Development Corp. (PEDC) as the Lowest Calculated Responsive Bid (LCRB) for the procurement of the power supply requirement for the Baseload-Firmed/Open Technology of five (5) Electric Cooperatives in Panay and Guimaras - Lot No. 1 and recommending to award the same to PEDC.
- 10.9 However, on 28 November 2023, the HOPE Resolution No. 6, Series of 2023 was issued, instructing the PGECPCI BAC to conduct an open negotiation with the top three (3) lowest bidders as the final round for the direct negotiation for the procurement of Lot No. 1.
- 10.10 As such, on 21 December 2023, the opening of the proposals was held which were evaluated on even date. The post

qualification with the power supplier of lowest calculated bid was held on 15 January 2024.

- 10.11 With the evaluation of the JTWG, the BAC issued Resolution No. 01, Series 2024 on 17 January 2024 determining the offer of Sual Power Inc. (SPI), a subsidiary of San Miguel Global Power, as the Lowest Calculated Responsive Bid (LCRB) for the procurement of the power supply requirement for the Baseload-Firmed/Open Technology of Five (5) Electric Cooperatives in Panay and Guimaras – Lot No. 1 and recommending to Award the same to SPI.
- 10.12 Consequently, on 19 January 2024, HOPE Resolution No. 01, Series of 2024 was issued adopting and approving the recommendation of the PGEPCCI BAC and JTWG to award Lot No. 1 to SPI.
- 10.13 On 5 February 2024, PGEPCCI issued the Notice of Award to SPI.
11. Relative to the foregoing, it was only in January 2024 that the negotiation was concluded. However, despite the lengthy process that was undertaken, the approval process by the National Electrification Administration (NEA) and the Department of Energy (DOE) is still ongoing, and may take a considerable amount of time until the results of the negotiations are finally concluded. Furthermore, it will take some time before the corresponding power supply agreement between ILECO III and SPI are subsequently submitted for the approval of the Honorable Commission, and Provisional Authority thereon is granted.
12. In the meantime, ILECO III resorts to the Wholesale Electricity Spot Market (WESM) for any current imbalances which could have been immediately addressed by the power supply agreement as a result of the procurement process concluded in January 2024. Currently, WESM holds the highest share of 38% in the generation mix of ILECO III for the years 2023 and 2024. The consumers of ILECO III are exposed to the volatile prices of the market, which have increased significantly. This increase in prices has led to a dramatic rise in the rates charged by ILECO III for February 2024, by more than PhP1.8829 per kWh (inclusive of VAT) for residential consumers. which compelled ILECO III to seek measures to alleviate the adverse impact of the WESM. Moreover, ILECO III is burdened with the increase in the required prudential requirement that threatens ILECO III's financial operations. This worsening situation caused by factors beyond ILECO III's control compelled ILECO III to seek measures to alleviate the adverse impact of the WESM, aggravated by the El Nino phenomenon, by entering into an emergency supply agreement.
13. Following its mandate to provide power in a least cost manner, ILECO III informed the Honorable Commission, through a meeting with Chairperson Monalisa C. Dimalanta in Iloilo City together with Region 6 electric cooperatives on 2 February 2024,

of its worsening condition and increasing blended generation rates and sought her guidance on ILECO III's intent to procure emergency supply to mitigate the impact of WESM prices. The Administrator of the National Electrification Administration (NEA), Mr. Antonio Mariano C. Almeda, was likewise informed of the situation. Both agencies have been supportive of the proposed action to address the urgent matter at hand. Moreover, through the letter dated 15 February 2024, ILECO III formally informed the Honorable Commission, the NEA and the Department of Energy (DOE) of its intent to conduct negotiated procurement of emergency power supply.

14. Consequently, ILECO III solicited proposals from potential providers for emergency power supply in accordance with the CSP Rules. After the thorough evaluation, GNPk's proposal for ILECO III's emergency power supply requirement has been selected.
15. Accordingly, ILECO III and GNPk executed in counterparts the EPPSA dated 4 March 2024, subject of this Joint Application.
16. Consequently, GNPk commenced delivery to ILECO III under the terms of the EPPSA on 6 March 2024.

#### **SALIENT FEATURES OF THE EPPSA**

17. **Contracted Capacity (CC).** *3,000 kW (Section 1.1 of Schedule 1 of the EPPSA)*
18. **Contract Price.** *Section 1.2 of the Schedule 1 of the EPPSA*

Contract Price = Capacity Price + Energy Price – Applicable Discounts + Adjustments

- 18.a. The Capacity Price is the component of the Contract Price allocated to pay for the cost, as well as the operations and maintenance of the power plant. Under *Section 1.2 of Schedule 1* of the EPPSA, the Capacity Price for the billing period shall be computed as follows:

$$\text{Capacity Price} = \text{Capacity Fee} * \text{CC} * \text{HT}_n * \text{FX}_n$$

*Where:*

- |                 |                                                                                                                                                                                                                                       |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Capacity Fee    | = amount in PhP per kWh-hr as set forth in <i>Section 1.2 of Schedule 1</i> of the EPPSA                                                                                                                                              |
| CC              | = Contracted Capacity in kW, as set forth in <i>Section 1.1 of Schedule 1</i> of the EPPSA                                                                                                                                            |
| HT <sub>n</sub> | = Total number of hours per Billing Period n less equivalent hours of Scheduled and Unscheduled outage and event of Force Majeure, if any                                                                                             |
| FX <sub>n</sub> | = The closing exchange rate of the PhP to the USD, as posted by the Bankers Association of the Philippines (BAP) for the calendar month within which the end of the current Billing Period occurs (currently at the 25th) or the next |

working day immediately after if the end of the current Billing Period falls on weekends or holidays and the information is not available

- 18.b. The Energy Price is the component of the Contract Price allocated to pay for the coal, including Government Charges as adjusted from time to time due to changes in the delivered price of coal in accordance with the formula as follows as provided in *Section 1.2 of Schedule 1* of the EPPSA:

$$\text{Energy Price} = \text{Energy Fee} * \text{Quantity}$$

Where:

- i) **Energy Fee = [Initial Energy Fee \* ( $\frac{CIF_n}{CIF_o}$ ) \* FX<sub>n</sub>] + Excise Tax**

where:

Initial Energy Fee = fee per kWh as set forth in *Section 1.2 of Section 1* of the EPPSA

CIF<sub>n</sub> = Current CIF for Billing Period, in PhP/million kcal

CIF<sub>o</sub> = Based CIF Cost of Fuel as set forth in *Section 1.2 of Schedule 1* of the EPPSA

FX<sub>n</sub> = The closing exchange rate of the PhP to the USD, as posted by the Bankers Association of the Philippines (BAP) for the calendar month within which the end of the current Billing Period occurs (currently at the 25th) or the next working day immediately after if the end of the current Billing Period falls on weekends or holidays and the information is not available

Excise Tax = Additional Excise Tax due to Train Law, PhP/kWh

- ii) Quantity = the quantity of the Product which was delivered by the Seller and purchased by the Buyer at the Delivery Point based on the Buyer's Nomination, and Seller's deliveries or as evidenced by the Seller's declaration in the Wholesale Electricity Spot Market, when applicable, of the bilateral contract quantity, for the same Billing Period in accordance with the Settlements, Dispatch and Utilization Protocol and the WESM Rules in kWh

19. **Term of Agreement.** *Section 1.3 of Schedule 1 of the EPPSA*

1.3.1 Effective Date: The date of execution of this Agreement



- 1.3.2 Commencement Date: The date specified in the Commencement Date Notice
- 1.3.3 Scheduled Termination Date: twelve (12) months from the date indicated in the Commencement Date Notice

**20. Scheduled Outages and Unscheduled Outages. –Section 2.2 of the EPPSA**

2.2 Scheduled Outages and Unscheduled Outages. The Seller is allowed Scheduled and Unscheduled Outages not to exceed seven hundred twenty (720) Equivalent Hours for the Contract Year during which times reduced or no deliveries will be available to Buyer. The arrangement and conditions of supply during any outage are provided *under Section 2.2 of the EPPSA*

**RATE IMPACT**

- 21. Hereinbelow provided is the Rate Impact on ILECO III’s over-all generation rate with and without the additional supply from GNPk:

<b>GENERATION RATE IMPACT OF EPPSA WITH GNPk</b>	
With GNPk*	PhP6.8506KWh
Without GNPk	PhP7.0657KWh
Rate Impact	PhP-0.2151KWh

*\*Exclusive of other applicable charges such as excise tax, etc.*

**COMPLIANCE WITH PRE-FILING REQUIREMENTS**

- 22. In compliance with *Appendix “F” of Resolution No. 16, Series of 2023 (“Prefiling Checklist”)* and in further support of the instant Joint Application, ILECO III and GNPk herein submit the following:

<b>ANNEX</b>	<b>DOCUMENT</b>
“A”	ILECO III Board Resolution No. 30, Series of 2024
“B”	GNPK Secretary’s Certificates dated 4 March 2024 authorizing the signing of the EPPSA
“B-1”	GNPK Secretary’s Certificates dated 12 March 2024 authorizing the filing of the Application for the approval of the EPPSA by the Honorable Commission
“C”	Emergency Power Purchase and Sale Agreement dated 4 March 2024
“D”	ILECO III Supply-Demand Scenario in accordance with Annex “1” of the Prefiling Checklist
“D-1”	ILECO III Load Curves in accordance with Annex “2” of the Prefiling Checklist
“E”	Invitation to Bid published on 26 April 2022 and 3 May 2022
“E-1”	Supplemental Bid Bulletin (SBB) No. 01 issued on 14 May 2022
“E-2”	SBB No. 02 issued on 24 May 2022
“E-3”	SBB No. 03 issued on 26 May 2022
“E-4”	SBB No. 04 issued on 01 July 2022
“E-5”	SBB No. 07 issued on 08 July 2022

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“E-6”	Bids and Awards Committee (BAC) Resolution No. 1, Series of 2022
“E-7”	Invitation to Bid published on 5 January 2023 and 12 January 2023
“E-8”	SBB No. 01 issued on 23 January 2023
“E-9”	SBB No. 02 issued on 27 January 2023
“E-10”	SBB No. 03 issued on 03 February 2023
“E-11”	SBB No. 06 issued on 13 February 2023
“E-12”	BAC Resolution No. 03, Series of 2023 issued on 01 March 2023
“E-13”	Head of Procuring Entity (HOPE) Resolution No. 02, Series of 2023 issued on 02 March 2023
“E-14”	Terms of Reference issued on 07 March 2023
“E-15”	BAC Resolution No. 6, Series of 2023 issued on 28 July 2023
“E-16”	BAC Resolution No. 7, Series of 2023 issued on 27 September 2023
“E-17”	BAC Resolution No. 10, Series of 2023
“E-18”	HOPE Resolution No. 6, Series of 2023 issued on 28 November 2023
“E-19”	BAC Resolution No. 01, Series 2024 issued on 17 January 2024
“E-20”	HOPE Resolution No. 01, Series of 2024 issued on 19 January 2024
“E-21”	Notice of Award issued on 5 February 2024
“F”	ILECO III Letter to GNPk dated 8 February 2024 requesting for proposal for emergency supply
“F-1”	ILECO III Letter to the Honorable Commission dated 15 February 2024 regarding the intent to procure emergency supply
“F-2”	ILECO III Letter to the NEA dated 15 February 2024 regarding the intent to procure emergency supply
“F-3”	ILECO III Letter to the DOE dated 15 February 2024 regarding the intent to procure emergency supply
“F-4”	ILECO III Affidavit supporting the procurement of the emergency supply
“G”	Details of the EPPSA
“H”	Discussion and Calculation of Proposed Rate
“I”	GNPK Generation Rate and Derivation with Write-up on Finance-related Prefiling Requirements ( <i>subject of the Motion for Confidential Treatment</i> )
“I-1”	Supplemental Write-up on Finance-related Prefiling Requirements ( <i>subject of the Motion for Confidential Treatment</i> )
“J”	GNPK Power Plant Technical Description
“K”	GNPK Certification attesting to the terms of the coal supply agreement
“K-1”	GNPK Sworn Statement attesting to the coal procurement process
“K-2”	GNPK Coal Supply Agreement dated 20 November 2014 ( <i>subject of the Motion for Confidential Treatment</i> )
“K-3”	GNPK Amended and Restated Coal Supply Agreement dated 26 December 2017 ( <i>subject of the Motion for Confidential Treatment</i> )
“K-4”	GNPK Amendment to the Coal Supply Agreement dated 1 January 2023 ( <i>subject of the Motion for Confidential Treatment</i> )
“K-5”	GNPK Amendment to the Coal Supply Agreement dated 7 September 2023 ( <i>subject of the Motion for Confidential Treatment</i> )

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“L”	Affidavit of Service for the Offices of the Governor and Sangguniang Panlalawigan of Iloilo
“L-1”	Affidavit of Service for the Offices of the Mayor and Sangguniang Bayan of Sara
“M”	Affidavit of Service for the Offices of the Governor and Sangguniang Panlalawigan of Lanao del Norte
“M-1”	Affidavit of Service for the Offices of the Mayor and Sangguniang Bayan of Kauswagan
“N”	Affidavit of Publication stating that the Application was published in a newspaper of general circulation within the Franchise Area and/or area of the principal operation of the Applicants
“N-1”	Complete newspaper issue where the Application was published
“N-2”	Relevant page of the newspaper issue where the Application appeared

**ALLEGATIONS IN SUPPORT OF THE MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION**

23. Under the Rules of Practice and Procedure of this Honorable Commission, a party to any proceeding before the Honorable Commission may request that certain information not be disclosed and be treated as confidential.<sup>1</sup> Pursuant to this, Applicant GNPK prays for the confidential treatment of the information contained in the following annexes:

<b>ANNEX</b>	<b>DOCUMENT</b>
“I”	GNPK Generation Rate and Derivation with Write-up on Finance-related Prefiling Requirements ( <i>subject of the Motion for Confidential Treatment</i> )
“I-1”	Supplemental Write-up on Finance-related Prefiling Requirements ( <i>subject of the Motion for Confidential Treatment</i> )
“K-2”	GNPK Coal Supply Agreement dated 20 November 2014 ( <i>subject of the Motion for Confidential Treatment</i> )
“K-3”	GNPK Amended and Restated Coal Supply Agreement dated 26 December 2017 ( <i>subject of the Motion for Confidential Treatment</i> )
“K-4”	GNPK Amendment to the Coal Supply Agreement dated 1 January 2023 ( <i>subject of the Motion for Confidential Treatment</i> )
“K-5”	GNPK Amendment to the Coal Supply Agreement dated 7 September 2023 ( <i>subject of the Motion for Confidential Treatment</i> )

24. Annexes “I”, “I-1”, “K-2”, “K-3”, “K-4” and “K-5” contain the details of the power rate calculations and financial model of GNPK as well as the manner by which these were derived. These information are proprietary in nature and should be protected as trade secrets as contemplated by law and jurisprudence. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*<sup>2</sup>, the Supreme Court defined a trade secret, as follows:

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<sup>1</sup> Section 1, Rule 4, Rules of Practice and Procedure of the Energy Regulatory Commission.

<sup>2</sup> G.R. No. 172835, December 13, 2007

*“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, 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.”*  
*(citations omitted, emphasis supplied)*
25. The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the EPPSA by the Honorable Commission, without the need to disclose the contents of **Annexes “I”, “I-1”, “K-2”, “K-3”, “K-4” and “K-5”**. The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of GNPK’s generation costs.
26. More importantly, competitors of GNPK, should they obtain the information in **Annexes “I”, “I-1”, “K-2”, “K-3”, “K-4” and “K-5”** may gain undue advantage to the prejudice of GNPK. The negotiating power of GNPK with parties it plans to contract with or who it is currently doing business with, will clearly be thwarted if it is compelled to disclose such information.
27. Accordingly, Joint Applicants hereby submit one (1) copy of the confidential documents in a sealed envelope, with the envelope

and each page of the document stamped with the word “Confidential”.<sup>3</sup>.

**PRAYER**

**WHEREFORE**, in view of all the foregoing, ILECO III and GNPK respectfully pray of this Honorable Commission, that:

1. an Order be issued treating **Annexes “I”, “I-1”, “K-2”, “K-3”, “K-4” and “K-5”** and all the information contained therein as confidential in perpetuity, directing their non-disclosure to persons other than the officers and staff of this Honorable Commission, perpetually protecting the said information from public disclosure by maintaining the same separate and apart from the records of the case, ensuring that these are not divulged to unauthorized persons, from the time these annexes are received by the Honorable Commission up to the termination of the instant case;
2. an Issuance be passed concerning the procedures for handling the confidential information upon the close of the proceedings and its return/delivery to GNPK; and
3. after due notice and hearing, a Decision be immediately issued approving the instant Joint Application and the EPPSA between ILECO III and GNPK, including the rates, fees, and charges therein, as well as the adjustment mechanism, and authorizing ILECO III to charge and collect the fees therein from its customers reckoned from the start of supply by GNPK to ILECO III under the EPPSA.

Other reliefs just and equitable under the premises are likewise prayed for.

The Commission hereby sets the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>4</sup> and Resolution No. 01, Series of 2021<sup>5</sup> (ERC Revised Rules of Practice and Procedure):

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<sup>3</sup> Soft copies of the same to be provided to this Honorable Commission are password protected.

<sup>4</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

<sup>5</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>27 November 2024</b> (Wednesday) at two o'clock in the afternoon (2:00 PM)	<b>Microsoft Teams Application</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>04 December 2024</b> (Wednesday) at two o'clock in the afternoon (2:00 PM)		Pre-Trial Conference and presentation of evidence

Accordingly, ILECO III is hereby directed to host the virtual hearings at **Barangay Preciosa, Sara, Iloilo, Philippines**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, ILECO III shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph) and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [docket@erc.ph](mailto:docket@erc.ph), and copy furnishing the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing and must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and

- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), and copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* through the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

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Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

**WITNESS**, the Honorable Officer-In-Charge Chairperson **JESSE HERMOGENES T. ANDRES** and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 16<sup>th</sup> day of October 2024 in Pasig City.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ATTY. KRISHA MARIE T. BUELA**  
*Director III, Legal Service*

  
LS: JPM