

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



IN THE MATTER OF THE  
APPLICATION FOR THE APPROVAL  
OF THE BUSINESS SEPARATION  
AND UNBUNDLING PLAN (BSUP)  
AND ACCOUNTING COST AND  
ALLOCATION MANUAL (ACAM)

ERC CASE NO. 2010-005 MC

MASINLOC POWER PARTNERS CO.,  
LTD. (MPPCL),

Applicant.

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BOOKETED

Date: JUL 21 2010

By: \_\_\_\_\_

**DECISION**

Before this Commission for resolution is the application filed on January 15, 2010 by Masinloc Power Partners Co., Ltd. (MPPCL) for the approval of its Business Separation and Unbundling Plan (BSUP) and Accounting and Cost Allocation Manual (ACAM).

In the said application, MPPCL alleged, among others, that:

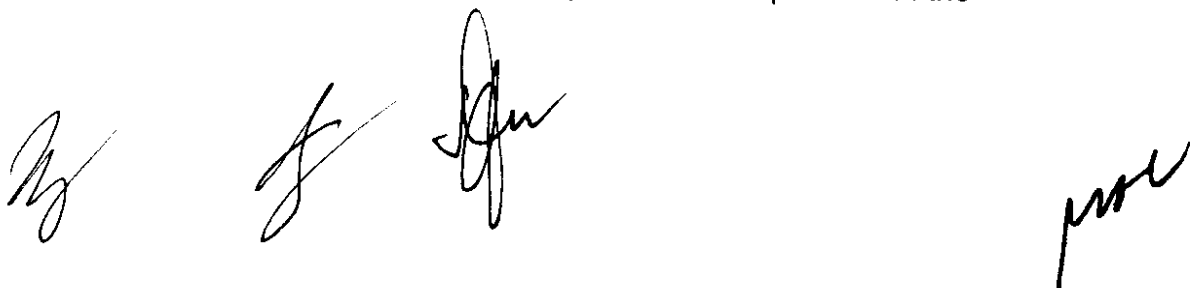
1. It is a limited partnership established in the Philippines to invest in, acquire, finance, complete, construct, develop, improve, operate, maintain and hold power production and electric generating facilities in the country, with principal office address at Barangay Bani, Masinloc, Zambales;
2. It is a subsidiary of The AES Corporation, a global power generation and power distribution company with assets in twenty eight (28) countries in Asia, North America, South America, Europe and Africa;
3. Under Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 ("EPIRA"), each Electric Power Industry Participant is required to functionally and structurally unbundle its business activities as between generation, transmission, distribution and supply. It is further required to unbundle those business activities between competitive, or non-regulated, and non-competitive, or regulated segments;

4. In relation to the foregoing, each Electric Power Industry Participant, including MPPCL, is required under Rule 10, Section 3(b) of the Implementing Rules and Regulations of the EPIRA to prepare and submit its BSUP for approval by the Commission;
5. In compliance with the EPIRA and the Commission's Business Separation Guidelines, it hereby respectfully submits to the Honorable Commission its BSUP;
6. The approval of its BSUP and ACAM will ensure its compliance with the EPIRA, its Implementing Rules and the Business Separation Guidelines. It undertakes to submit any other documents or information as may be required by the Commission in relation to the instant Application;
7. In view of the foregoing, it submits the instant application for the Commission's utmost consideration; and
8. It prays that the Commission approve its Business Separation and Unbundling Plan and Accounting Cost Allocation Manual.

Having found said application sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated February 22, 2010, were issued setting the case for initial hearing on March 25, 2010.

In the same Order, MPPCL was directed to cause the publication of the Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, with the said publication to be made not later than ten (10) days before the scheduled date of initial hearing.

The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and the Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the initial hearing.



On March 19, 2010, MPPCL submitted its "Pre-Trial Brief".

During the March 25, 2010 initial hearing of this case, only MPPCL appeared. No intervenor/oppositor appeared nor was there any intervention/opposition registered.

At the said hearing, MPPCL presented its proofs of compliance with the Commission's posting and publication of notice requirements which were duly marked as Exhibits "D" to "E-3", inclusive. Thereafter, MPPCL presented the following witnesses who testified in support of the application: a) Mr. Yari A. Miralao, its Marketing and Regulatory Director and b) Mr. Marvin Chan, Tax Manager of AES Services Philippines, Incorporated. In the course of their respective direct testimonies, additional documents were presented and marked as exhibits.

Further, MPPCL was directed to submit additional documents and information for evaluation of the instant case.

The direct examinations having been terminated, MPPCL was then directed to submit its formal offer of evidence.

On April 16, 2010, MPPCL submitted its "Compliance".

On May 5, 2010, MPPCL filed its "Formal Offer of Documentary Exhibits" which is hereby admitted for being relevant and material to the final resolution of the case.

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## DISCUSSION

MPPCL is a limited partnership established in the Philippines to invest in, acquire, finance, complete, construct, develop, improve, operate, maintain and hold power production and electric generating facilities in the country. MPPCL is a subsidiary of the AES Corporation, a global power generation and power distribution company with assets in twenty-eight (28) countries in Asia, North America, South America, Europe and Asia.

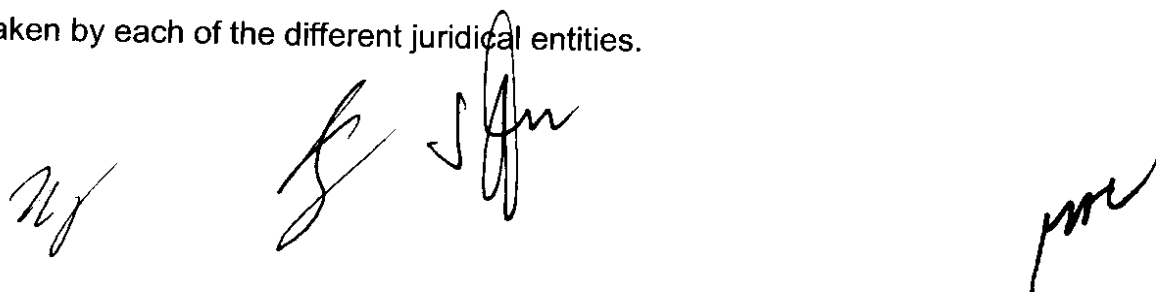
MPPCL is engaged in the business of generation of electricity as it recently acquired and took over the operations of the Masinloc Coal-Fired Thermal Power Plant, a 600 MW power plant located in Masinloc, Zambales.

MPPCL has organized a retail electricity supply unit within the company. The company was granted a Retail Electricity Supply (RES) license on August 11, 2008.

MPPCL's BSUP consists of six (6) sections as prescribed in the BSUP Filing Package, as follows:

### 1) Current Structure

It submitted the diagrammatic representation of its corporate structure and its affiliates as well as the description of each of the activities undertaken by each of the different juridical entities.

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## 2) Details of Business Segments

In compliance with the BSUP Filing Package, it had adequately complied with this requirement and provided the details of its business segments including the allocation of costs for each segment, as follows:

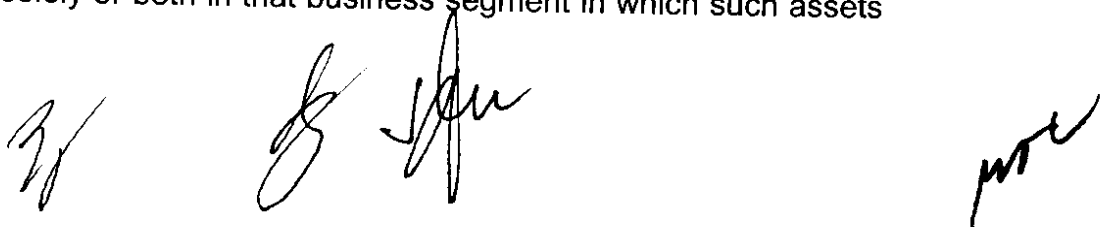
### 2.1 MPPCL's Business Segments

MPPCL's BSUP classified its existing functions according to the applicable business segments as identified in the Business Separation Guidelines (BSG): Power Generation business segment and Retail Electricity Supply business segment. Both business segments are competitive and non-regulated.

The Power Generation business segment comprises the generation of electricity and the provision of Ancillary Services (using generation assets). The Retail Electricity Supply business segment comprises supply services provided by a supplier, namely the services pertaining to the sale of electricity to end-users who are included in the contestable market.

### 2.2 Man-power

The BSUP Filing Package requires the details of the business segments such as the number of individuals who are engaged in the activities of the business segment and the description of any assets or facilities that are utilized solely or both in that business segment in which such assets are utilized.

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Based on MPPCL's organizational set-up, new jobs relating to the RES business segment will be created. Key employees that will be needed by the RES business segment will be hired to start and manage the operations of the business.

### **2.3 Exclusive and shared assets per business segment**

All assets of MPPCL are currently utilized by its Power Generation business segment. Asset ownership will be determined on the basis of the predominant use of the asset and its physical location. In general, all generation assets recorded in MPPCL's plant accounts will stay on as generation assets under MPPCL's Power Generation business segment. There are currently no assets/facilities which are utilized in both the Power Generation and RES business segments.

### **3) Accounting Separation**

MPPCL prepared its accounting policies and methodologies, adopting the accounting and cost allocation policies set forth in Article II (General Principles for Accounting Separation) of the BSG. The adoption of these principles and policies are projected to ensure compliance by MPPCL should it finally commercially start supplying electricity as Retail Electricity Supplier. Likewise, the provisions of Article IV (Business Segments) of the BSG were also incorporated in its ACAM to guarantee compliance with these provisions should the retail supply business segment of MPPCL come in full swing.

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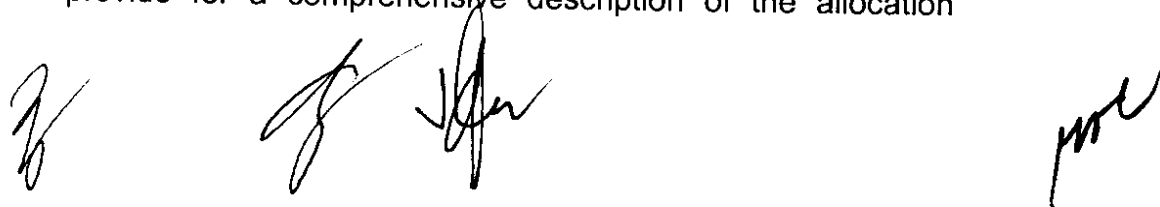
The accounting system of MPPCL is based on the Analytical Accounting function of Microsoft Dynamics-Great Plains in classifying, reporting and analyzing financial transactions/accounts for each of the business segments. MPPCL's financial statements are prepared under the historical cost basis except for certain inventories which are carried at net realizable value and presented in Philippine Peso, the Company's functional currency. The company's financial statements are prepared in compliance with Philippine Financial Reporting Standards (PFRS).

The accounting structure of MPPCL was separated into the following business segments: Generation business, Supply business, Wholesale Aggregation business and Corporate Accounts. In its Chart of Accounts, the accounts for the said business segments are accordingly classified as direct, indirect/shared and un-allocable accounts.

MPPCL likewise submitted an express statement manifesting the incorporation of Articles II (General Principles for Accounting Separation), III (Information Requirements for Accounting Separation), & IV (Business Segments) of the BSG for its Accounting Separation Statement. This statement clearly ensures the maintenance of separate accounts for each business segment.

### **3.1 Accounting and Cost Allocation Manual (ACAM)**

The BSG requires industry participants to prepare an ACAM which provides full and proper documentation of their respective accounting policies and principles. In compliance, MPPCL developed its own ACAM to provide for a comprehensive description of the allocation

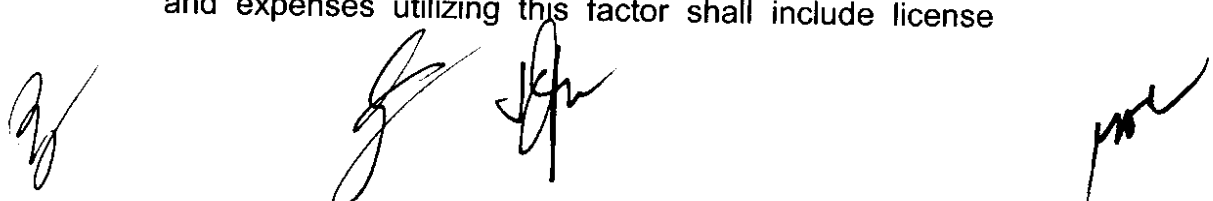
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methodologies employed in the accounting separation for revenues, costs, assets and liabilities. The said ACAM enumerates the accounting principles and policies that govern the accounting separation process and have been prepared in compliance with the Philippine Financial Reporting Standards and in conformity with the BSG.

### **3.1.1 Cost Assignment/Allocation Methodology**

MPPCL's proposed allocation factor for shared expenses is that it shall, to the extent possible, allocate revenues and costs to the business segments on the basis of the activity that caused the particular revenue or cost to arise. MPPCL shall adopt the principle of causation in allocating its common cost or revenues, as follows:

- a) Causal relationship between a pool of common costs or revenues and the carrying out of an activity or provision of a service or product.
- b) In the event that revenue percentage for each business segment will not be a feasible allocation factor based on the principle of causal relationship, MPPCL will be utilizing the following:
  - i. Allocation of indirect revenue and expenses will be based on kilowatt-hour per activity attributable to a business segment. (e.g. no. of kWh generated over total kWh). The term "total kWh" pertains to both kWh generation and acquired from spot market. Indirect revenues, costs and expenses utilizing this factor shall include license

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and membership fees, permit fees, audit and tax services, publications and those which are stated under the chart of accounts as indirect costs and expenses.

In case there is no generated or purchased kWh for the period covered, the allocation shall be based on the kWh activity of the last twelve (12) months preceding the period covered.

- ii. Costs that are related to manpower such as salaries and wages will be allocated based on the number of headcount per business segment (e.g. three people directly hired by the Supply business segment over Total headcount of the company). Examples of these include salaries and wages, employee benefits, bonuses, and other compensation that are commonly shared by the business segments.
- iii. For other costs and expenses incurred by shared officers (e.g. Plant Manager and Country Manager) or consultants, these shall be allocated on the basis of time spent in rendering work for the particular business segment.

MPPCL, as a whole, developed the allocation methodology/factor based on the principles set forth in its ACAM and the BSG.



### 3.1.2 Transfer Pricing Principles and Methodologies

The BSG requires that a transfer price must be the same as the price paid by a non-related entity that acquires the same product, service or capital asset in an arms-length transaction.

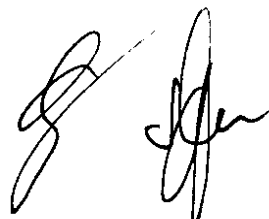
From among the option on transfer pricing provided in Appendix H of the BSG, the transfer pricing method employed by MPPCL in the preparation of the Accounting Separation Statements is based on Fully Allocated Cost. Fully allocated costs are the sum of direct costs plus an appropriate share of allocable or common costs.

MPPCL's transfer pricing methodology is in conformity to the principle set forth in the BSG.

#### 4) Description of Separation

MPPCL submitted its undertaking stating that it will comply with the obligations imposed on it under Article V of the BSG which pertains to the other obligations.

MPPCL proposes a two-stage structural separation plan. The two-stage plan essentially provides all aspects of structural separation, including the creation of separate RES business segment within MPPCL, the separation of accounts, the separation of control of operations and assets and the full effectiveness of the Code of Conduct.



The system adopted in the Accounting Separation Statements as well as the standards developed on the cost basis and cost allocation plan of MPPCL is in accordance with the BSG.

**5) Milestones and Highlights**


It submitted its undertaking involving the implementation of the separation of business segments to ensure that it is compliant with the requirements of the BSUP.

**6) Code of Conduct for Competitive Retail Electricity Participants**

MPPCL provided an undertaking to develop a plan in compliance with the Code of Conduct for Competitive Retail Market Participants to regulate matters relating to end-users, which plan shall include training and developmental programs for employees to help ensure compliance with the aforesaid code.

MPPCL also submitted an affidavit that the plan will be for submission and approval by the Commission.

After a thorough evaluation of the instant application, it was disclosed that it is in accordance with Section 36 of R.A. 9136, Rule 10 of its IRR and the BSG, as amended.



**WHEREFORE**, the foregoing premises considered, the application filed by Masinloc Power Partners Co., Ltd. (MPPCL) for approval of its: (1) Business Separation and Unbundling Plan (BSUP) and (2) Accounting and Cost Allocation Manual (ACAM) is hereby **APPROVED**, subject to its full compliance with the requirements of the BSG, as amended.

Relative thereto, MPPCL is directed to submit, within five (5) months from the end of the financial year, the following documents:

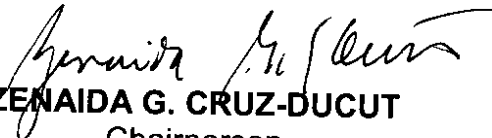
- 1) The Accounting Separation Statements;
- 2) The Management Responsibility Statement;
- 3) The Auditor's Report pertaining thereto;
- 4) The General Information Sheet; and
- 5) The Compliance Report.

In the event that MPPCL would change or alter the approved ACAM, it must submit to the Commission the following:

1. The precise details of the proposed changes;
2. The reasons and justifications for such alteration or changes; and
3. The effect of that change in the Accounting Separation Statements.

**SO ORDERED.**

Pasig City, June 15, 2010.

  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson

  
**RAUF A. TAN**  
Commissioner

(On Official Travel)  
**MARIA TERESA R. CASTAÑEDA**  
Commissioner

  
**ALEJANDRO Z. BARIN**  
Commissioner

  
**JOSE C. REYES**  
Commissioner

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4. **Senate Committee on Energy**  
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Pasay City, Metro Manila
5. **House Committee on Energy**  
Batasan Hills, Quezon City, Metro Manila
6. **Masinloc Power Partners Co., Ltd. (MPPCL)**  
Barangay Bani, Masinloc, Zambales
7. **Office of the Municipal Mayor**  
Masinloc, Zambales