

REPUBLIC OF THE PHILIPPINES  
ENERGY REGULATORY COMMISSION  
SAN MIGUEL AVENUE, PASIG CITY

IN THE MATTER OF THE  
APPLICATION FOR APPROVAL OF  
THE POWER SUPPLY AGREEMENT  
AND THE PROPOSED COLLECTION  
DEFERMENT MECHANISM, WITH  
PRAYER FOR PROVISIONAL  
AUTHORITY,

ERC Case No. 2010-028 RC

ZAMBOANGA CITY ELECTRIC  
COOPERATIVE, INC. (ZAMCELCO),  
AND IN2POWER, INC.,  
Applicants.

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**JOINT APPLICATION**  
**(WITH PRAYER FOR PROVISIONAL AUTHORITY)**

Joint Applicants, through their respective counsel and unto this Honorable Commission, respectfully state:

**THE APPLICANTS**

1. Zamboanga City Electric Cooperative, Inc. (ZAMCELCO) is an electric cooperative duly organized and existing by virtue of Presidential Decree No. 269 and existing under the laws of the Republic of the Philippines, with principal office located at the MCLL Highway, Putik, Zamboanga City. ZAMCELCO is represented herein by its President, Rolando G. Gregorio, and its General Manager, Reinerio R. Ramos, whose authority is contained in ZAMCELCO Board Resolution dated 27 March 2010, a copy of which is attached hereto as **Annex "A."**

2. ZAMCELCO is a distribution utility with a franchise as an electric cooperative issued by the National Electrification Administration covering the City of Zamboanga. A copy of the said franchise is attached hereto as **Annex "B."**

3. iN2Power, Inc. is a domestic corporation duly organized and existing by virtue of the laws of the Republic of the Philippines with principal office at 30<sup>th</sup> Floor, Philippine Stock Exchange Center, Exchange Road, Ortigas Center, Pasig City, Philippines. iN2Power is represented by its President, Alberto C. Guanzon, whose authority is contained in the Board Resolution, a copy of which is attached hereto as **Annex "C."**

4. iN2Power is a duly registered Wholesale Aggregator with Certificate of Registration No. WA-07-06-006 dated 27 June 2007, a copy of which is attached hereto as **Annex "D."** Copies of its SEC Certificate of Registration, Articles of Incorporation, and its latest General Information Sheet are attached hereto as **Annexes "E," "F," and "G,"** respectively

5. Applicants may be served orders and other processes through their respective undersigned counsel.

#### **NATURE OF THE APPLICATION**

6. Pursuant to Rule 20 (B) of the ERC Rules of Practice and Procedure, approved by this Honorable Commission on 22 June 2006 in Resolution No. 38, Series of 2006, this Application is submitted to the Honorable Commission for its review and approval of the Power Supply Agreement (PSA) executed by and between ZAMCELCO and iN2Power. A copy of the subject PSA is attached hereto as **Annex "H."**

7. The present Application is also for the approval of a mechanism to reduce the impact of the costs of the proposed additional power supply to the end-user consumers by spreading the recovery of the generation charges over a period beyond the PSA's contract period.

#### **COMPLIANCE WITH PRE-FILING REQUIREMENTS**

8. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, approved by this Honorable Commission on 22 June 2006 in Resolution No. 38, Series of 2006, Applicants have furnished the Sangguniang Panlungsod of Zamboanga City a copy of the present Application with all its annexes and accompanying documents. A copy of the corresponding proof of receipt is attached hereto as **Annex "I."**

9. Furthermore, Applicants have caused the publication of the present Application in its entirety in a newspaper of general circulation in Zamboanga City. Copies of the corresponding affidavit of publication and the newspaper are attached hereto as **Annexes "J" and "J-1,"** respectively

#### **STATEMENT OF FACTS**

10. **Power Shortage in the Mindanao Grid and in Zamboanga City.** The Mindanao Grid, which has already been experiencing power shortages, is now faced with a critical level of deficit in its power supply. In fact, as of the latest advisory of the National Grid Corporation of the Philippines (NGCP), the grid operator, the Mindanao Grid has an available capacity of only 707 MW, and a gross reserve of -

405 MW, leaving the grid unable to meet its peak load of 1112 MW.<sup>1</sup> The NGCP further estimated that the Mindanao Grid may experience a 144-MW deficit in May, thereby possibly putting the national elections at risk.<sup>2</sup>

10.1. At present, ZAMCELCO's power is supplied by only National Power Corporation (NPC)/Power Sector Assets and Liabilities Management (PSALM). However, NPC/PSALM is no longer able to supply the electricity requirements of ZAMCELCO, as well as the rest of the Mindanao Grid.

10.2. The shortage of supply is aggravated by the El Niño phenomenon, which sharply decreased the water levels of hydropower facilities providing about half of Mindanao's power supply. NGCP reported that there has been a reduction in the available capabilities of the Agus and Pulangi Plants by 80 percent and 60 percent, respectively.<sup>3</sup> Further contributing to the said deficiency is the planned outage non-availability of Iligan Diesel Power Plant (35 MW) and the planned outage of Power Barge 117 (50 MW).<sup>4</sup>

11. Among the areas covered by the Mindanao Grid, the City of Zamboanga is one of the most affected by power shortages. Since February 2010, the NPC, the sole power provider of the Mindanao Grid, has not been able to supply the power demand of ZAMCELCO.

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<sup>1</sup> <http://ngcp.ph/so.asp> (28 March 2010).

<sup>2</sup> See "Power Crisis in Mindanao Perils May Election," *Philippine Daily Inquirer*, 19 February 2010, pp. A1, A21.

<sup>3</sup> Amy R. Remo. "Power shortage in Mindanao get worse; rationing eyed." *Philippine Daily Inquirer*, February 23, 2010, [http://archive.inquirer.net/view.php?db=1&story\\_id=254931](http://archive.inquirer.net/view.php?db=1&story_id=254931).

<sup>4</sup> Amy R. Remo. "Power shortage in Mindanao get worse; rationing eyed." *Philippine Daily Inquirer*, February 23, 2010, [http://archive.inquirer.net/view.php?db=1&story\\_id=254931](http://archive.inquirer.net/view.php?db=1&story_id=254931).

12. This power supply deficit has resulted in rotating brown-outs in Zamboanga City, causing end-user consumers to suffer six to seven hours of brownout every day. The regular power outages not only caused inconvenience to the residents of the city, but also adversely affected the business operations of industrial and commercial establishments. In particular, it was reported that the power-intensive cannery industry in Zamboanga City is being impaired by the power shortages.<sup>5</sup>

13. As the lack of sufficient and steady power supply has significant adverse effects on the economy of Zamboanga, the immediate supply of additional generation capacity to the city is an urgent necessity.

14. In order to immediately address the power shortage, ZAMCELO and iN2Power executed the Power Supply Agreement subject of the present Application, whereby iN2Power and ZAMCELCO will purchase electricity for the latter's power needs. For such purpose, iN2Power shall install and ensure the operation of generating sets with an aggregate of 30MW of diesel-based generating capacity.

15. As the cost of emergency power is relatively high, ZAMCELCO is making arrangements with government banks to mitigate the impact of the cost of emergency power on the end-users by spreading the recovery over a longer period of time.

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<sup>5</sup> Valdez, Jhoanna Frances S. "Labor raises fears over impact of power shortage." *Business World Online*, March 14, 2010, <http://www.bworldonline.com/main/content.php?id=7673>.

**THE POWER SUPPLY AGREEMENT  
AND RELATED INFORMATION**

16. **Salient Features of the PSA.** Under the PSA, iN2Power shall supply and ZAMCELCO shall purchase electricity to help address the power shortage in Zamboanga City.

16.1. **Commercial Operations Period.** The supply of electricity under the PSA shall be for a period of twelve (12) months.

16.2. **Fixed Capacity and Flexible Offtake.** iN2Power shall provide and make available a capacity of 30MW. There is no minimum energy offtake nor a take-or-pay arrangement for energy delivered; billing for energy is based on actual metered offtake.

17. **The Generation Facilities.** To supply power under the PSA, iN2Power will install, operate and maintain an aggregate generation capacity of 30MW, including the necessary appurtenant devices. For this purpose, iN2Power will procure, by way of lease, 20 units of 1.64MW Caterpillar XQ2000 diesel generator sets or variants (the "Generation Sets").

17.1. **Embedded Generation.** The Generation Sets shall be located within ZAMCELCO's franchise area and shall be connected to the 13.2kV facilities at ZAMCELCO's Putik substation.

18. **Sources of Funds/Financial Plans.**

18.1. **Debt-Equity Ratio.** iN2Power's costs for the project shall be funded solely from local lenders. iN2Power will obtain debt facility from either Land Bank of the Philippines (LBP) and/or Development Bank of the Philippines (DBP) from the funds made available particularly in addressing

the 2010 Mindanao Power Crisis. Hence, there is no applicable debt-equity ratio.

18.2. **Project Cost.** The project cost is estimated to be at PhP 330,698,130, the component of which are as follows:

<b>Project Cost Items</b>	<b>PhP</b>	<b>Description</b>
Site Development	39,480,000	Cost of All civil works that may be required including cable trenching, drainage and laying, compacting and leveling of hardcore, perimeter fencing, lighting.
Transshipment/ Transportation	16,800,000	Cost of transshipment and transportation of the generating set from Manila Port to Zamboanga City job site.
Initial Advances	261,918,600	Initial advances equivalent to two-month generating set lease, and VAT payments for importation of generating sets and equipment.
Working Capital	12,499,530	Initial working capital equivalent to 2 months fixed operations and maintenance.
<b>Total Project Cost</b>	<b>330,698,130</b>	

18.3. **Annual Interest.** iN2Power is currently discussing with prospective lenders, with indicative rates at about 10% per annum. The final loan details such as the principal, term and interest are still undetermined.

18.4. **Computation of Return on Investment/ Weighted Average Cost of Capital.** As the Project will be funded solely from loans, there is no applicable return on investment. Hence, the Weighted Average Cost of Capital ("WACC") is equivalent to the cost of borrowing, the indicative rate being 10% per annum.

19. **Purchased Power Rate.** Under the PSA, ZAMCELCO shall pay iN2Power fees for each billing month total fixed charges of PhP 3,500 per kilowatt per month, which includes Capacity Fees and Operation and Maintenance Fee, and a variable charge with a base rate of PhP 9.9718 per kilowatt-hour, subject to fuel price adjustment. All rates are inclusive of Value-Added Taxes.

The Fee formulae as indicated in Schedule 5 of the PSA are as follows:

(a) Capacity Fees. The monthly Capacity Fees shall be paid in advance by the Buyer to the Seller to allow recovery of lease payment, transshipment cost, mobilization and de-mobilization, site development cost, and interest cost to be computed as follows:

$$CF = CCR \times NCC \times F$$

Where:

CF = Capacity Fees, in Pesos  
CCR = Contracted Capacity Rate of Php3,291.68 /kW/month;  
NCC = Net Contracted Capacity of 30,000kW  
Nameplate or Rated Capacity = 1.64MW per genset x number of gensets installed  
F = Outage Factor as derived using the following formula to be used.

If Forced Outage does not occur, or if the following formula results in F being greater than 1, then F shall be 1:

$$F = \frac{\text{Monthly actual gross generation}}{\text{TMEG}}$$

where TMEG = Theoretical maximum Energy Generation being the Nameplate or Rated Capacity of the Generator Set multiplied by the hours in the relevant month, less any adjustments made for allowable downtime, dispatch order, force majeure and for the Generator Sets' start-ups after non-generation.

(b) Fixed Operation and Maintenance Fee. The Operation and Maintenance Fee covers the operating and maintenance costs of the power structures and equipment, and project management and supervision costs. It shall be computed according to the following formula:

$$OMF = OMR \times NCC \times F$$

Where:

OMF = Operation & Maintenance Fee in Pesos  
OMR = Operation & Maintenance Rate in Php208.33/kW/month  
NCC = Net Contracted Capacity of 30,000kW  
F = Outage factor (same as above)

(c) Variable Charge. This covers the cost of using diesel fuel plus the lubes and additives, and computed as:

$$\text{Total FC} = FC + \text{FCadj due to change in diesel price}$$

Where:

FC = FCR x Ed

FCR = Fuel cost base rate in 9.9725 Php per kWh, includes lubes

Ed = Actual Energy delivered to the Buyer during the month, kWh

$FC_{adj \text{ due to change in diesel price}} = (BP_n - BP_o) \times 0.28 \text{ liter/kWh} \times Ed$

BP<sub>n</sub> = The average MOPS price of diesel deliveries during the month in Php/liter as derived using the table below:

BP<sub>o</sub> = The reference price of diesel fuel at 33.5448 Php/liter (delivered) and derived as:

		Ref. Price
Forex Rate	US\$:PhP	45.8000
 <b><u>in US\$/BBL</u></b>		
Applicable MOPS (March 1-18, 2010)	US\$/BBL	87.5660
Add: Premium, Insurance, Freight (\$US/bbl)	US\$/BBL	10.0000
CIF Price (US\$/bbl)	US\$/BBL	97.5660
Add: Import Duty (3% of CIF)	US\$/BBL	2.9270
<b>Product Landed Cost</b>	<b>US\$/BBL</b>	<b>100.4930</b>
 <b><u>in PhP/li</u></b>		
Applicable MOPS	PhP/Li	25.2266
Add: Premium, Insurance & Freight (\$US/bbl)	PhP/Li	2.8809
Add: Import Duty (3% of CIF)	PhP/Li	0.8432
<b>Product Landed Costs</b>	<b>PhP/Li</b>	<b>28.9507</b>
Add: Freight/Transshipment	PhP/Li	1.0000
<b>Gross Delivered Price:</b>	<b>PhP/Li</b>	<b>29.9507</b>
VAT	PhP/Li	3.5941
<b>Total Invoice Price (March 1-18, 2010)</b>	<b>PhP/Li</b>	<b>33.5448</b>

19.1. **Break-down of the Base Prices.** At a net plant factor of 46.6%, the average base rate of the fees is P20.2527 per kilowatt-hour, VAT inclusive.

Break-Down of Base Prices	Contracted Base Prices	Contracted Unit	Average Rate in P/kWh
Capacity Fees	3,291.675	P/MW-mo	9.6683
Fixed Operations and Maintenance Fee	208.325	P/MW-mo	0.6119
Variable Charge	9.9725	P/kWh	9.9725
<b>Total Average Power Rate</b>			<b>20.2527</b>

19.2. **Sample Computation of Power Rates.** A sample computation of the power rate is attached hereto as **Annex "K."**

19.3. **Indexation of Power Rate Components.** The Capacity Fees and the Fixed Operations and Maintenance Fee are not indexed.

19.4. The Variable Charge, on the other hand, follows a fuel cost pass-through mechanism, and is computed based on the average Mean of Platts Singapore (“MOPS”) price of diesel deliveries during the applicable month. The Variable Charge reflects the expected actual cost of diesel fuel, lubes and additives to be incurred by iN2Power, as the PSA reflects the actual terms negotiated by iN2Power with its fuel supplier. Thus, the actual fuel cost is passed on as part of the contracted fees and iN2Power does not gain from its fuel purchases.

19.5. **No Transmission Charges.** Electricity supplied by NPC/PSALM is transmitted to ZAMCELCO through NGCP’s facilities. Hence, the end-users pay transmission charges for such power. For electricity supplied under the PSA, the end-users need not pay transmission charges since the Generation Sets directly supply power to ZAMCELCO, and not through NGCP’s transmission lines.

## 20. **Cash Flow.**

20.1. **Initial Cost.** Upon the release of the debt financing, the estimated project cost less working capital (PhP 330,698,130 less 12,499,530) of PhP 318,198,600 is to be disbursed immediately to commence site development and preparation, and the delivery and installation of the generating sets. The working capital is to fund pre-commercial operation expenses, and fill cash flow gaps, if any, upon start of commercial operations.

20.2. **Breakdown of Operating and Maintenance Expense.** The projected operating and maintenance expenses for the first year of commercial operations are as follows:

<b>Operating expenses</b>	<b>PhP</b>
Lease Cost	969,206,786
Fuel Costs	1,027,856,135
Lubes and Chemical Costs	63,466,440
Interest Costs	33,069,813
Personnel Expenses	11,133,472
General & Admin, Other O&M	20,350,294
<b>12-mo Operating Expenses</b>	<b>2,125,082,940</b>

The Lease Cost includes a portion of the total operations and maintenance costs of the Generation Sets.

21. **Certificate of Compliance and Environmental Compliance Certificate.** As the installation of the Generation Sets is an emergency project, the necessary Certificate of Compliance (“COC”), to be issued by this Honorable Commission, and the Environmental Compliance Certificate (“ECC”), to be issued by the Department of Environment and Natural Resources (“DENR”) have yet to be obtained by the lessor of the Generation Sets. iN2Power undertakes to submit the said Certificates to this Honorable Commission as soon as they become available.

22. **Fuel Procurement.** iN2Power is currently finalizing a fuel supply contract with a prospective fuel supplier. As stated earlier, the terms negotiated by the parties are reflected in the PSA, with the actual fuel cost as a direct pass-on cost. iN2Power undertakes to submit the said contract to this Honorable Commission as soon as it is finalized.

22.1. Aside from a commitment to supply the fuel requirements of the Generation Sets, the supplier has agreed to terms that will allow iN2Power to better provide electricity to the customers of ZAMCELCO. The

supplier will provide and install the main fuel tank at the site, and has agreed to payment for fuel sixty (60) days from delivery, allowing for flexibility in the use of fuel to generate power without need for prior payment for the fuel.

23. **NPC Supply of Electricity.** As stated earlier, NPC/PSALM is currently the sole supplier of electricity to ZAMCELCO. At present, the electricity provided by NPC/PSALM is insufficient, especially during the peak hours, resulting in load curtailment and rotating brownouts throughout Zamboanga City.

24. **Procurement of Generation Company.** It must be noted that, aside from iN2Power's offer, ZAMCELCO received no other offer to provide emergency power.

25. **Relevance to the Philippine Development Plan.** As discussed earlier, the installation and operation of the Generation Sets are emergency measures to address the current supply deficiency. Hence, the project is not considered under the Department of Energy's Philippine Development Plan.

26. **ZAMCELCO's Load Forecast Projections.** A copy of ZAMCELCO's Distribution Development Plan showing its load forecast projections is attached hereto as **Annex "L."**

#### **PROPOSED COLLECTION DEFERMENT MECHANISM**

27. As stated earlier, the cost of the emergency power is relatively high. Although power supply will be stable and secure, and brownouts due to lack of supply will be prevented, the increased costs may be a significant burden to the customers.

28. In order to minimize the burden, ZAMCELCO is making arrangements with government banks that have expressed willingness to finance

and/or extend credit facility to accommodate the purchase of emergency power. Such arrangements are explained briefly below.

28.1. Ordinarily, the actual generation cost should be directly and fully passed on to the end-users. Hence, ZAMCELCO's customers would have to pay the full generation charge under the PSA.

28.2. Under the proposed mechanism, however, the customers will not be billed the full generation charge under the PSA. Instead, the customers will be billed P3.00/kWh in addition to the NPC effective rate. That is, the generation rate to be billed shall be the NPC effective rate plus P3.00/kWh, to be applied to the total kWh consumed by the customer.

28.3. The additional P3.00/kWh shall be billed to the customers until the full amount of the cost under the PSA is paid. This payment will necessarily extend beyond the 12-month term of the PSA. Stated simply, the payment of the cost of emergency power is spread over a longer period, longer than the contract term, resulting in a lower and more affordable rate.

29. The above arrangement is made possible with financing, whereby banks will finance the purchase of emergency power and ZAMCLECO will slowly pay the banks from the P3.00/kWh increase in the generation charge it will collect from its consumers.

### **IMPLICATIONS ON THE GENERATION CHARGE TO CONSUMERS**

30. As stated earlier, ZAMCELCO currently sources all its power requirements from NPC/PSALM. As of February 2010, the end-users paid for such power at the rate of P2.9568/kWh. If the PSA and the proposed collection deferment mechanism are approved and implemented, Zamboanga will enjoy stable

power supply and no brownouts due to shortage of supply. The end-users will pay for power at the rate of P5.9658/kWh.

31. The following table shows impact of the PSA and the proposed collection deferment mechanism on the generation rates to be paid by ZAMCELCO.

Monthly	MWh <sup>1</sup>	Load Share	P/kWh
Total	41,998	100.0%	
NPC	31,784	75.7%	<b>2.9568<sup>2</sup></b>
Gen Sets	10,214	24.3%	20.2527
<b>Weighted Ave Generation Cost</b>			7.1631
<b>Generation Cost with Proposed Rate Deferment (NPC/PSALM rate plus P3.00/kWh)</b>			<b>5.9658</b>

<sup>1</sup>Derived using ZAMCELCO billing determinants of November 2009 billing month

<sup>2</sup>NPC/PSALM generation charge as of February 2010

32. Based on the above rate impact simulation, if the proposed collection deferment mechanism is approved, a residential consumer who currently pays P500 per month on his power bill, will pay only P759 per month, instead of P849 without the said mechanism. A commercial consumer, on the other hand, who currently pays P15,000 per month on its power bill, will only pay P23,557 per month, instead of P26,558 without the said mechanism.

33. Of course, the increase in the rate results in a sufficient and stable supply of electricity, and the prevailing brownouts due to lack of supply will immediately be prevented.

34. Assuming that the monthly generation profile indicated in the above table is maintained throughout the 12-month term of the PSA, and that on the 13<sup>th</sup> month, NPC/PSALM's generating capacity normalizes, the consumers will be billed

the additional P3.00 per KWh generation charge until the 18<sup>th</sup> month, based on simulated runs, when all the total cost of generation under the PSA is fully paid.

35. A more detailed discussion and explanation of the above-rate impact simulation is attached hereto as **Annex "M."**

#### **APPLICATION FOR PROVISIONAL AUTHORITY**

36. As discussed earlier, Zamboanga City is facing a power shortage and daily rotating brownouts. As the lack of sufficient supply has significant adverse effects on the local economy and on the lives of the customers, the urgent need for emergency additional capacity is clear.

37. In addition, it has been widely feared that the first automated elections in the country on 10 May will be jeopardized by the current power crisis, especially in Mindanao where the crisis is worst among the three main grids.

38. The immediate implementation of the project will ensure that there will be no brownouts due to lack of supply, especially during the elections. In addition, the immediate restoration of adequate power supply will curtail the adverse effects of rotating brownouts on the residents of Zamboanga City and on the local economy.

#### **PRAYER**

WHEREFORE, the foregoing premises considered, Applicants respectfully pray that:

- a) upon publication of the Application and notice, the Honorable Commission issue a Provisional Authority approving:

1. the Power Supply Agreement, including the generation charge and adjustment mechanism proposed therein; and

2. the mechanism to defer full collection of the generation charge under the PSA, as proposed herein (including the additional P3.00/kWh to be billed on top of NPC effective rate, and its collection beyond the term of the PSA), to mitigate the price impact on the consumers.

b) After due notice and hearing:

3. Render judgment making such provisional approval permanent.

Likewise, applicants pray for other reliefs as are just and equitable under the foregoing premises.

City of Zamboanga for Pasig City, Philippines, March 29, 2010.

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