

REPUBLIC OF THE PHILIPPINES  
ENERGY REGULATORY COMMISSION  
PACIFIC CENTER BUILDING  
SAN MIGUEL AVENUE, ORTIGAS CENTER  
CITY OF PASIG

IN THE MATTER OF THE APPLICATION  
FOR APPROVAL OF THE ELECTRIC  
POWER PURCHASE AGREEMENT (EPPA)  
BETWEEN ANTIQUE ELECTRIC  
COOPERATIVE, INC. AND PANAY  
ENERGY DEVELOPMENT  
CORPORATION, WITH PRAYER FOR  
PROVISIONAL AUTHORITY.

ERC CASE NO. \_\_\_\_\_ RC

ANTIQUÉ ELECTRIC COOPERATIVE, INC.  
AND PANAY ENERGY DEVELOPMENT  
CORPORATION,

Applicants.

x ----- x

APPLICATION

ANTIQUÉ ELECTRIC COOPERATIVE, INC. ("ANTECO") and PANAY  
ENERGY DEVELOPMENT CORPORATION ("PEDC"), through the undersigned counsel  
and unto the Honorable Commission, most respectfully state:

Parties to the Case

1. Applicant Antique Electric Cooperative, Inc. is an electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Brgy. Funda-Dalipe, San Jose de Buenavista, Antique. It is a duly franchised electric utility servicing its consumers in the Municipalities of Anini-y, Tobias Fornier, Hamtic, San Jose, Sibalom, San Remigio, Belison, Patnongon, Valderrama, Bugasong, Laua-an, Barbaza, Tibiao, Culasi, Sebaste and the Island Municipality of Caluya.

2. Panay Energy Development Corporation is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at Brgy. Ingore, La Paz, Iloilo City. PEDC is in the process of constructing and

installing its 2 x 82 MW clean coal-fired power plant (the “Power Plant”), which it shall own, operate, and maintain, located at Brgy. Ingore, La Paz, Iloilo City.

**Statement of Facts and of the Case**

3. ANTECO and PEDC entered into an Electric Power Purchase Agreement (the “EPPA”) in May 2010, in which PEDC agreed to supply and deliver, and ANTECO agreed to take and pay for electricity supplied by PEDC, at a contracted capacity of 7 MW (the “Contracted Capacity”), with a load factor of 100% (with an option to increase the Contracted Capacity by 2 MW or such amount of unsecured capacity), upon the commencement of the Commercial Operation Date (i.e., the date when all Units have been completed, inspected, tested and are ready to commence operation as confirmed in a written communication from PEDC to ANTECO, which date should not be later than 26 March 2011, a “Unit” being any one of the two 82 MW generating equipment comprising of the boiler, turbine and generator, and its associated auxiliaries), at an Electricity Fee (Schedule 4 of the EPPA) computed as follows:

$$\begin{aligned}
 \text{Electricity Fees} &= \text{Energy Fees} + \text{Actual Fuel Cost} \\
 \text{Energy Fees} &= \text{Tariff Fee} \times E \\
 \text{Tariff Fee} &= \text{CRF} + \left[ \text{PhpO\&M} \times \frac{\text{PhCPI}_c}{\text{PhCPI}_b} \right] + \\
 &\quad \left[ \text{USDO\&M} \times \frac{\text{USCPI}_c}{\text{USCPI}_b} \times \text{Forex} \right] \\
 \text{Actual Fuel Cost} &= \left[ \frac{\text{Coal Price} + \text{Transport Cost}}{1,000} \right] \times \text{Consumption Rate} \times \text{Forex} \times E \\
 \text{Coal Price} &= \text{Base Coal Price} \times \frac{\text{Current Newcastle Index}}{\text{Base Newcastle Index}}
 \end{aligned}$$

Where

CRF	=	Capital Recovery Fee	=	2.6055	Php per kWh
PhpO&M	=	Peso-based O&M Fee	=	0.4253	Php per kWh
PhCPI <sub>c</sub>	=	Philippine Consumer Price Index (CPI) for all items for the Current Month as Published by the National Statistics Office			

PhpCPI <sub>b</sub>	=	Base Philippine CPI	=	158.80	May-09
USDO&M	=	US Dollar-based O&M Fee	=	0.0082	USD per kWh
USCPI <sub>c</sub>	=	U.S. Consumer Price Index for the Current Month as published by the U.S. Bureau of Labor Statistics			
USCPI <sub>b</sub>	=	Base U.S. CPI	=	213.856	May-09
Forex	=	Reference exchange rate (in Php per USD) on the meter reading date, as published by the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov.ph">www.bsp.gov.ph</a>			
E	=	Minimum Contracted Energy or Energy Delivered, whichever is higher			
Current Newcastle Index	=	Preceding quarter's average coal price for 6700kcal/kg ADB per the Global Coal Newcastle Physical Trading Index, <a href="http://www.globalcoal.com">www.globalcoal.com</a>			
Base Newcastle Index	=	\$ 63.44			per metric ton
Base Coal Price	=	\$ 53.22			per metric ton
Transport Cost	=	Actual transport cost in USD per metric ton			
Consumption Rate	=	0.7kg per kWh, escalated at a rate of 1.5% per year			

4. The Contracted Capacity shall be delivered to ANTECO at the delivery points as designated in the EPPA (Schedule 3 of the EPPA) at the start of the Commercial Operation Date.

5. Prior to commercial operations and upon completion of the commissioning for the first Unit (i.e., during the Pre-Commercial Operation Period), PEDC shall inform ANTECO should there be any available capacity and ANTECO shall notify PEDC of its requirement, in which case ANTECO shall take such capacity on a firm basis, subject to the payment of Electricity Fees computed as follows:

$$\begin{aligned}
 \text{Electricity Fees} &= \text{Energy Fees} + \text{Actual Fuel Cost} \\
 \text{Energy Fees} &= 75\% \times \text{Tariff Fee} \times E \\
 \text{Tariff Fee} &= \text{CRF} + \left[ \text{PhpO\&M} \times \frac{\text{PhCPI}_c}{\text{PhCPI}_b} \right] + \\
 &\quad \left[ \text{USDO\&M} \times \frac{\text{USCPI}_c}{\text{USCPI}_b} \times \text{Forex} \right]
 \end{aligned}$$

$$\text{Actual Fuel Cost} = \left( \frac{\text{Coal Price} + \text{Transport Cost}}{1,000} \right) \times \text{Consumption Rate} \times \text{Forex} \times E$$

$$\text{Coal Price} = \text{Base Coal Price} \times \frac{\text{Current Newcastle Index}}{\text{Base Newcastle Index}}$$

Where

CRF = Capital Recovery Fee = 2.6055 Php per kWh

PhpO&M = Peso-based O&M Fee = 0.4253 Php per kWh

PhCPI<sub>c</sub> = Philippine Consumer Price Index (CPI) for all items for the Current Month as Published by the National Statistics Office

PhpCPI<sub>b</sub> = Base Philippine CPI = 158.80 May-09

USDO&M = US Dollar-based O&M Fee = 0.0082 USD per kWh

USCPI<sub>c</sub> = U.S. Consumer Price Index for the Current Month as published by the U.S. Bureau of Labor Statistics

USCPI<sub>b</sub> = Base U.S. CPI = 213.856 May-09

Forex = Reference exchange rate (in Php per USD) on the meter reading date, as published by the Bangko Sentral ng Pilipinas, [www.bsp.gov.ph](http://www.bsp.gov.ph)

E = Minimum Contracted Energy or Energy Delivered, whichever is higher

Current Newcastle Index = Preceding quarter's average coal price for 6700kcal/kg ADB per the Global Coal Newcastle Physical Trading Index, [www.globalcoal.com](http://www.globalcoal.com)

Base Newcastle Index = \$ 63.44 per metric ton

Base Coal Price = \$ 53.22 per metric ton

Transport Cost = Actual transport cost in USD per metric ton

Consumption Rate = 0.7kg per kWh, escalated at a rate of 1.5% per year

6. The EPPA thus proposes separate rates on the power delivered by PEDC to ANTECO, depending on the stage of the plant development (i.e., during Pre-Commercial Operation Period or on Commercial Operation Date).

7. The EPPA shall have a term of twenty five (25) years commencing on the Commercial Operation Date and ending on the 25<sup>th</sup> anniversary of such commencement date, unless sooner terminated pursuant to the terms thereof.

8. The foregoing agreed terms, among others, are embodied in the EPPA, a copy of which is attached to this Application as **Annex "A"** and made an integral part hereof.

9. Should the Honorable Commission approve the Electricity Fees under the EPPA, there will be an increase in generation cost of Two Pesos and Twenty Nine Centavos (Php2.29) per kWh on Commercial Operation Date.

**Allegations in Support of the Prayer for Provisional Authority**

10. Currently, ANTECO sources its electric power requirements from the National Power Corporation ("NPC") under a Transition Supply Contract dated 17 August 2007 (the "TSC"). Under the said TSC, ANTECO has a contracted capacity of 15.06 MW and a contracted energy of 62,241,857 kWh per year. Comparing this to the requirements of ANTECO's franchise area, which had a peak demand of 14 MW in the year 2009 and which reached 15 MW in March 2010, ANTECO is anticipating a shortfall in the coming months and the years ahead.

11. Further, the supply by NPC of the power in the island of Panay is unreliable. Almost daily, ANTECO experiences manual load dropping due to problems in the generation capacity, fuel supply issues, and recent transmission problems in the Leyte-Cebu submarine cable. Added to these is the privatization of the generating plants of NPC, which has resulted in the unpredictability of the security of supply by NPC.

12. In addition, it is important to stress the problems of the quality and reliability of electric power in Panay. The quality of power in Panay, particularly during off-peak when bulk of the power requirements of the island come from Negros Island, is dependent on the submarine cable connecting Negros and Panay. The limitation in the capacity that this cable can take in inevitably limits the supply of electric power to Panay and the transmission of electric power through such underwater facility affects the quality and reliability of the electric power transmitted to Panay. Meanwhile, NPC plants in Panay are shutdown during off-peak since it has become costly to operate them.

13. Thus, the expected additional capacity from PEDC even as early as the Pre-Commercial Operations of the Power Plant will help alleviate this shortage of electric power in Panay and improve the quality and reliability of electric power delivered to ANTECO's customers.

14. Under the terms of the EPPA, among the conditions precedent to the performance by ANTECO and PEDC of their respective obligations thereunder is the approval by the Honorable Commission of this Application.

15. Thus, for PEDC to be able to deliver and ANTECO to be able to receive power from the former as early as the Pre-Commercial Operations of the Power Plant, it is imperative that a provisional authority be granted for the EPPA allowing PEDC to deliver and ANTECO to receive power during the Pre-Commercial Operations of the Power Plant .

16. Should the Honorable Commission grant a provisional authority for PEDC to deliver and ANTECO to receive power during the Pre-Commercial Operations of the Power Plant, there will be an increase in generation cost of One Peso and Thirty Two Centavos (Php1.32) per kWh, but this will result to improved reliability and sufficient supply of electric power to ANTECO's customers as PEDC compensates for the shortfall of NPC on ANTECO's current demand and future growth in demand (instead of implementing a manual load dropping scheme).

#### **Compliance with Pre-Filing Requirements**

17. Applicants manifest their compliance with the pre-filing requirements mandated under Rule 3, Section 4 (e) of the Implementing Rules and Regulations of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the "EPIRA", and Rule 6 of the 2006 ERC Rules of Practice and Procedure, as evidenced by the following attachments:

17.1. Affidavit of Service re: the service of the Application with Annexes to the Sangguniang Panlungsod of the City of Iloilo, a copy of which is attached hereto as Annex "B";

- 17.2. Affidavit of Service re: the service of the Application with Annexes to the Sangguniang Bayan of San Jose, a copy of which is attached hereto as **Annex "C"**;
- 17.3. Affidavit of Service re: the service of the Application with Annexes to the Sangguniang Panlalawigan of Antique, a copy of which is attached hereto as **Annex "D"**;
- 17.4. Affidavit of Publication stating that the instant Application had been published in a newspaper of general circulation, a copy of which is attached hereto as **Annex "E"**;
- 17.5. Newspaper issue where this Application, as published, appeared, a copy of which is attached hereto as **Annex "F"**;
- 17.6. Proof of payment of filing fees, a copy of which is attached as **Annex "G"**;
- 17.7. A copy of the Board Resolution authorizing ANTECO to jointly file the instant Application with PEDC, which is attached as **Annex "H"**; and
- 17.8. A copy of the Board Resolution authorizing PEDC to jointly file the instant application with ANTECO, which is attached as **Annex "I"**.

#### **PRAYER**

**WHEREFORE**, in view of the foregoing, it is respectfully prayed that the Honorable Commission:

1. Upon initial review of the instant Application and pending trial on the merits, issue a provisional authority for the terms of the Electric Power Purchase Agreement between PEDC and ANTECO, thereby authorizing PEDC to charge and collect from ANTECO the respective Electricity Fees corresponding to the (1) Pre-Commercial Operation Period, and (2)


Commercial Operation Date, and authorizing ANTECO to pass the full amount thereof to its consumers; and

2. After trial on the merits, issue a permanent approval of the terms of the Electric Power Purchase Agreement between PEDC and ANTECO, thereby authorizing PEDC to charge and collect from ANTECO the Electricity Fees corresponding to the (1) Pre-Commercial Operation Period, and (2) Commercial Operation Date, and authorizing ANTECO to pass the full amount thereof to its consumers.

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


Pasig City and Makati City for Pasig City, 28 May 2010.

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PANAY ENERGY DEVELOPMENT CORPORATION**

  
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**COUNSEL FOR APPLICANT  
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VERIFICATION AND CERTIFICATION

I, **JAIME T. AZURIN**, of legal age, Filipino, and with office address at the 10/F GT Tower International, 6813 Ayala Avenue, Makati City, after having been duly sworn in accordance with law, hereby depose and state that:

1. I am the Senior Vice President of Panay Energy Development Corporation ("PEDC"), one of the applicants in the above-entitled case;
2. Jointly with Applicant Antique Electric Cooperative, Inc., I caused the preparation and filing of the instant Application;
3. I read the same and all the allegations contained therein are true and correct of my own personal knowledge and belief;
4. I certify that PEDC has not commenced any action and/or proceeding involving the same issue/s before the Supreme Court, the Court of Appeals, or any other tribunal or agency;
5. To the best of my knowledge, no such action and/or proceeding involving the same issue/s is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency; and
6. Should I thereafter learn that such action and/or proceeding is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I herein undertake to report such fact before the Honorable Commission within five (5) days from knowledge.

FURTHER AFFIANT SAYETH NONE.


IN WITNESS WHEREOF, I have hereunto set my hand this MAY 28 2010 at Makati City.

  
**JAIME T. AZURIN**  
*ATVP*

SUBSCRIBED AND SWORN to before me this MAY 28 2010, by **JAIME T. AZURIN**, with Community Tax Certificate No. 1951988 issued on 08 January 2010 in Manila, who has satisfactorily proven to me his identity through his Passport No. TT0247829 valid until 13 June 2011, that he is the same person who personally signed before me the foregoing Verification and Certification and acknowledged that he executed the same.

NOTARY PUBLIC

Doc. No. 216  
Page No. 047  
Book No. XI  
Series of 2010.

  
**ATTY. RONALD D. POLICARPIO**  
Commission No. M-332  
Notary Public for Makati City  
Until December 2010  
30<sup>th</sup> Flr. Citibank Tower  
8741 Paseo De Roxas, Makati City  
Roll No. 51296  
PTR No. 2097773 / 08-01-2010 / Makati  
IBP No. 800081 / 04-01-2010 / QC


**VERIFICATION AND CERTIFICATION**

I, **LUDOVICO D. LIM**, of legal age, Filipino, and with office address at Brgy. Funda-Dalipe, San de Buenavista, Antique, after having been duly sworn in accordance with law, hereby depose and state that:

1. I am the General Manager of Antique Electric Cooperative, Inc. ("ANTECO"), one of the applicants in the above-entitled case;
2. Jointly with Applicant Panay Energy Development Corporation, I caused the preparation and filing of the instant Application;
3. I read the same and all the allegations contained therein are true and correct of my own personal knowledge and belief;
4. I certify that ANTECO has not commenced any action and/or proceeding involving the same issue/s before the Supreme Court, the Court of Appeals, or any other tribunal or agency;
5. To the best of my knowledge, no such action and/or proceeding involving the same issue/s is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency; and
6. Should I thereafter learn that such action and/or proceeding is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I herein undertake to report such fact before the Honorable Commission within five (5) days from knowledge.

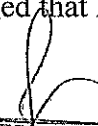
FURTHER AFFIANT SAYETH NONE.

IN WITNESS WHEREOF, I have hereunto set my hand this MAY 28 2010 day of May 2010 at San Jose, Antique.

  
**LUDOVICO D. LIM**

SUBSCRIBED AND SWORN to before me this MAY 28 2010 of May 2010, by Ludovico D. Lim, with Community Tax Certificate No. 14598200 issued on 18 January 2010 in Calasig, Antique who has satisfactorily proven to me his identity through his Driver's License no. F03-92-069619 valid until October 9, 2010, that he is the same person who personally signed before me the foregoing Verification and Certification and acknowledged that he executed the same.

Doc. No. 384  
Page No. 79  
Book No. CCIII  
Series of 2010.

  
**ATTY. ALEX G. SIBUELO**  
NOTARY PUBLIC  
UNTIL DECEMBER 31, 2010  
REGISTRY No. 2009-01  
ROLL No. 23791  
VILLAVERT ST., SAN JOSE, ANTIQUE  
BP O.R No. 796806 / SAN JOSE, ANTIQUE / 1-5-2010  
PTRO.B No. 4340761 / SIBALOM, ANTIQUE / 1-5-2010

**Summary of Annexes to the Application**

Description	Annex
Electric Power Purchase Agreement	A
Affidavit of Service re: the service of the Application with Annexes to the Sangguniang Panlungsod of Iloilo City	B
Affidavit of Service re: the service of the Application with Annexes to the Sangguniang Bayan of San Jose	C
Affidavit of Service re: the service of the Application with Annexes to the Sangguniang Panlalawigan of Antique	D
Affidavit of Publication issued by Lemuel T. Fernandez, Publisher-Editor of Kayo and Partners Co., publisher of The Daily Guardian	E
11 June 2010 issue of The Daily Guardian where the Application, as published, appeared	F
Proof of Payment of ERC Filing Fee	G
ANTECO Board Resolution authorizing the joint filing of the instant Application	H
PEDC Board Resolution authorizing the joint filing of the instant Application	I
Computation of Generating Cost	J
Securities and Exchange Commission (SEC) Certificate of Registration of PEDC	K
Certificate of Filing of Amended Articles of Incorporation of PEDC and latest Amended Articles of Incorporation of PEDC	L
2009 General Information Sheet of PEDC	M
Audited Financial Statements of PEDC	N
Certificate of Registration issued by the Board of Investments (BOI)	O
Environmental Compliance Certificate No. 0801-003-4021 issued by the Department of Environment and Natural Resources (DENR)	P
Certification regarding the consistencies and inconsistencies between the proposed generation capacity and the DOE's Philippine Development Plant (PDP). Any inconsistency shall be supported by relevant analysis, including but not limited to, forecasts and assessment of available generation capacity and technology mix.	Q
Proof of filing of application for Certificate of Compliance with the ERC (Form No. 2 and Official Receipt)	R
Details on the procurement process of fuel, including requests, proposals received, tender offers, etc. of PEDC	S
Details of the EPPA	T
a. Executive Summary with Rate Impact Study	
b. Sources of Funds/Financial Plans	

<ul style="list-style-type: none"> <li>(i) Debt/Equity Ratio</li> <li>(ii) Project Cost</li> <li>(iii) Annual Interest</li> <li>(iv) Computation of Return on Investment/WACC</li> <li>(v) Certification from the Bank/Lending Institution specifying the principal amortization, term and interest during the cooperation period of the loan agreement</li> </ul> <p>c. Purchased Power Rate</p> <ul style="list-style-type: none"> <li>(i) Breakdown of the base price of Operation and Maintenance, Capacity Fee, Fixed Operation Fee, and Energy Fee (provide computations)</li> <li>(ii) Sample Computation of Power Rates with the supporting documents on the assumptions taken</li> <li>(iii) If applicable, basis/rationale of indexation and level of indexation</li> </ul> <p>d. Cash Flow specifying the following:</p> <ul style="list-style-type: none"> <li>(i) Initial costs</li> <li>(ii) Breakdown of Operating and Maintenance Expenses; and</li> <li>(iii) Minimum Energy off-take (MEOT)</li> </ul>	
<p>Relevant technical and economic characteristics of the generation capacity, installed capacity, mode of operation, and dependable capacity of the plant</p>	U
<p>Details regarding transmission projects or grid connection projects necessary to complement the proposed generation capacity, including the parties that will develop and/or own such facilities, any costs related to such project, and specification of the parties responsible for recovery of any costs related to such projects</p>	Please see Annex "U"
<p>Load Forecast Projection</p>	V
<p>Details on the procurement process used by the Distribution Utility leading to the selection of the Generation Company, including request/s for proposals, proposal received by the Distribution utility, tender offers, etc.</p>	W
<p>Certification by NPC on whether or not Transition Supply Contract (TSC) capacity and energy are expected to be available during the contractual period (including relevant supporting documentation, data and analysis supporting each statement)</p>	X