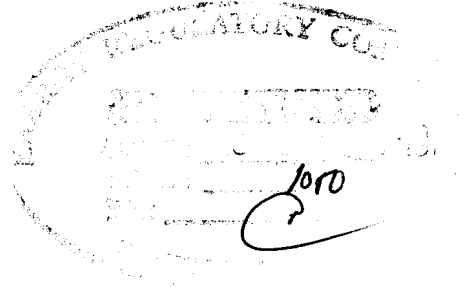


REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
PACIFIC CENTER BUILDING
SAN MIGUEL AVENUE, ORTIGAS CENTER
CITY OF PASIG

IN THE MATTER OF THE APPLICATION
FOR AUTHORITY TO IMPLEMENT 2010
MAJOR CAPITAL PROJECTS, WITH
PRAYER FOR PROVISIONAL
AUTHORITY.



SAN FERNANDO ELECTRIC LIGHT AND
POWER CO., INC.,

ERC CASE NO. 2010- 099 RC

Applicant.

X-----X

APPLICATION

COMES NOW applicant, SAN FERNANDO ELECTRIC LIGHT AND
POWER CO., INC., hereinafter referred to as SFELAPCO for brevity, through
undersigned counsels, and unto this Honorable Commission, most respectfully avers
THAT:

1. SFELAPCO is a domestic corporation duly organized and existing
under and by virtue of the laws of the Republic of the Philippines, with principal office
address at San Fernando City, Pampanga.

2. SFELAPCO is the authorized operator of the electric light and power
system in the City of San Fernando and the Municipality of Floridablanca, both in the
Province of Pampanga.

3. In an effort to reduce and minimize technical losses and improve the
quality of its service to the consumers within its franchise areas, SFELAPCO herein
seeks authority to implement its major capital projects for 2010;

4. The aforementioned 2010 major capital projects consist of the following:

- a. Metering Equipment Project;
- b. Line Distribution Equipment Project;
- c. Service/Utility Vehicle Project;
- d. Building Extension Project;

5. The total project cost estimate of the aforementioned projects is Eighty One Million One Hundred One Thousand Sixty Seven Pesos (PhP81,101,067.00) broken down as follows:

PROJECT	ESTIMATED COST
Metering Equipment Project	PhP13,674,165.00
Line Distribution Equipment Project	PhP54,326,902.00
Service/Utility Vehicle Project	PhP8,100,000.00
Building Extension Project	PhP5,000,000.00

6. The total cost of the projects shall be financed by SFELAPCO through internally generated funds;

7. In compliance with the filing requirements of this Honorable Commission, SFELAPCO herein submits as ANNEX "A" one (1) folder book containing the following:

- a.) Introduction;
- b.) Details/Description of the Projects;
- c.) Justification for/Rationale of the Project;
- d.) Options/ Alternatives considered in lieu of the proposed project;
- e.) Gantt Chart;
- f.) Technical Analysis (Simulation and/or computation)

- g.) Project Cost Estimate;
- h.) Designs and Drawings;
- i.) Projected Financial and Economic Cost Analysis;
- j.) Project Financing Plan;
- k.) Board Resolution/Secretary's Certificate approving the 2010 capital expenditures;
- l.) Sworn Statement that the 2010 major capital expenditures are consistent with the Distribution Development Plan of year 2010.

8. The above-mentioned projects have been approved by the Board of Directors of **SFELAPCO** as evidenced by the Secretary's Certificate executed by **PRISCILLA ZABALLERO**, Corporate Secretary of **SFELAPCO**, hereto attached and marked as **ANNEX "H"** of the instant Application;

9. Public interest and welfare demand the immediate approval of the instant Application.

PRAYER

WHEREFORE, in view of all the foregoing, it is respectfully prayed that pending hearing, San Fernando Electric Light and Power Co., Inc. be provisionally authorized to implement its major capital projects for the year 2010 and that after due notice and hearing, the same be made permanent.

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

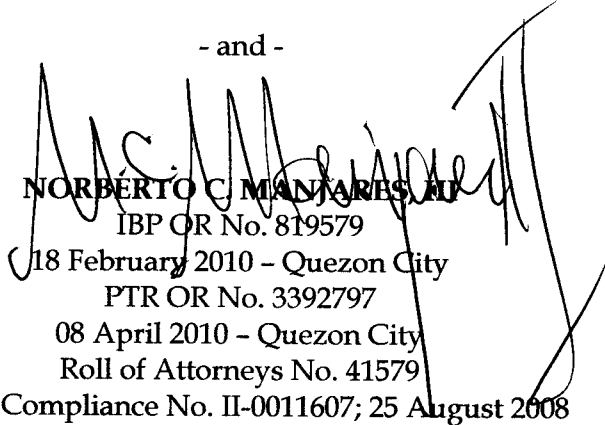
Marikina City for the City of Pasig, Metro Manila.

30 May 2010.

**THE LAW FIRM
OF
MANJARES & MANJARES**
Counsel for San Fernando Electric Light and Power Co., Inc.
No. 6 Saint Anne Street
Provident Villages, Marikina City

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18 February 2010 - Quezon City
PTR OR No. 3392780
05 April 2010 - Marikina City
Roll of Attorneys No. 14937
MCLE Compliance No. II-0011340; 22 August 2008

- and -


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


IN THE MATTER OF THE
APPLICATION FOR APPROVAL OF
THE ELECTRIC POWER PURCHASE
AGREEMENT (EPPA) BETWEEN
VISAYAN ELECTRIC COMPANY,
INCORPORATED (VECO) AND CEBU
ENERGY DEVELOPMENT
CORPORATION (CEDC), WITH
PRAYER FOR PROVISIONAL
AUTHORITY

ERC CASE NO. 2009-075 RC

VISAYAN ELECTRIC COMPANY,
INCORPORATED (VECO) AND CEBU
ENERGY DEVELOPMENT
CORPORATION (CEDC),

Applicants.

x-----x

D O C K E T E D
Date: FEB 24 2009
By: 

DECISION

Before this Commission for resolution is the application filed on October 26, 2009 by Visayan Electric Company, Incorporated (VECO) and Cebu Energy Development Corporation (CEDC) for approval of their Electric Power Purchase Agreement (EPPA), with prayer for provisional authority.

In the said application, VECO and CEDC alleged, among others, that:

Parties to the Case

1. VECO is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at J. Panis Street, Banilad, Cebu City. It is a duly authorized distribution utility of the electric light, heat and power systems in the Municipalities of San Fernando, Minglanilla, Naga, Consolacion and Lilo-an and the Cities of Talisay, Cebu and Mandaue.



2. CEDC is a domestic corporation duly organized and existing under Philippine laws with office at Daanlungsod, Toledo City, Cebu, Philippines. It is in the process of constructing and installing its 3 x 82 MW coal-fired plant which it shall own, operate and maintain, located at Daanlungsod, Toledo City, Cebu.

Statement of Facts and of the Case

3. They entered into an EPPA on October 16, 2009, wherein CEDC agreed to supply and deliver, and VECO agreed to pay for electricity supplied by CEDC, at a Contracted Capacity of 105 MW (at 90% load factor) at the commencement of the Commercial Operation Date at an Electricity Fee computed as follows:

Electricity Fees at Load Factor of 90% up to less than 95%
As of May 2009

Base Price :

Capital Recovery	=	2.5615
Peso O&M Charge	=	0.4529
Dollar O&M Charge	=	0.4146
Total	=	3.4290

Price Index :

PCPIc	=	Philippine CPI for the latest month as per the Bangko Sentral ng Pilipinas, www.bsp.gov.ph
PCPIb	=	158.8
USCPIc	=	US CPI as indicated for the latest month as per the US Bureau of Labor Statistics, www.bls.gov
USCPIb	=	213.856
Current New Castle Index	=	Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, www.globalcoal.com
Base New Castle Index	=	63.440
Electricity Fees	=	(Capital Recovery + Peso O&M Charge + Dollar O&M Charge) + Fuel Cost
Fuel Cost	=	Current Fuel Cost x Consumption Rate ¹
Current Fuel Cost	=	Coal Price + Transport Cost ²
Coal Price	=	Current Coal Price x (Current Newcastle Index/Base Newcastle Index)
Transport Cost	=	(Current Transport Price x 75%) + ((25% x Current Transport Cost x (Current Marine diesel oil price /Base Marine Diesel Oil Price))

¹ Actual Consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year whichever is lower

² Freight cost is capped at \$15.00/MT at May 2009 price levels

4. This Contracted Capacity of 105 MW will be delivered to VECO at the designated metering points in the EPPA at the start of the Commercial Operation Date, when all three (3) Units have been completed, inspected, tested and is ready to commence operation as confirmed in their written communication which date should not be later than March 31, 2011.



4.1 Nonetheless, CEDC will deliver to VECO during testing and commissioning on a non-firm basis subject to the payment of Electricity Fees for actual energy taken by VECO, at an Electricity Fee computed as follows:

Electricity Fees at Load Factor of 90% up to less than 95%
 As of May 2009

<u>Base Price :</u>	
Capital Recovery	= 2.5615
Peso O&M Charge	= 0.4529
Dollar O&M Charge	= 0.4146
Total	= 3.4290

<u>Price Index :</u>	
PCPIc	= Philippine CPI for the latest month as per the Bangko Sentral ng Pilipinas, www.bsp.gov.ph
PCPIb	= 158.8
USCPIc	= US CPI as indicated for the latest month as per the US Bureau of Labor Statistics, www.bls.gov
USCPIb	= 213.856
Current New Castle Index	= Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, www.globalcoal.com
Base New Castle Index	= 63.440
Electricity Fees	= 50% * (Capital Recovery + Peso O&M Charge + Dollar O&M Charge) + Fuel Cost
Fuel Cost	= Current Fuel Cost x Consumption Rate ¹
Current Fuel Cost	= Coal Price + Transport Cost ²
Coal Price	= Current Coal Price x (Current Newcastle Index/Base Newcastle Index)
Transport Cost	= (Current Transport Price x 75%) + ((25% x Current Transport Cost x (Current Marine diesel oil price /Base Marine Diesel Oil Price))

¹ Actual Consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year whichever is lower

² Freight cost is capped at \$15.00/MT at May 2009 price levels

4.2 Moreover, upon completion of the commissioning for each unit (i.e., Pre-Commercial Operation Period or pre-commissioning of the plant), VECO shall take the proportionate net electrical output for each unit of the Power Plant delivered by CEDC on a firm basis subject to the payment of Electricity Fees computed as follows:

Electricity Fees at Load Factor of 90% up to less than 95%
 As of May 2009

<u>Base Price :</u>	<u>90% LF</u>	<u>95% LF</u>	<u>100% LF</u>
Capital Recovery	= 2.5615	2.4252	2.2797
Peso O&M Charge	= 0.4529	0.4288	0.4031
Dollar O&M Charge	= 0.4146	0.3926	0.3690
Total	= 3.4290	3.2466	3.0518

Price Index :

PCPIc	=	Philippine CPI for the latest month as per the Bangko Sentral ng Pilipinas, www.bsp.gov.ph
PCPIb	=	158.8
USCPIc	=	US CPI as indicated for the latest month as per the US Bureau of Labor Statistics, www.bls.gov
USCPIb	=	213.856
Current New Castle Index	=	Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, www.globalcoal.com
Base New Castle Index	=	63.440
Electricity Fees	=	75% * (Capital Recovery + Peso O&M Charge + Dollar O&M Charge) + Fuel Cost
Fuel Cost	=	Current Fuel Cost x Consumption Rate ¹
Current Fuel Cost	=	Coal Price + Transport Cost ²
Coal Price	=	Current Coal Price x (Current Newcastle Index/Base Newcastle Index)
Transport Cost	=	(Current Transport Price x 75%) + ((25% x Current Transport Cost x (Current Marine diesel oil price /Base Marine Diesel Oil Price))

¹ Actual Consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year whichever is lower

² Freight cost is capped at \$15.00/MT at May 2009 price levels

5. Thus, the EPPA proposes separate rates on the power delivered by CEDC to VECO, depending on the stage of the plant – i.e., whether testing and commissioning, or pre-commissioning (Pre-Commercial Operation Date), or Commercial Operation Date.
6. The EPPA shall have a term of twenty-five (25) years commencing on the Commercial Operation Date and ending on the 25th anniversary of such commencement date, unless sooner terminated pursuant to the terms thereof.
7. The foregoing agreed terms, among others, were embodied in the EPPA, a copy of which is attached to the application.
8. Should the Commission approve the Electricity Fees under the EPPA, there will be an increase in generation cost of thirty-five (35) Centavos but a decrease in transmission cost of eight (8) Centavos, resulting in a net increase of twenty-seven (27) Centavos upon Commercial Operation Date.

Allegations in Support of the Prayer for Provisional Authority

9. The Commission must take judicial notice of the fact that there is a shortage of supply in the Visayas Grid. Thus, the expected additional capacity from CEDC even as early as the: (a) testing and commissioning; and (b) pre-commissioning of its plant (i.e., prior to the Commercial Operation Date) will help alleviate the shortage.
10. Under the terms of the EPPA, among the conditions precedent to the performance by the VECO and CEDC of its respective obligations thereunder is the approval of this application.



11. Thus, for CEDC to be able to deliver and VECO to be able to receive power from the former as early as the testing and commissioning period of the power plant, it is imperative that a provisional authority be granted for the EPPA to allow CEDC to deliver and VECO to receive power during the: (a) testing and commissioning of the plant; and (b) the pre-commercial operation date.
12. Should the Commission grant a provisional authority for CEDC to deliver and VECO to receive power during the testing and commissioning period, there will be a net reduction in the rates of 1.18 Centavos per kWh during this period. Should a provisional authority be given for the pre-commissioning period, there will be a net reduction of 1.98 Centavos per kWh during this period.

Compliance with Pre-Filing Requirements

13. They 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 Procedures, as evidenced by the following attachments:
 - 13.1 Certificate Acknowledging Receipt of the Application issued by the Sangguniang Panlungsod of the City of Toledo.
 - 13.2 Affidavit of Service with Justification on the service of the Application with Annexes to the Sangguniang Panlungsod of the City of Cebu.
 - 13.3 Affidavit of Publication stating that the instant application had been published in a newspaper of general circulation.
 - 13.4 Newspaper issue where the application as published appeared.
 - 13.5 Proof of payment of filing fees.
 - 13.6 A copy of the Board Resolution authorizing VECO to jointly file the instant application jointly with CEDC.
 - 13.7 A copy of the Board Resolution authorizing CEDC to jointly file the instant application jointly with VECO.

Prayer

14. They prayed that:
 - 14.1 Upon initial review of the instant application and pending trial on the merits, the Commission will issue a provisional authority for the terms of the EPPA, thereby authorizing CEDC to charge and collect the respective Electricity Fees



corresponding to the: (a) testing and commissioning period; (b) Pre-Commercial Operation Date (i.e., pre-commissioning); and (c) Commercial Operation Date, and authorizing VECO to pass full amount to its consumers; and

- 14.2 After trial on the merits, the Commission will issue a permanent approval of the terms of the EPPA, thereby authorizing CEDC to charge and collect from VECO the Electricity Fees corresponding to the: (a) testing and commissioning period; (b) Pre-Commercial Operation Date (i.e., pre-commissioning); and (c) Commercial Operation Date, and authorizing VECO to pass full amount to its consumers.

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 November 5, 2009, were issued setting the case for initial hearing, expository presentation and pre-trial conference on December 3, 2009 and evidentiary hearing on December 4, 2009.

VECO and CEDC were directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing. They were also directed to inform the consumers, within VECO's franchise area, by any other means available and appropriate, of the filing of the instant application, their reasons therefor and of the scheduled hearings thereon.

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 Notice of Public Hearing and were



requested to have their respective duly authorized representatives present at the initial hearing.

Likewise, the Offices of the Mayors of the Cities and Municipalities within the franchise area of VECO and the Provincial Governor of Cebu were furnished with copies of the Order and Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

On November 27, 2009, VECO and CEDC filed their "Pre-Trial Brief".

During the December 3, 2009 initial hearing of this case, the following entered their appearances: a) Atty. Joan Giduquio-Baron for VECO; b) Atty. Karl Josef Banag for CEDC; c) Atty. Edison John Arriola for National Association of Electricity Consumers for Reforms, Incorporated – Cebu Chapter (NASECORE-CEBU); and d) Mr. Porferio Monteclaros, Jr. for Mactan Export Processing Zone Chamber of Exporters and Manufacturers (MEPZCEM).

NASECORE-CEBU and MEPZCEM both manifested their intentions to intervene in the instant case. They were provisionally allowed by the Commission to intervene, subject to their submission of the required formal petitions for intervention.

At the said hearing, VECO and CEDC presented their proofs of compliance with the Commission's posting and publication of notice requirements which were duly marked as Exhibits "U" to "BB", inclusive. Thereafter, they made an expository presentation of their application.



At the termination of the expository presentation, the Commission conducted a pre-trial conference.

At the continuation of the hearing on December 4, 2009, VECO and CEDC presented the following witnesses: a) Mr. Lyndon C. Jayme, Assistant Vice President for the Utility Economics Group of VECO, who testified, among others, on the fairness and reasonableness of the electricity price and other terms and conditions of the EPPA, the load projection of VECO for the year 2010, and the financial impact of the electricity fees during the testing and commissioning period, pre-commercial period and commercial operation date, should the EPPA be approved by the Commission; and b) Mr. Jaime T. Azurin, Chief Finance Officer of CEDC, who testified, among others, on the due execution and terms and conditions of the EPPA, the financial and technical capacity and ability of CEDC to comply with the EPPA, and the reasonableness of the consideration or fees stipulated in the EPPA.

In the course of their respective direct examinations, the witnesses identified various documents in support of the application. Said documents were duly marked as exhibits.

The said witnesses were lengthily cross-examined by NASECORE-CEBU and MEPZCEM. They were, likewise, required to address the clarificatory questions propounded by the Commission.

VECO and CEDC were then directed to submit additional supporting documents to facilitate the evaluation of the instant application.

The image shows three handwritten signatures in black ink. The first signature on the left is a stylized 'Z'. The middle signature is more complex, appearing to be 'J. Azurin'. The signature on the right is a cursive 'me'.

On December 8 and 9, 2009, MEPZCEM and NASECORE-CEBU filed their respective petitions for intervention.

On December 14, 2009, VECO filed its "Ex-Parte Compliance".

On December 21, 2009, VECO and CEDC filed their "Formal Offer of Exhibits With Request for Additional Marking of Exhibits" which is hereby admitted for being relevant and material to the resolution of this application.

On January 19, 2010, VECO filed another "Ex-Parte Compliance".

DISCUSSION

1. Parties to the Contract

VECO is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at J. Panis Street, Banilad, Cebu City. It is a duly authorized distribution utility of the electric light, heat and power systems in the Municipalities of San Fernando, Minglanilla, Naga, Consolacion and Lilo-an and the Cities of Talisay, Cebu and Mandaue.

CEDC is a domestic corporation duly organized and existing under Philippine laws with office at Daanlungsod, Toledo City, Cebu, Philippines. It is in the process of constructing and installing its 3 x 82 MW coal-fired plant which it shall own, operate and maintain, located at Daanlungsod, Toledo City, Cebu.



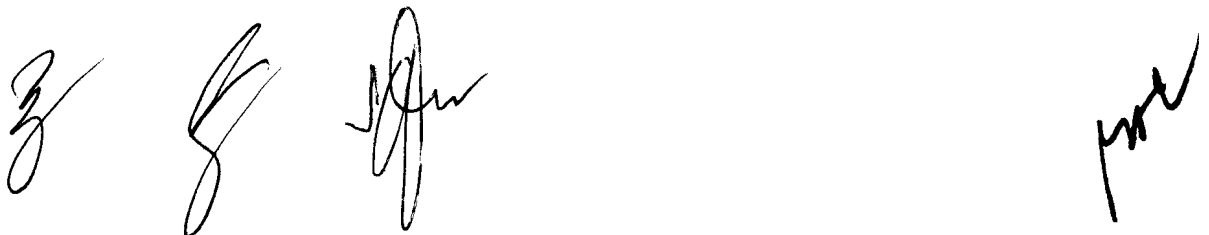
2. The Electric Power Purchase Agreement (EPPA) between VECO and CEDC

2.1 Salient Features

Type of Plant	Coal-fired plant located in Daanlungsod, Toledo City, Cebu at Built-Operate-Own (BOO) scheme
Installed Capacity	3 x 82 MW or 246 MW
Cooperation Period	Twenty-five (25) years commencing on the Commercial Operations Date
Commercial Operation Date	When all three (3) units have been completed, inspected, tested and is ready to commence operation as confirmed in written communication from CEDC to VECO, which date should not be later than March 31, 2011
Contracted Capacity	105 MW
Minimum Energy Off-Take	The minimum monthly off-take equal to 68,985,000 kWh is subject to minimum hourly off-take of fifty percent (50%) of the contracted capacity
Delivery point	CEDC's substation at Daanlungsod, Toledo City, Cebu The delivery point shall mean the physical point at which VECO receives power from CEDC where billing meters to measure electric energy flowing to the VECO's system are installed
Outages	The allowable scheduled and unscheduled outages are thirty (30) days per year for each unit provided that the allowed unscheduled outage shall not exceed 45 days per year for the entire plant

2.2 Proposed Tariff and Rate Structures

CEDC agreed to supply and deliver, and VECO agreed to pay for electricity supplied by CEDC, for the Contracted Capacity of 105 MW at



ninety percent (90%) load factor from the commencement of the Commercial Operation Date with Electricity Fees computed as follows:

Electricity Fees Applicable to VECO at Various Load Factors as of May 2009

Rate Component	At 100% Load Factor (PhP/kWh)	At 95% up to less than 100% Load Factor (PhP/kWh)	At 90% up to less than 95% Load Factor (PhP/kWh)
Capacity Recovery Fee	2.2797	2.4252	2.5615
Peso O&M Fee	0.4031	0.4288	0.4529
Dollar O&M Fee	0.3690	0.3926	0.4146
Total	3.0518	3.2466	3.4290

The Electricity Fee components shall be computed using the following formulae:

Cost of Power = Electricity Fees x Energy Delivered

Electricity Fees = (Capital Recovery Fee + Peso O&M Charge + Dollar O&M Charge) + Fuel Cost

Peso O&M Charge = Base Peso O&M Charge $\times \frac{PCPI_c}{PCPI_b}$

Dollar O&M Charge = Base Dollar O&M Charge $\times \frac{\text{Current Forex}}{\text{Base Forex}} \times \frac{USCPI_c}{USCPI_b}$

Fuel Cost = $\left[\frac{\text{Current Fuel Cost}}{1,000} \right] \times \text{Consumption Rate} + \frac{\text{Transport Cost}}{\text{Energy Delivered}} \times \text{Current Forex}$

Where:

Base Peso O&M Charge = PhP0.4529/kWh (at Load factor of 90% up to less than 95%)

PCPI_c = Philippine CPI for the current month as per the Bangko Sentral ng Pilipinas (BSP) website, www.bsp.gov.ph

PCPI_b = PhP158.8 (as of May 2009)

Base Dollar O&M Charge = PhP0.4146/kWh (at Load factor of 90% up to less than 95%)

Current Forex = Average Peso-US Dollar exchange rate as per the BSP website, www.bsp.gov.ph

Base Forex = PhP47.41/USD (as of May 2009)

- USCPI_c = US CPI for the current month as per the Bureau of Labor Statistics, www.bsp.gov.ph
- USCPI_b = 213.86 (as of May 2009)
- Current Fuel Cost = Base Coal Price \times $\frac{\text{Current New Castle Index}}{\text{Base New Castle Index}}$
- Base Coal Price = 53.22 USD/MT
- Current New Castle Index = Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, www.globalcoal.com
- Base New Castle Index = 63.44 USD/MT
- Transport Cost = $\left[\text{Current Transport Price} \times 0.75 \right] + \left[\text{Current Transport Price} \times 0.25 \times \frac{\text{Current Marine Diesel Oil Price}}{\text{Base Marine Diesel Oil Price}} \right]$
- Current Transport Price = Actual Transport Price or US\$20.00/MT, whichever is lower (as of May 2009)
- Current Marine Diesel Oil Price = The recent quarterly average of the Pertamina Publicly Listed Price Index for Marine Diesel Oil posted in the PT Pertamina website
- Base Marine Diesel Oil Price = 0.5600 (As of May 2009)
- Actual Consumption Rate = $\frac{\text{Total Coal Consumed for the Billing Month}}{\text{Total Energy Generated for the Billing Period}}$

Note: Actual consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year, whichever is lower

The EPPA proposes separate rates on the power delivered by CEDC to VECO depending on the stage of the plant, i.e., testing and commissioning, pre-commissioning (Pre-Commercial Operation Date) or Commercial Operation Date. The applicable rates for each level of completion shall be computed as follows:

Level	Electricity Fees*	Fuel Cost	Supply
Testing and Commissioning	50%	100%	Non-Firm
Pre-Commercial Period	75%	100%	Firm
Commercial Operation	100%	100%	Firm

* Electricity Fees = [(Capital Recovery + Peso O&M Charge + Dollar O&M Charge) x %]

3. Power Supply – Demand Scenario

3.1 Capacity Shortage in the Visayas Grid

The current government objective and the Department of Energy's (DOE) thrusts are to encourage private sector investments in power generation to meet additional capacity and to address the supply deficiency problem particularly in the Visayas region.

The table below shows the actual current scenario in the Cebu-Negros-Panay (CNP) Grid as of October 2009 and the projected supply demand scenario for the period 2010 to 2020:

Particulars	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Embedded Capacity	644	644	644	644	644	644	644	644	644	644	644	644
Import from Leyte	368	368	368	368	368	368	368	368	368	368	368	368
Total Available Capacity (Supply)	1,012	1,012	1,012	1,012	1,012	1,012	1,012	1,012	1,012	1,012	1,012	1,012
Peak Demand	1,033	1,085	1,139	1,196	1,256	1,318	1,384	1,454	1,526	1,603	1,683	1,767
Reserve (23.4%)	242	254	266	280	294	309	324	340	357	375	394	413
Total Need Capacity (Demand)	1,275	1,338	1,405	1,476	1,549	1,627	1,708	1,794	1,883	1,978	2,076	2,180
Surplus/(Deficit)	(263)	(326)	(393)	(464)	(537)	(615)	(696)	(782)	871)	(966)	(1,064)	(1,168)
Total Added Capacity from New Plants	0	219 ^a	565 ^b	565	565	565	565	565	565	565	565	565
Total Available Capacity with New Plants	1,012	1,231	1,577	1,577	1,577	1,577	1,577	1,577	1,577	1,577	1,577	1,577
Surplus/(Deficit) – Adjusted Computation	(263)	(107)	172	101	28	(50)	(131)	(217)	(306)	(401)	(499)	(603)

- a. Additional 219 MW will come in by year 2010 (146 MW from CEDC's units 1 and 2 and 73 MW from Panay Electric Development Corporation's [PEDC] unit 1)
- b. A total of 565 MW will come in by year 2011 (219 MW from CEDC's unit 3, 200 MW from KSPC's and 73 MW from PEDC's unit 2)

Based on the foregoing table, the power supply in the CNP Grid is currently critical because of the increasing demand. A total of 326 MW additional capacity is needed in the grid for year 2010 to address the required capacity and at the same time, to avoid significant shortage in

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power supply. The lack of supply was substantiated by the system operator's frequent issuances of system red alert.

The additional capacity for the period 2010 to 2011 by Kepco-Salcon Power Corporation (now Kepco-SPC Power Corporation or KSPC), CEDC and Panay Electric Development Corporation (PEDC) power plants may only provide partial solution on the supply deficiency. Due to the projected increase in demand, the Visayas grid will again be lacking in power supply by year 2014.

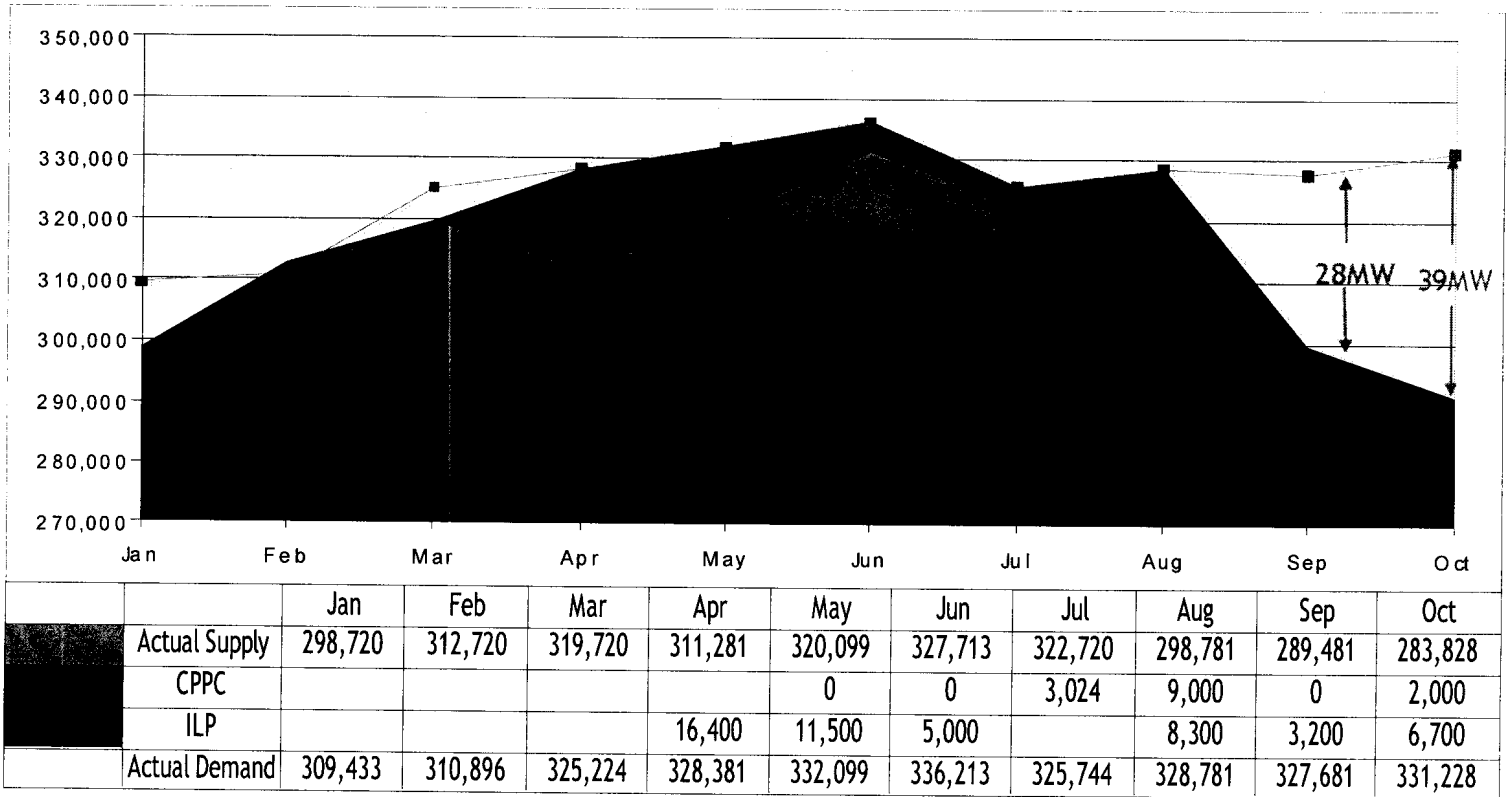
3.2 VECO's System Supply - Demand Scenario

Currently, VECO sources its power requirements mainly from the National Power Corporation (NPC), Toledo Power Corporation (TPC), Cebu Private Power Corporation (CPPC), and a new power supply contract (one-year term) with Apo Cement Corporation (APOCEMCO) which was provisionally approved by the Commission on November 23, 2009 in ERC Case No. 2009-078 RC (In the Matter of the Petition for Approval of the Power Supply Agreement Between Visayan Electric Company, Incorporated and Apo Cement Corporation, With Prayer for Provisional Authority, VECO and APOCEMCO – Petitioners). Likewise, the Commission authorized VECO to implement its Interruptible Load Agreement with its Large Customers.

VECO's contract with APOCEMCO and the Interruptible Load Agreement are on short term bases to serve the primary purpose of temporarily and partially augmenting its power supply requirements. The

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graph below illustrates the actual supply-demand scenario on VECO's system:



Based on the foregoing graph, it can be gleaned that VECO's demand is significantly higher than the available supply. In September and October 2009, the supply deficiency was 28 MW and 39 MW, respectively. Further, VECO has already exceeded its energy contract with NPC at one hundred twenty percent (120%).

3.3 Procurement Process

In view of the current power shortage in the Visayas Grid and the extremely urgent need to locate available power source to address the current and forecasted deficits, VECO entered into an EPPA with CEDC for an additional capacity of 105 MW.

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Prior to the execution of the said EPPA, VECO tried to acquire additional capacity from its present suppliers. Consequently, all of its existing suppliers could no longer provide additional power due to the following reasons, to wit:

- a. For NPC, the tight power supply and demand situation in the Visayas, particularly in CNP Grid constrained it to decline any increase in the existing contracted energy of our customers;
- b. For TPC, it cannot provide VECO the additional 10 MW during the hours from 1:00 p.m. to 9:00 p.m. for the period October to December 2009; and
- c. For CPPC, it cannot supply beyond a 61.72 MW agreement as that would exceed the existing capacity of its plant.

The additional new capacity from the CEDC power plant can significantly address the power supply shortage within VECO's franchise area and the entire CNP Grid.

3.4 CEDC's New 246 MW Coal-Fired Power Plant

CEDC will build, own and operate a 246 MW (3 x 82) Coal-Fired Power Plant (Project) to be located in Daanlungsod, Toledo City, Cebu.

The project was certified by the DOE as consistent with the Power Development Plan (PDP) of the government pursuant to the Implementing Rules and Regulations (IRR) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA as per Certificate of Endorsement No. 2007-12-03 issued on December 28, 2007.



On January 24, 2008, the Department of Environment and Natural Resources (DENR) issued an Environmental Compliance Certificate (ECC) with Reference Code No. 0710-022-4021 for the said project.

The 246 MW coal-fired power plant has an estimated total cost of PHP23,471,967,811.00, sixty-eight percent (68%) of which will be sourced from lenders and the remaining thirty-two percent (32%) will be sourced through capital from CEDC.

The construction of the power plant commenced last August 2008 and is expected to be completed on January 15, 2011. The first unit is projected to be completed on March 1, 2010, while the second and third units are projected to be completed in June 2010 and January 2011, respectively. Of the total 246 MW Plant Capacity, 105 MW is contracted to VECO, subject of the instant application.

Under the EPPA, CEDC will supply 105 MW of power to VECO from its three (3) units of 82 MW coal-fired power plants. The power will be delivered in increments of 35 MW upon completion of each unit.

3.5 Tariffs and Rates Evaluation

The Commission considered the following rate components in determining the reasonableness of the proposed electricity fees as the same were derived based on a long-run avoidable cost:

- a. **Capital Recovery Fee** is a capital-related element that will allow the CEDC to recover the cost of its investment over the life of the plant together with the return on the investment;



- b. **O&M Fee** is a component to recover operating and maintenance costs. The power plant O&M cost is commonly composed of local and foreign, where the local O&M cost represents locally denominated plant operating cost such as salaries, wages, overhead and technical expenses, while foreign O&M cost represents maintenance of spare parts, supplies, and all other cost associated with the said parts that are usually imported; and
- c. **Fuel Fee** is a component to recover the fuel cost incurred in generating electricity.

3.5.1 Capital Recovery Fee (CRF)

CEDC's proposed CRF accounts for the **return of** and the **return on** its capital investment. The return of capital refers to the cost component for the recovery of the project cost, whereas the return on capital represents the reasonable return on the project cost.

The schedule below shows the components of the total capital cost of the project or PhP23,471,967,811.00 used by CEDC in deriving the CRF of **PhP2.2797/kWh**, to wit:

	PhP
EPC Cost	15,972,717,634.00
IDC	4,237,896,468.00
Site Cost	713,702,019.00
Financing and Advisory Fees	559,754,564.00
Other Project Cost	1,166,378,252.00
Sub-Total	22,650,448,938.00
Contingency fees	821,518,873.00
Total Capital Cost (TCC)	<u>23,471,967,811.00</u>

- a. **Engineering, Procurement and Construction (EPC).** The EPC is for the design, engineering, procurement, construction, erection, commissioning, testing and related services of the three (3) units coal-fired power plant.



This cost covers about sixty-eight percent (68%) of the total capital cost. The Commission found that CEDC procured its EPC contract through direct negotiation with the contractor and supplier. However, the Commission deems it appropriate that the procured contract with the international contractor should be considered as the current prevailing price in the market. Moreover, the cost was comparable to the EPC cost of the recently approved power plant of KSPC which has almost the same capacity with that of CEDC.

- b. **Interest During Construction (IDC).** This is the cost of capital incurred during the construction of the power plant and usually capitalized as part of the power plant cost. It is assumed that the project period is three (3) years.
- c. **Site Cost.** This refers to land purchases and attendant costs for clearing, grading, compacting, etc., in preparation for construction.
- d. **Financing Cost.** This includes the Trustee Fee, Arrangers Fee, as well as other banking charges related to the loan. On the other hand, **Advisory Cost** shall include coal study, technical studies and advisories and construction insurance. The financing and advisory cost accounts 2.5% of the project cost before contingency.
- e. **Other Project Cost.** This cost includes the management Fee and the cost of initial working capital.
- f. **Contingency Fees.** This refers to an allowance to fund unforeseen events such as weather delays, accidents, changes in specification, etc. The contingency fee represents 3.6% of the total project cost.

For purposes of verifying the reasonableness of the proposed capital cost, as to whether or not the same is within the current cost of new coal power plant in the Philippines, the Commission benchmarked CEDC's project cost to the capital cost used in the approved KSPC rate computation. In this respect, the Commission finds CEDC's capital cost to be reasonable, the same being lower or comparable with the said benchmark.



Further, CEDC's total capital cost/project cost is within the level of the recently constructed and on-going construction of coal-fired power plants in the Philippines, as shown below:

Particulars	GNPower	Mindanao Coal	KSPC	CEDC
Location	Luzon	Mindanao	Visayas	Visayas
Plant Capacity (MW)	600	200	200	240
Year of Construction	2009	2002	2008	2008
Cost, US\$'000	1,407/MW	1,525/MW	2,567/MW	2,062/MW

The foregoing coal plants may not be exactly comparable with one another because they are not similar in terms of capacity and construction date. For instance, the Mindanao Coal Plant was constructed in 2002 and the cost of the project may already have escalated to date.

Further, the capacity of the GNPower plant is bigger than both the capacity of KSPC and CEDC plants. The economies of scale dictate that as the plant capacity goes up, the capital cost per unit goes down. This only means that the higher the capacity, the lower the capital cost in terms of per unit measurement.

The higher capital cost of KSPC is balanced by a lower weighted average cost of capital (WACC) as compared with CEDC. However, KSPC's CRF (PhP/kWh) is still higher than that of CEDC's.



In deriving the proposed CRF of **PhP2.2797/kWh**, CEDC computed an annuity for the required recovery of the capital cost of PhP3,522,764,453.00 using a rate of return of 14.50% (WACC) and a twenty-five (25)-year recovery period. The annual recovery of the total capital cost including return was derived in consideration of the time value of money. The computed annuity was translated into kilowatt-hour (kWh) based on the net plant capacity of 220.5 MW and eighty percent (80%) plant capacity factor or an annual billing determinant of 1,545,264,000 kWh.

CEDC's proposed WACC of 14.5% is lower compared with the approved WACC for the National Transmission Corporation (TRANSCO) and private utilities which are more than fifteen percent (15%). The WACC of these regulated entities were analyzed and established in accordance with economic parameters applicable to the electric industry in the Philippines. The Commission believes that CEDC, as a generation business, has a higher risk compared with TRANSCO as a transmission business and private utilities as distribution businesses. For instance, both TRANSCO and private utilities have captive markets while a generation company (merchant plant) may be exposed to competition. As a general rule, the higher the risk, the higher the return should be. Thus, the computed WACC of CEDC may be considered fair and reasonable.

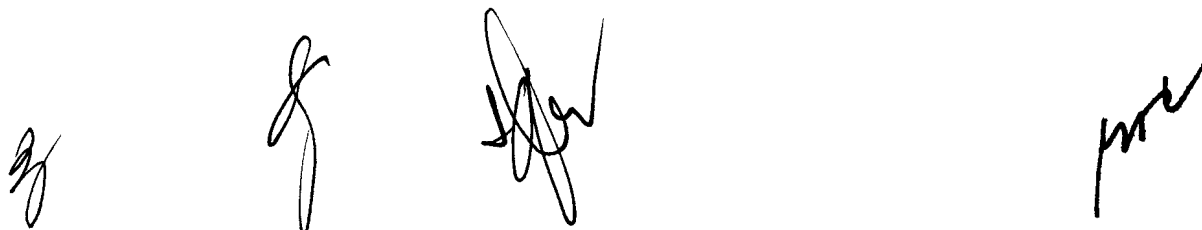


The billing determinant used by CEDC was 1,545,264,000 kWh. This was derived by multiplying eighty percent (80%), which is the plant capacity factor to the 220.5 MW plant capacity, net of auxiliary load, and multiplied further by 8,760 hours.

The net capacity used was only 220.5 MW instead of the 246 MW total capacity of the plant because 10.37% or 25.5 MW of the said 246 MW plant capacity will be used as an auxiliary load. An auxiliary load is the percentage of gross generating capacity which is used by the power plant when dispatched at full load. In other words, the 25.5 MW reflects the in-house consumption of the power plant. It is customary for a power plant to use a portion of its capacity for its internal use. Hence, the 25.5 MW allocated for CEDC's in-house consumption was not considered in the computation of its base rate.

In the derivation of the CRF, the Commission concurs with CEDC on the methodology it used, the annuity method which considers the periodic declining cost of asset and the time value of money. However, the Commission found that the working capital is included in the capital cost which may result in double recovery. The working capital includes the initial spares inventory, two (2) months O&M expense and two (2) months inventory of fuel.

The Commission deems it prudent that the working capital in the amount of PhP931,495,466.00 should be excluded from the CRF component associated for the recovery of the project cost considering



that the same is already accounted in the O&M and Fuel Fees, which will be collected periodically through the said account.

On the other hand, the Commission recognizes the need to allow the recovery of the cost of money of the working capital (two-month O&M and Fuel inventory) considering that the money put up by CEDC to finance its initial operations is tied-up in the inventory. This policy is consistent with the Commission's recently approved power supply agreements (PSAs) and ancillary service procurement agreements (ASPAs).

The WACC was used as the rate in computing for the appropriate return on the working capital amounting to PhP696,267,291.00 (two-month O&M and Fuel inventory). The Commission derived a return on the working capital in the amount of PhP100,958,757.00 or equivalent to PhP0.0654/kWh using an annual billing determinant of 1,545,264,000 kWh.

Shown below is a comparison between the proposed capital cost of CEDC and the Commission's computation:

Cost Component	CEDC (PhP)	Commission (PhP)
EPC Cost	15,972,717,634.00	15,972,717,634.00
IDC	4,237,896,468.00	4,237,896,468.00
Site Cost	713,702,019.000	713,702,019.00
Financing and Advisory Fees	559,754,564.00	559,754,564.00
Other Project Cost	1,166,378,252.00	234,882,786.00
Contingency Fees	821,518,873.00	821,518,873.00
Total Capital Cost	23,471,967,811.00	22,540,472,345.00



Based on the foregoing, by using the adjusted total capital cost exclusive of the working capital in the amount of PhP931,495,466.00, the Commission derived a required annual recovery of the total capital cost including a return of PhP3,382,961,981.00. The amount of PhP3,382,961,981.00 is a constant annual capital recovery over the twenty-five (25)-year period with a constant rate of return equal to CEDC's WACC of 14.50%.

For this reason, the Commission derived a total annual cash flow of PhP3,483,920,738.00 (recovery of the capital cost including return of PhP3,382,961,981.00 plus return on working capital of PhP100,958,757.00) and a total CRF of **PhP2.2546/kWh** (PhP2.1892/kWh plus PhP0.0654/kWh), as follows:

Particular	Excluding WC (PhP/kWh)	Return on WC (PhP/kWh)	Total (PhP/kWh)
CRF	2.1892	0.0654	2.2546

In view of the foregoing, the Commission deems it prudent to approve a CRF of **PhP2.2546/kWh**. This will cover the recovery of the capital investment in putting up the power plant (project cost exclusive of working capital), the return on the capital investment and the return on the working capital.

3.5.2 Base Operating and Maintenance Fee

The O&M costs are the recurring expenses which are related to the operation of a business or to the operation of the power plant



facilities. The O&M cost of the power plant is commonly composed of foreign and local costs, and is usually fluctuating proportionately with the changes of the predetermined economic factor, such as the consumer price index (CPI). To address these changes in cost, an adjustment factor/formula is provided in the EPPA to cover the fluctuations in the prices and cost of the foreign and/or locally manufactured materials, equipment, goods and other consumables purchased and used by an independent power producer (IPP) in the operation and maintenance of its power plant facilities.

Based on the proposed tariff structure, VECO shall pay CEDC an O&M Fee of **PhP0.7719/kWh**, subject to adjustments by reason of such economic factors as the US CPI, Philippine CPI and Dollar/Peso exchange rate. This rate will be multiplied to the actual or the minimum energy off-take.

The proposed total O&M Fee was derived from CEDC's projected annual Peso O&M of PhP622,909,343.00 and foreign O&M of US\$12,019,120 or a total of PhP1,192,769,483.00 using a foreign exchange rate of PhP47.41 to a US Dollar.

The Commission found that a return on working capital in the amount of PhP92,308,044.00 was included in the proposed O&M. This should be disallowed for the reason that this cost was already included in the computation of the CRF. The Commission believes that allowing the inclusion of the said cost in the proposed O&M will result to a double compensation for CEDC.

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With the foregoing disallowance, the Commission recomputed the O&M Fee and arrived at a rate of PhP0.7122/kWh. Shown in the table below is the comparison between CEDC's proposed O & M fee and the Commission's re-computation of the O&M Fee:

Particulars	CEDC's Proposal	Commission's Re-computation	Difference
PhP'000	1,192,769.00	1,100,461.00	92,308.00
PhP/kWh	0.7719	0.7122	0.0597

The reasonableness of the O&M cost may be established and validated by referring to the historical cost of operations of the power plant as the said actual results of operations would reflect the power plant's true cost of generation. However, the same is not applicable in the instant case because the CEDC power plant has not yet commenced its commercial operation.

In the absence of such historical information, the Commission benchmarked the computed O&M to that of recently approved coal power plants in the Philippines and found the same to be comparable or within the level of the approved O&M fee for said other coal power plants.

The breakdown of the computed O&M Fee is shown below:

O&M Component	PhP/kWh
Peso	0.3434
Dollar	0.3688
Total O&M	0.7122



3.5.3 Fuel Fee

Fuel Fee shall be the recovery of fuel cost incurred in generating electricity. VECO shall pay a fuel cost in accordance with the fuel cost formula provided under the EPPA, as illustrated below:

Where:

$$\text{Current Fuel Cost} = \text{Base Coal Price} \times \frac{\text{Current New Castle Index}}{\text{Base New Castle Index}}$$

$$\text{Base Coal Price} = 53.22 \text{ USD/MT}$$

$$\text{Current New Castle Index} = \text{Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, www.globalcoal.com}$$

$$\text{Base New Castle Index} = 63.44 \text{ USD/MT}$$

$$\text{Transport Cost} = \left[\text{Current Transport Price} \times 0.75 \right] + \left[\text{Current Transport Price} \times 0.25 \times \frac{\text{Current Marine Diesel Oil Price}}{\text{Base Marine Diesel Oil Price}} \right]$$

$$\text{Current Transport Price}^1 = \text{Actual Transport Price or US\$20.00/MT, whichever is lower (as of May 2009)}$$

$$\text{Current Marine Diesel Oil Price} = \text{The recent quarterly average of the Pertamina Publicly Listed Price Index for Marine Diesel Oil posted in the PT Pertamina website}$$

$$\text{Base Marine Diesel Oil Price} = 0.5600 \text{ (As of May 2009)}$$

$$\text{Consumption Rate} = \text{(Actual consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year, whichever is lower)}$$

$$\text{Actual Consumption Rate} = \frac{\text{Total Coal Consumed for the Billing Month}}{\text{Total Energy Generated for the Billing Period}}$$

Note:

¹ Freight cost used in the application is capped at \$15.00/MT at May 2009 price levels

Base Coal Price and Transport Price were based solely on the indicative offer to CEDC as of May 2009 at a non-firm contract.

The Commission found that in the above-proposed fuel formula, the cost for coal transportation will not be covered by the efficiency limit. This being the case, the Commission believes that the freight cost should, likewise, be capped to the efficiency limit as the said cost is part of the delivered coal cost. Otherwise, the power plant's inefficiency allocated to the freight cost would be passed on to CEDC's customer, which is inconsistent with the Commission's existing policy.

Further, the definition of the Current Transport Price as the actual transport price or US\$20/MT is vague. Based on the formula provided, twenty-five (25%) of actual cost for transportation shall still be subjected to the changes of indices which cause an additional compensation for CEDC. The Commission deems it prudent that recovery of transport cost should be limited to the actual cost without further adjustment, the same shall, however, be subjected to the efficiency cap.

Shown below is the Commission's modified fuel cost formula:

$$\text{Fuel Cost} = \frac{\text{Current Fuel Cost} + \text{Transport Cost}}{1,000} \times \text{Consumption Rate} \times \text{Current Forex}$$



Where:

- Current Fuel Cost** = Base Coal Price x $\frac{\text{Current New Castle Index}}{\text{Base New Castle Index}}$
- Base Coal Price = 53.22 USD/MT
- Current New Castle Index = Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, www.globalcoal.com
- Base New Castle Index = 63.44 USD/MT
- Transport Cost** = Actual Transport Price at PhP/MT unit
- Consumption Rate** = (Actual consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year, whichever is lower)

Likewise, the Commission conducted a simulation of the resulting Fuel Cost using CEDC's proposed Fuel formula vis-à-vis its modified fuel formula, to wit:

Scenario	Fuel Cost under CEDC's Proposed Formula (PhP/kWh)	Fuel Cost under the Commission's Modified Formula (PhP/kWh)	Difference (PhP/kWh)
Actual Consumption Rate equal to the efficiency cap	2.2642	2.2642	-
Actual Consumption Rate higher than the efficiency cap	2.2997	2.2642	0.0355
Actual Consumption Rate lower than the efficiency cap	2.1024	2.1024	-

Note: Based on consumption rate of 0.70kg/kWh or actual, whichever is lower; Figures based on coal price of US\$53.22/MT; Transport cost of US\$15/MT and Forex rate of PhP47.41 per US\$

Based on the foregoing, the Commission's modified formula will result to a different fuel cost in the event that the actual consumption rate is higher than the consumption rate cap. As simulated, the proposed formula is based on actual freight cost and not subjected to efficiency cap. Consequently, CEDC shall recover

all the actual transport cost, including those associated with inefficiency. On the other hand, the modified formula shall limit all the total cost of coal to the efficiency cap.

The Commission believes that with the efficiency cap concept, any extra coal quantity (kg) in producing a specific quantity of energy (kWh) shall not be recoverable. A maximum of 0.7kg of coal is sufficient to generate a single energy (kWh). As such, any extra coal quantity (kg) is attributable to plant inefficiency.

CEDC's proposed and the Commission's modified fuel formulae would be the same as long as the actual consumption rate is within the efficiency cap.

3.5 Summary and Comparison of Rates

The table below shows the comparison between CEDC's proposal and the Commission's computation at one hundred percent (100%) load factor:

Rate Component	CEDC's Proposal (PhP/kWh)	Commission's Computation (PhP/kWh)	Difference (PhP/kWh)
Capacity Fee	2.2797	2.2546	0.0251
Peso O&M Fee	0.4031	0.3434	0.0597
Dollar O&M Rate	0.3690	0.3688	0.0002
Total (excluding fuel)	3.0518	2.9688	0.0850
Fuel Cost	2.2642	2.2642	-
Total	5.3160	5.2310	0.0850

Based on the foregoing table, the Commission's computed electricity fee is lower than CEDC's proposal by PhP0.0850/kWh or PhP131,494,035.00/year.



Likewise, the Commission computed the electricity fee at various load factors, to wit:

Rate Component	At 100% Load Factor (PhP/kWh)	At 95% up to less than 100% Load Factor (PhP/kWh)	At 90% up to less than 95% Load Factor (PhP/kWh)
Capacity Recovery Fee	2.2546	2.3732	2.5051
Peso O&M Fee	0.3434	0.3526	0.3628
Dollar O&M Fee	0.3688	0.3882	0.4098
Fuel Cost	2.2642	2.2642	2.2642
Total	5.2310	5.3782	5.5419

CEDC's proposal differ from that of the Commission's computations because on top of the computed electricity fees adjusted correspondingly to the applicable load factor, CEDC applied an additional premium in its computation to account for the recovery of the cost impact in operating the plant on a cyclical load (variable loading throughout the day). The Commission, however, did not consider the said additional cost on the assumption that the same could already be accounted through the O&M Fee. Moreover, CEDC failed to substantiate the details and the derivation of the said additional premium.

3.6 Issuance of Certificate of Compliance

Section 6 of the EPIRA expressly provides, that: "Any new generation company shall, before it operates, secure from the Commission a Certificate of Compliance (COC) pursuant to the standards set forth in the Act, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws".



On October 22, 2009, CEDC filed an application for the issuance of a COC for its 246 MW Coal Power Plant. To date, the Commission has yet to conduct an ocular inspection on the said power plant which is scheduled to be undertaken during the synchronization of the first unit to the grid for testing and commissioning on February 16 and 17, 2010.

Nevertheless, the approval of the instant application is without prejudice to whatever findings the Commission may have in its evaluation of CEDC's application for a COC.

After a thorough evaluation of the documents submitted and the testimonies of the witnesses presented, the Commission finds that the approval and implementation of the EPPA will be beneficial to the member-consumers of VECO by way of reliable, continuous and sufficient supply of power within its franchise area at reasonable costs as mandated by Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA (*Section 2. Declaration of State Policy – (b) “to ensure the quality, reliability, security and affordability of the supply of electric power”*).

WHEREFORE, the foregoing premises considered, the application for approval of the Electric Power Purchase Agreement (EPPA), with prayer for provisional authority, filed by Visayan Electric Company, Incorporated (VECO) and Cebu Energy Development Corporation (CEDC) is hereby **APPROVED** subject to the following base rates and conditions:

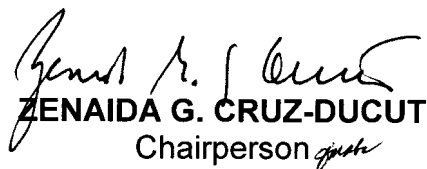


Rate Component	At 100% Load Factor (PhP/kWh)	At 95% up to less than 100% Load Factor (PhP/kWh)	At 90% up to less than 95% Load Factor (PhP/kWh)
Capacity Recovery Fee	2.2546	2.3732	2.5051
Peso O&M Fee ¹	0.3434	0.3526	0.3628
Dollar O&M Fee ²	0.3688	0.3882	0.4098
Fuel Cost ³	2.2642	2.2642	2.2642
Total	5.2310	5.3782	5.5419

- 1 Subject to Philippine CPI adjustment with May 2009 base index of PhP158.8
- 2 Subject to US CPI adjustment with May 2009 base index of 213.856 and base foreign exchange rate of PhP47.41 per US Dollar
- 3 To be computed based on the modified fuel formula and subject to a consumption rate of 0.7kg/kWh escalated at a rate of 1.5% per year or actual, whichever is lower (Figures based on coal price of US\$53.22/MT, Transport cost of US\$15/MT and Forex rate of PhP47.41 is to US\$)

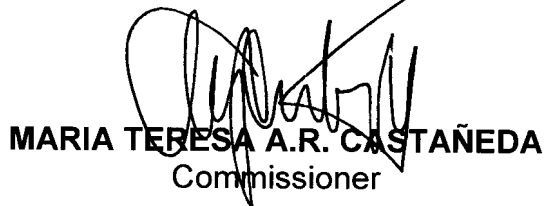
SO ORDERED.

Pasig City, February 8, 2010.


ZENAIDA G. CRUZ-DUCUT
 Chairperson


RAUF A. TAN
 Commissioner


ALEJANDRO Z. BARIN
 Commissioner


MARIA TERESA A.R. CASTAÑEDA
 Commissioner


JOSE C. REYES
 Commissioner

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Cebu College, TBI Suite 319,
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18. Mactan Export Processing Zone Chamber of Exporters and Manufacturers (MEPZCEM)
Attn: Mr. Porferio Monteclaros, Jr.
2nd Floor, Mactan Marina Mall, Block B-206, M.L. Quezon National Highway,
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