

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

**IN THE MATTER OF THE
APPLICATION FOR APPROVAL OF
THE ELECTRIC POWER PURCHASE
AGREEMENT (EPPA) BETWEEN
MACTAN ELECTRIC COMPANY,
INC. AND CEBU ENERGY
DEVELOPMENT CORPORATION
(CEDC), WITH PRAYER FOR
PROVISIONAL AUTHORITY.**

ERC CASE NO. 2010-100 RC

**MACTAN ELECTRIC COMPANY,
INC. (MECO) AND CEBU ENERGY
DEVELOPMENT CORPORATION
(CEDC),**

Applicants.

X ----- X

APPLICATION

**MACTAN ELECTRIC COMPANY, INC. (MECO) and CEBU ENERGY
DEVELOPMENT CORPORATION (CEDC),** through the undersigned counsels, and
unto this Commission, most respectfully state:

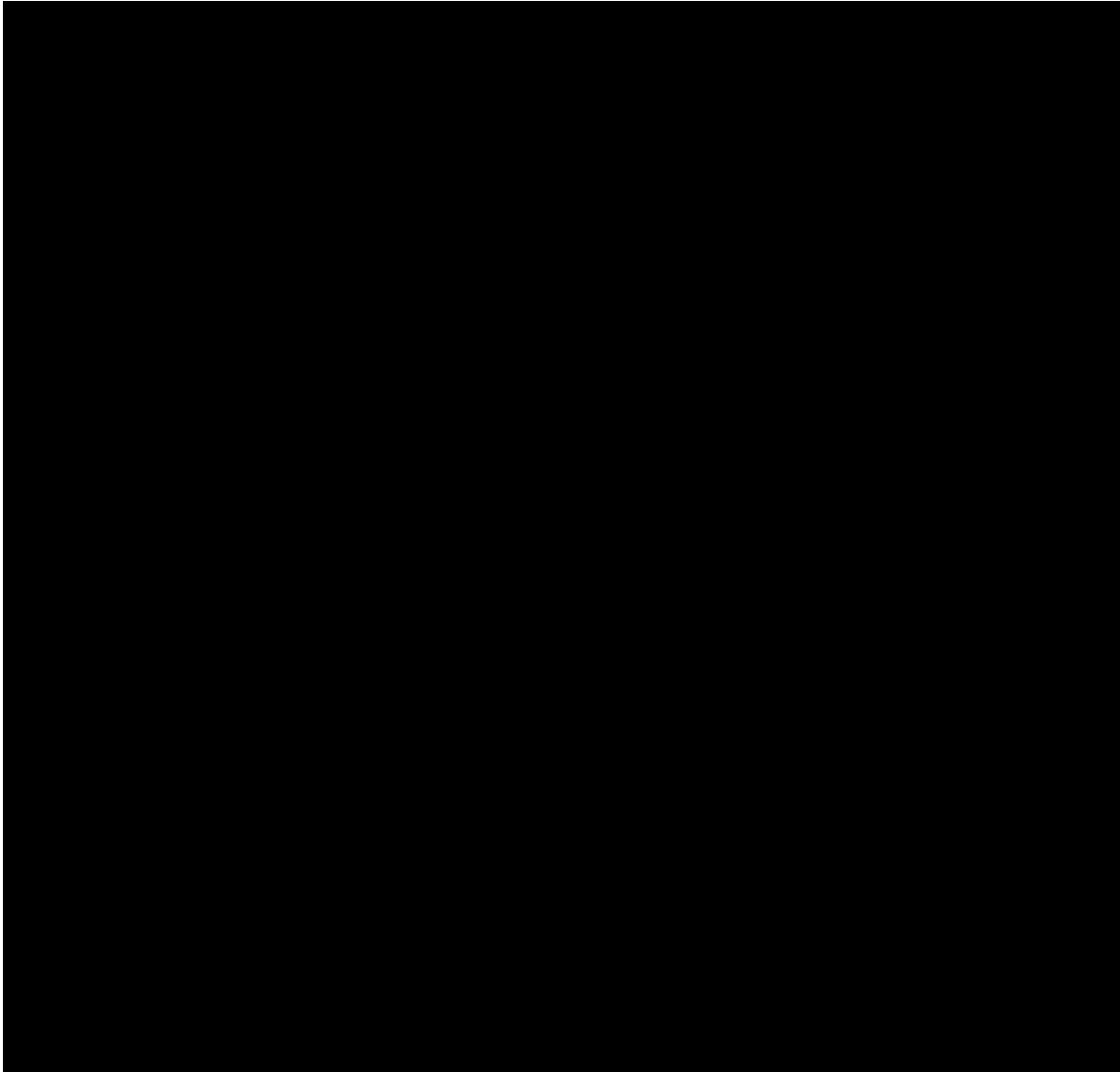
Parties to the Case

1. Applicant Mactan Electric Company, Inc. (MECO) is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Sangi Road, Lapu-Lapu City 6015, Cebu. It is a franchised electric utility servicing its consumers in the City of Lapu-Lapu and the town of Cordova in the island of Mactan.

2. Cebu Energy Development Corporation (CEDC) is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines 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.

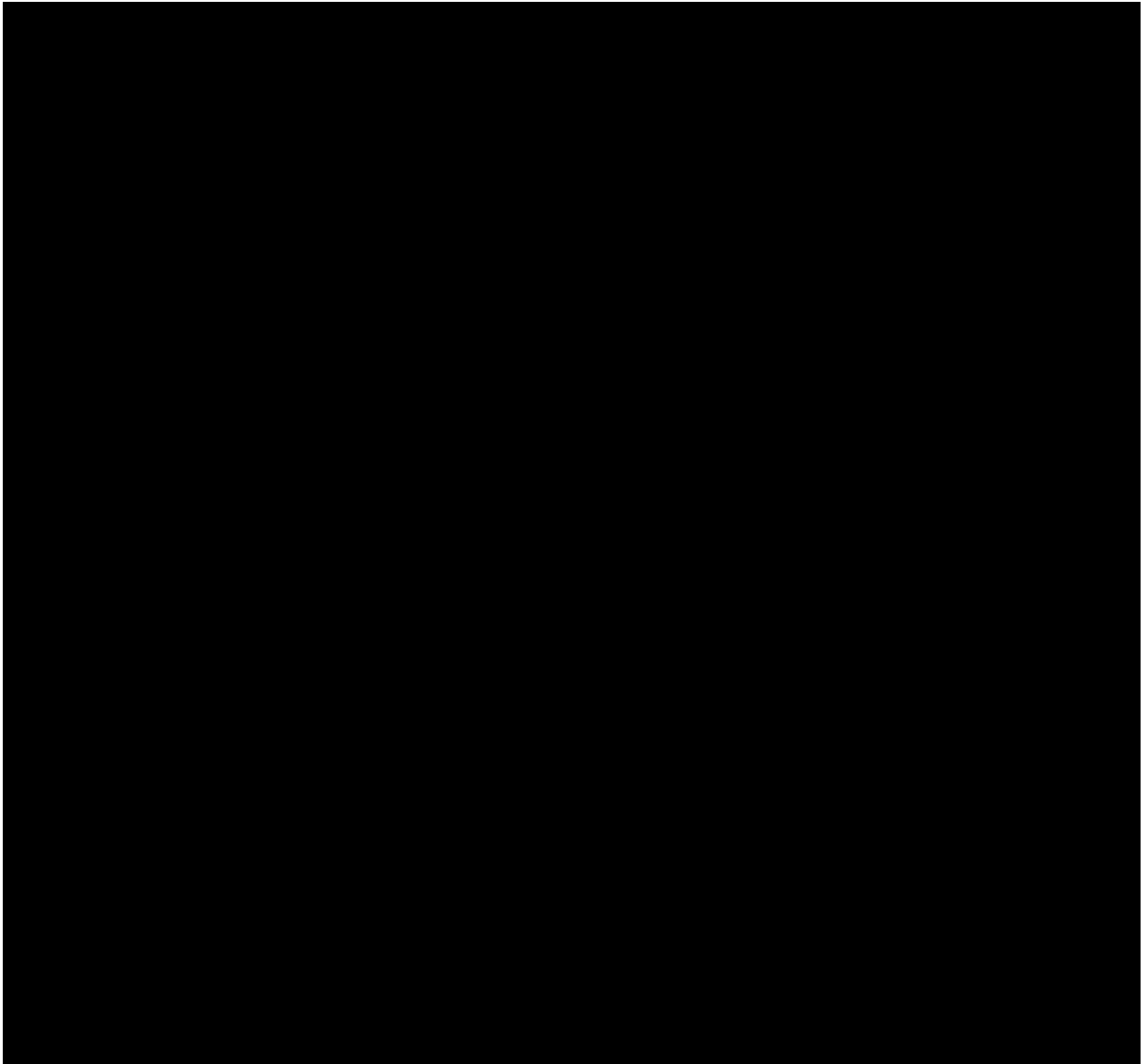
Statement of Facts and of the Case

3. MECO and CEDC entered into an Electric Power Purchase Agreement (EPPA) on March 15, 2010, wherein CEDC agreed to supply and deliver, and MECO agreed to pay for electricity supplied by CEDC, at a Contracted Capacity of fifteen (15) MW (at 80% load factor) at the commencement of the Commercial Operation Date at an Electricity Fee computed as follows:



4. This Contracted Capacity of 15 MW will be delivered to MECO at the designated metering points in the EPPA at the start of the Commercial Operation Date, when all three Units have been completed, inspected, tested and is ready to commence operation as confirmed in a written communication from CEDC to MECO, which date should not be later than March 31, 2011.

5. Moreover, upon completion of the commissioning for the second unit (i.e., Pre-Commercial Operation Period of the Plant), MECO may take at least five (5) MW of the capacity of the second unit delivered by CEDC on a firm basis subject to the payment of Electricity Fees computed as follows:



6. Thus, the EPPA proposes separate rates on the power delivered by CEDC to MECO, depending on the stage of the plant – i.e., pre-commissioning (Pre-Commercial Operation Date), or Commercial Operation Date.

7. The EPPA further stipulates that the parties may agree to increase the Contracted Capacity, subject to mutually acceptable terms and conditions wherein at least three (3) months from the start of the succeeding calendar year, CEDC shall inform MECO should there be any available capacity which MECO may require in addition to the Contracted Capacity. In the same manner, MECO shall inform at least three (3) months from the start of the succeeding calendar year should MECO need additional power.

8. The EPPA shall have a term of fifteen years commencing on the Commercial Operation Date and ending on the 15th anniversary of such commencement date, unless sooner terminated pursuant to the terms thereof.

9. The foregoing agreed terms, among others, were embodied in the EPPA, a copy of which is attached hereto as an **Annex “A”** and made an integral part hereof.

10. Should the Commission approve the Electricity Fees under the EPPA, the following table summarizes the rate comparison of BOHECO I supplier, NPC vis-à-vis the CEDC ERC Approved rate in ERC Case No. 2009-075 RC upon Commercial Operation Date.

Generation Rate in the Visayas

Rate Components	NPC*	NPC	CEDC***
		ERC Filing**	As approved
	Jun-10		May-09
	Php/kWhr	Php/kWhr	Php/kWhr
1. Generation Charges			
Generation Charge – Energy	3.7255	3.7255	5.2310
Franchise & Benefits to Host Communities	0.0177	0.0177	
2. Deferred Accounting Adjustments			
GRAM	-	1.3136	
ICERA	0.0278	0.0246	
3. Automatic Cost Adjustment			
FPPCA	0.2540	0.2540	
FxA			
Total Cost of Power	4.0250	5.3354	5.2310

* NPC rates as of June 2010 published in the NPC Website.

** Latest NPC ERC Postings from www.napocor.gov.ph, 14th GRAM and 13th ICERA.

*** CEDC rate 100% LF.

In comparing the above values one must consider the type of plant and the cost increases and adjustments from the June 2010 to 2011.

Allegations in Support of the Prayer for Provisional Authority

11. 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 pre-commissioning of its plant (i.e., prior to the Commercial Operation Date) will help alleviate the shortage.

12. Under the terms of the EPPA, among the conditions precedent to the performance by the MECO and CEDC of its respective obligations thereunder is the approval of this Application.

13. Thus, for CEDC to be able to deliver and MECO to be able to receive power from the former as early as the pre-commercial date of the power plant, it is imperative that a provisional authority be granted for the EPPA to allow CEDC to

deliver and MECO to receive power during the pre-commercial operation date of the second unit.

Generation Rate in the Visayas

Rate Components	NPC*	NPC	CEDC ^{Pre-Com}
	Jun-10	ERC Filing**	As approved
	Php/kWhr	Php/kWhr	May-09
	Php/kWhr	Php/kWhr	Php/kWhr
1. Generation Charges			
Generation Charge – Energy	3.7255	3.7255	4.4893
Franchise & Benefits to Host Communities	0.0177	0.0177	
2. Deferred Accounting Adjustments			
GRAM	-	1.3136	
ICERA	0.0278	0.0246	
3. Automatic Cost Adjustment			
FPPCA	0.2540	0.2540	
FxA			
Total Cost of Power	4.0250	5.3354	4.4893

* NPC rates as of June 2010 published in the NPC Website.

** Latest NPC ERC Postings from www.napocor.gov.ph, 14th GRAM and 13th ICERA.

Pre-Com = 0.75 X (CRF + Peso O&M + Dollar O&M)

In comparing the above values one must consider the type of plant and the cost increases and adjustments from the June 2010 to 2011.

Compliance with Pre-Filing Requirements

15. Applicants manifest their compliance with the pre-filing requirements mandated under Rule 3, Section 4 (e) of the Implementing Rules and Regulations of R.A. No. 9136, and Rule 6 of the 2006 ERC Rules of Practice and Procedures, as evidenced by the following attachments:

15.1 Certification of the duly authorized representative of the Sangguniang Panlungsod of the City of Lapu-Lapu on the fact that it was furnished a complete copy of the Application with Annexes and accompanying documents, which Certification is attached hereto as **Annex “B”**;

15.2 Certification of the duly authorized representative of the Sangguniang Bayan of the Municipality of Cordova on the fact that it was furnished a complete copy of the Application with annexes and accompanying documents, which Certification is attached hereto as **Annex “C”**;

15.3 Certification of the duly authorized representative of the Sangguniang Panlungsod of the City of Toledo on the fact that it was furnished a complete copy of the Application with annexes and accompanying documents, which Certification is attached hereto as **Annex “D”**;

15.4 Certification of the duly authorized representative of the Sangguniang Panlalawigan of the Province of Cebu on the fact that it was furnished a complete copy of the Application with annexes and accompanying documents, which Certification is attached hereto as **Annex “E”**;

15.5 Affidavit of Publication stating that the instant application had been published in a newspaper of general circulation, a copy of which is attached as **Annex “F”**;

15.6 Newspaper issue where the application as published appeared, a copy of which is attached as **Annex “G”**;

15.7 Proof of payment of filing fees, a copy of which is attached as **Annex “H”**;

15.8 A copy of the Board Resolution authorizing MECO to jointly file the instant application with CEDC is herein attached as **Annex “I”**; and

15.9 A copy of the Board Resolution authorizing CEDC to jointly file the instant application with MECO is herein attached as **Annex “J”**.

PRAYER

WHEREFORE, in view of the foregoing, it is respectfully prayed that the 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 CEDC and MECO, thereby authorizing CEDC to charge and collect the respective Electricity Fees corresponding to the (1) Pre-Commercial Operation Date and (2) Commercial Operation Date, and authorizing MECO to pass full amount to its consumers; and,

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

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

Cebu City and Makati City for the City of Pasig, Metro Manila.

June 04, 2010.

Counsel for Applicant Cebu Energy Development Corporation

KARL JOSEF D. BANAG

IBP No. 796061; Cebu City, Jan. 4, 2010

PTR No. 9680325; Cebu City, Jan. 4, 2010

Roll No.51767

MCLE Compliance No. III-0016103; May 7, 2010

Cebu Energy Development Corporation

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Counsel for Applicant Mactan Electric Company, Inc.

ANCHETA & ASSOCIATES
Attorneys-at-Law

By:

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Roll No. 45304

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Legazpi Village, Makati City, 1229 Metro Manila

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AAAttorneys@gmail.com

**VERIFICATION AND
CERTIFICATION AGAINST FORUM SHOPPING**

I, **JESUS N. ALCORDO**, of legal age, Filipino and with office address at 10/F GT Tower International, 6813 Ayala Avenue, Makati City, after having been duly sworn to in accordance with law, depose and say:

1. I am the President of Cebu Energy Development Corp. (CEDC), the applicant-corporation in the above-entitled case;
2. I caused the preparation and filing of the instant application;
3. I read the same and that all the allegations contained therein are true and correct of my own personal knowledge and belief;
4. I certify that **CEDC** 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;
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 this Honorable Commission within five (5) days from knowledge.

FURTHER AFFIANT SAYETH NONE.

SGD. JESUS N. ALCORDO

SUBSCRIBED AND SWORN to before me this July 8, 2010, affiant exhibited to me his Passport No. PP0230262, issued at Pasay City, Metro Manila.

SGD. ATTY. KARL JOSEF D. BANAG
Notary Public
Until December 31, 2011
Notarial Commission No. 185-06
362-K Visitacion St., Jones Ave., Cebu City
Roll of Attorneys' No. 51767
PTR No. 9680325; Cebu City, January 4, 2010
IBP No. 796061; Cebu City, January 4, 2010

Doc. No. 412;
Page No. 83;
Book No. II;
Series of 2010.

**VERIFICATION AND
CERTIFICATION AGAINST FORUM SHOPPING**

I, **GILBERT A. PAGOBO**, of legal age, Filipino and with address at Mactan Electric Company, Inc., Sangi Road Pajo, Lapu-Lapu City, hereby state under oath that:

1. I am the duly authorized representative of Mactan Electric Company, Inc. (MECO) in filing this Application together with Cebu Energy Development Corporation (CEDC). A copy of my authorization to represent MECO is attached hereto.
2. The duly authorized representative of CEDC and I have caused the preparation of this Application.
3. I have read the contents of this Application, the allegations of which are true and correct based on my personal knowledge and on authentic records at hand.
4. MECO and I have not heretofore commenced any action or filed any claim involving the same issues in any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein. If I should hereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact to the Honorable Commission within five (5) days from knowledge.

SGD. GILBERT A. PAGOBO

SUBSCRIBED AND SWORN to before me this June 4, 2010 by affiant who is personally known to me and who represented the following competent evidence of his identity, bearing his photograph and signature: Philippine Dirver's License No. G0692-019177 valid until June 2, 2012.

SGD. FLAVIANO A. HIYAS, JR.
Notary Public
Until December 31, 2011
Commission No. 214-L
Until December 31, 2010
Roll of Attorneys' No. 50022
PTR No. 2482700; 01/04/10; LLC
IBP No. 779344; 01/04/10; C.C.
Across Hall of Justice, Pusok, LLC

Doc. No. 373;
Page No. 75;
Book No. XXIX;
Series of 2010.