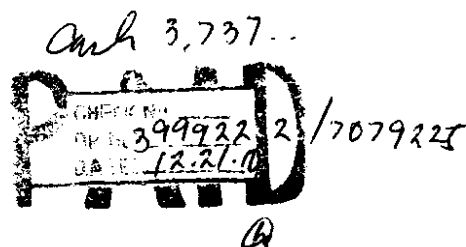


REPUBLIC OF THE PHILIPPINES  
ENERGY REGULATORY COMMISSION  
PACIFIC CENTER BUILDING  
SAN MIGUEL AVENUE, ORTIGAS CENTER  
CITY OF PASIG

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



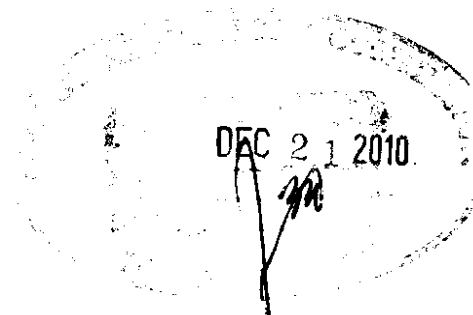
2010-157

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

CEBU III ELECTRIC COOPERATIVE,  
INC. (CEBECO III) AND CEBU  
ENERGY DEVELOPMENT  
CORPORATION (CEDC),

Applicants.

X ----- X



APPLICATION

CEBU III ELECTRIC COOPERATIVE, INC. (CEBECO III) and CEBU  
ENERGY DEVELOPMENT CORPORATION (CEDC), through the undersigned  
counsels, and unto this Commission, most respectfully state:

Parties to the Case

1. Applicant Cebu III Electric Cooperative, Inc. (CEBECO III) 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 Luray II, Toledo City. It is  
a franchised electric utility servicing its consumers in the Midwest part of the province

of Cebu specifically the Municipalities of Aloguinsan, Asturias, Balamban, Pinamungajan and the City of Toledo.

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. CEBECO III and CEDC entered into an Electric Power Purchase Agreement (EPPA) on 16 September 2010, wherein CEDC agreed to supply and deliver, and CEBECO III agreed to pay for electricity supplied by CEDC, at a Contracted Capacity of ten [10] MW (at 100% load factor) at the commencement of the Commercial Operation Date at an Electricity Fee computed as follows:

**(intentionally left blank)**

**Electricity Fees at 100% Load Factor  
As of May 2009**

**Base Prices**

	100%LF
Capital Recovery	= 2.2546
Peso O&M Charge	= 0.3434
Dollar O&M Charge	= 0.3688
Total	= 2.9668

**Formula**

<b>Electricity Fees</b>	=	<b>Capital Recovery</b>	+	<b>Peso O&amp;M Charge</b>	+	<b>Dollar O&amp;M Charge</b>	+	<b>Fuel Cost</b>
<b>Cost of Power</b>	=	<b>Electricity Fees</b>	x	<b>Energy Delivered</b>				
<b>Peso O&amp;M Charge</b>	=	<b>Base Peso O&amp;M Charge</b>	x	$\frac{PCPI_c}{PCPI_b}$				
PCPI <sub>c</sub>	=	Philippine CPI for the current month as per the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov">www.bsp.gov</a>						
PCPI <sub>b</sub>	=	158.8 (as of May 2009)						
<b>Dollar O&amp;M Charge</b>	=	<b>Base Dollar O&amp;M Charge</b>	x	$\frac{\text{Current Forex}}{\text{Base Forex}}$	x	$\frac{USCPI_c}{USCPI_b}$		
Current Forex	=	average Peso-US Dollar exchange rate for the current month as per the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov.ph">www.bsp.gov.ph</a>						
Base Forex	=	47,4128 Php/ USD (as of May 2009)						
USCPI <sub>c</sub>	=	US CPI for the current month as per the Bureau of Labor Statistics, <a href="http://www.bls.gov">www.bls.gov</a>						
USCPI <sub>b</sub>	=	213.866 (as of May 2009)						
<b>Fuel Cost</b>	=	$\left( \frac{\text{Current Fuel Cost} + \text{Transport Cost}}{1000} \right)$		x	<b>Consumption Rate</b>	x	<b>Current Forex</b> <sup>1</sup>	
<b>Current Fuel Cost</b>	=	<b>Base Coal Price</b>	x	$\frac{\text{Current Newcastle Index}}{\text{Base Newcastle Index}}$				
Base Coal Price	=	53.22 USD/ MT						
Current Newcastle Index	=	Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, <a href="http://www.globalcoal.com">www.globalcoal.com</a>						
Base Newcastle Index	=	63.44 USD/ MT						
<b>Transport Cost</b>	=	<b>Actual Transport Price at USD/MT unit</b>						
<b>Consumption Rate</b>	=	Actual consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year, whichever is lower.						

<sup>1</sup> Local Coal Purchases, Current Forex will be omitted. Unit shall be direct in PHP/MT

4. This Contracted Capacity of 10 MW will be delivered to CEBECO III 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 CEBECO III, which date should not be later than March 31, 2011.

5. Moreover, CEBECO III shall take net electrical output for each unit of the Power Plant delivered by CEDC during Testing and Commissioning Period on a non-firm basis subject to the payment of Electricity Fees as follows:

**Electricity Fees at 100% Load Factor  
As of May 2009**

**Base Prices**

		100% LF
Capital Recovery	=	2.2546
Peso O&M Charge	=	0.3434
Dollar O&M Charge	=	0.3688
Total	=	2.9668

**Formula**

Electricity Fees	=	$\left[ \left( \text{Capital Recovery} + \text{Peso O\&M Charge} + \text{Dollar O\&M Charge} \right) \times 0.5 \right] + \text{Fuel Cost}$
Cost of Power	=	Electricity Fees x Energy Delivered
Peso O&M Charge	=	Base Peso O&M Charge x $\frac{\text{PCPI}_c}{\text{PCPI}_b}$
PCPI <sub>c</sub>	=	Philippine CPI for the current month as per the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov">www.bsp.gov</a>
PCPI <sub>b</sub>	=	158.8 (as of May 2009)
Dollar O&M Charge	=	Base Dollar O&M Charge x $\frac{\text{Current Forex}}{\text{Base Forex}}$ x $\frac{\text{USCPI}_c}{\text{USCPI}_b}$
Current Forex	=	average Peso-US Dollar exchange rate for the current month as per the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov.ph">www.bsp.gov.ph</a>
Base Forex	=	47.4128 Php/ USD (as of May 2009)
USCPI <sub>c</sub>	=	US CPI for the current month as per the Bureau of Labor Statistics, <a href="http://www.bls.gov">www.bls.gov</a>
USCPI <sub>b</sub>	=	213.856 (as of May 2009)
Fuel Cost	=	$\left( \frac{\text{Current Fuel Cost} + \text{Transport Cost}}{1000} \right) \times \text{Consumption Rate} \times \text{Current Forex}^1$
Current Fuel Cost	=	Base Coal Price x $\frac{\text{Current Newcastle Index}}{\text{Base Newcastle Index}}$
Base Coal Price	=	53.22 USD/ MT
Current Newcastle Index	=	Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, <a href="http://www.globalcoal.com">www.globalcoal.com</a>
Base Newcastle Index	=	63.44 USD/ MT
Transport Cost	=	Actual Transport Price at USD/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.

<sup>1</sup> Local Coal Purchases, Current Forex will be omitted. Unit shall be direct in PHP/MT

6. Likewise, upon completion of the commissioning for each unit (i.e., Pre-Commercial Operation Period), CEBECO III shall take the proportionate net electrical

output for each Unit of the Power Plant on a firm basis subject to the payment of Electricity Fees computed as follows:

**Electricity Fees at 100% Load Factor  
As of May 2009**

**Base Prices**

		100% LF
Capital Recovery	=	2.2546
Peso O&M Charge	=	0.3434
Dollar O&M Charge	=	0.3688
Total	=	2.9668

**Formula**

<b>Electricity Fees</b>	=	$\left[ \left( \text{Capital Recovery} + \text{Peso O\&M Charge} + \text{Dollar O\&M Charge} \right) \times 0.75 \right] + \text{Fuel Cost}$
<b>Cost of Power</b>	=	$\text{Electricity Fees} \times \text{Energy Delivered}$
<b>Peso O&amp;M Charge</b>	=	$\frac{\text{Base Peso O\&M Charge}}{\text{PCPI}_b} \times \text{PCPI}_c$
PCPI <sub>c</sub>	=	Philippine CPI for the current month as per the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov">www.bsp.gov</a>
PCPI <sub>b</sub>	=	158.8 (as of May 2009)
<b>Dollar O&amp;M Charge</b>	=	$\frac{\text{Base Dollar O\&M Charge}}{\text{USCPI}_b} \times \frac{\text{Current Forex}}{\text{Base Forex}} \times \text{USCPI}_c$
Current Forex	=	average Peso-US Dollar exchange rate for the current month as per the Bangko Sentral ng Pilipinas, <a href="http://www.bsp.gov.ph">www.bsp.gov.ph</a>
Base Forex	=	47.4128 Php/ USD (as of May 2009)
USCPI <sub>c</sub>	=	US CPI for the current month as per the Bureau of Labor Statistics, <a href="http://www.bls.gov">www.bls.gov</a>
USCPI <sub>b</sub>	=	213.856 (as of May 2009)
<b>Fuel Cost</b>	=	$\left( \frac{\text{Current Fuel Cost} + \text{Transport Cost}}{1000} \right) \times \text{Consumption Rate} \times \text{Current Forex}^1$
<b>Current Fuel Cost</b>	=	$\frac{\text{Base Coal Price}}{\text{Base Newcastle Index}} \times \text{Current Newcastle Index}$
Base Coal Price	=	53.22 USD/ MT
Current Newcastle Index	=	Preceding Quarter's Average Coal Price for 6700kcal/kg ADB as per the Global Coal New Castle Physical Trading, <a href="http://www.globalcoal.com">www.globalcoal.com</a>
Base Newcastle Index	=	63.44 USD/ MT
<b>Transport Cost</b>	=	Actual Transport Price at USD/MT unit
<b>Consumption Rate</b>	=	Actual consumption rate or the ceiling of 0.7kg/kWh escalated at a rate of 1.5% per year, whichever is lower.

<sup>1</sup> Local Coal Purchases, Current Forex will be omitted. Unit shall be direct in PHP/MT

7. Thus, the EPPA proposes separate rates on the power delivered by CEDC to CEBECO III, depending on the stage of the plant – i.e., Testing and Commission; Pre-Commercial Operation Date; or Commercial Operation Date.

8. The EPPA shall have a term of fifteen years commencing on the Commercial Operation Date and ending on the 15<sup>th</sup> 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, there will be an increase in generation cost of 0.8836 centavos per kWh Commercial Operation Date.

**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 testing and 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 CEBECO III and CEDC of its respective obligations thereunder is the approval of this Application.

13. Thus, for CEDC to be able to deliver and CEBECO III to be able to receive power from the former as early as the testing and commissioning date of the power plant, it is imperative that a provisional authority be granted for the EPPA to allow CEDC to deliver and CEBECO III to receive power during testing and commissioning of the Plant.

14. Should the Commission approve the Electricity Fees under the EPPA, during the testing and commissioning period, there will be a decrease in the generation cost of 0.0246 centavos per kWh. Should the Commission approve the Electricity Fees under the EPPA during the pre-commercial period there will be an increase in the generation cost of 0.4295 centavos per kWh during the same period.

#### **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 Acknowledging Receipt of the Application issued by the duly authorized representative of the Sangguniang Panlungsod of the City of Toledo, a copy of which is attached as Annex “**B**”;
- 15.2 Certification Acknowledging Receipt of the Application issued by the duly authorized representative of the Sangguniang Panlalawigan of the Province of Cebu, a copy of which is attached as Annex “**C**”;
- 15.3 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 “**D**”;
- 15.4 Newspaper issue where the application as published appeared referred to in Item 15.3, a copy of which is attached as Annex “**E**”;
- 15.5 A copy of the Board Resolution authorizing CEBECO III to jointly file the instant application with CEDC is herein attached as Annex “**F**”; and
- 15.6 A copy of the Board Resolution authorizing CEDC to jointly file the instant application with CEBECO III is herein attached as Annex “**G**”.

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

**PRAYER**

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

1. Upon initial review of the instant Application and pending hearing on the merits, issue a provisional authority for the terms of the Electric Power Purchase Agreement between CEDC and CEBECO III, thereby authorizing CEDC to charge and collect the respective Electricity Fees corresponding to the (1) Testing and Commissioning; (2) Pre-Commercial Operation Date; and (3) Commercial Operation Date, and authorizing CEBECO III to pass full amount to its consumers; and,

2. After hearing on the merits, issue a final approval of the terms of the Electric Power Purchase Agreement between CEDC and CEBECO III, thereby authorizing CEDC to charge and collect from CEBECO III the Electricity Fees corresponding to the (1) Testing and Commissioning; (2) Pre-Commercial Operation Date and (3) Commercial Operation Date, and authorizing CEBECO III to pass-on and recover full amount of electricity fees from its retail rates to its consumers.

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

Cebu City for the City of Pasig, Metro Manila.

08 December 2010.

Counsel for Applicant Cebu Energy Development Corporation



**KARL JOSEF D. BANAG**

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

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

Roll No. 51767

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

Cebu Energy Development Corporation

15/F Metrobank Plaza Building

Osmena Blvd., Cebu City

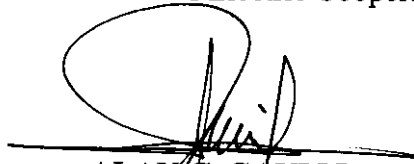
Tel. No. (032) 2548855 loc 514

Fax No. (032) 253-2665

KarlJosef.banag@globalpower.com.ph

**AND**

Counsel for Cebu III Electric Cooperative, Inc.



**ALAN C. GAVIOLA**

**A.C. GAVIOLA LAW OFFICE**

Counsel for CEBECO III

Rm. 203, 2/F Crown Plaza Bldg.

3<sup>rd</sup> Avenue, North Reclamation Area, Cebu City

PTR NO. 9722387; Cebu City; Jan. 13, 2010

IBP O.R. 771063; Jan. 26, 2009; Cebu City

ROLL NO. 30385

MCLE COMPLIANCE II-0014329; Dec. 15, 2008

**VERIFICATION AND CERTIFICATION**

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.

  
**JESUS N. ALCORDO**

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

  
**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.134;  
Page No. 27;  
Book No. III;  
Series of 2010.

**VERIFICATION AND CERTIFICATION**

I, JEVY Q. BUENSALIDA, of legal age, married, and with office address at CEBECO III, Luray II, Toledo City, after having sworn in accordance with law, depose and state:

1. That I am the General Manager and have been authorized by CEBECO III to verify and certify under oath the foregoing application by virtue of Resolution No. 79, dated October 30, 2010 of the Board of Directors;


2. In behalf of CEBECO III, I caused the preparation and filing of the foregoing application; read and understood the allegations contained therein insofar as CEBECO III is concerned; and all the facts stated therein are true and correct based on my own knowledge and the authentic records of CEBECO III made available to me in the ordinary course of business.

3. CEBECO III has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; that to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, which involve issues that may somehow be related to this Application; and that, if I should learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, I undertake to promptly inform this Honorable Commission within five (5) days from receipt of such knowledge of such fact.

IN WITNESS WHEREOF, I have hereunto set my hand this December 8, 2010

  
**JEVY Q. BUENSALIDA**  
Affiant

SUBSCRIBED AND SWORN to before me this DEC 08 2010 day of December, 2010, affiant exhibited to me his employee identification no. 418435943, issued on February 9, 2010, at CEBECO III, Toledo City.

  
**ATTY. KARL JOSEF D. BANAG**  
Notary Public  
Until December 31, 2011  
Notarial Commission No. 18596  
362-K Visitacion St., Jones Ave., Cebu City  
Roll of Attorneys No. 51767  
PTR No. 9680325; Cebu City; Jan. 6, 2010  
IBP No. 796061; Cebu City; Jan. 6, 2010

Doc. No. 135 ;  
Page No. 27 ;  
Book No. 3 ;  
Series of 2010.