

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



IN THE MATTER OF THE APPLICATION FOR AUTHORIZATION TO PROVIDE ELECTRICITY SERVICE IN BARANGAY LIMINANGCONG, TAYTAY, PALAWAN, AS QUALIFIED THIRD PARTY (QTP) AND FOR ISSUANCE OF THE CORRESPONDING AUTHORITY TO OPERATE (ATO) AND FOR APPROVAL OF THE QTP SERVICE AND SUBSIDY CONTRACT (QSSC) WITH NATIONAL POWER CORPORATION (NPC), WITH PRAYER FOR ISSUANCE OF A PROVISIONAL AUTHORITY,

ERC CASE NO. 2015-208 RC

POWERSOURCE PHILIPPINES, INC. (PSPI),

Applicant.

X-----X

D O C K E T E D

Date: FEB. 05 2016

By: _____

ORDER

On 10 December 2015, applicant PowerSource Philippines, Inc. (PSPI) filed an Application for authorization to provide electricity service as a Qualified Third Party (QTP), with request for the issuance of the corresponding Authority to Operate (ATO), and for approval of the QTP Service and Subsidy Contract (QSSC) with the National Power Corporation (NPC), with prayer for the issuance of provisional authority.

In support of said Application, PSPI alleged, among others, the following:

1. This is an Application for authorization to provide electricity service with request for the issuance of the corresponding Authority to Operate (ATO) as a Qualified Third Party (QTP) in

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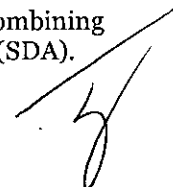
Barangay Liminangcong, Taytay, Palawan, filed pursuant to and by virtue of the Rules for the Regulation of the Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy (ERC QTP Guidelines), as approved in ERC Resolution No. 22, Series of 2006.

2. The instant Application likewise seeks the approval of the QTP Service and Subsidy Contract (QSSC)¹ dated 9 October 2015, executed by and between PSPI and the NPC, including the Full Cost Recovery Rate (FCRR) provided therein. A copy of the QSSC is attached to the Application as **Annex "A"**.
3. PSPI is a corporation duly organized and existing under the laws of the Republic of the Philippines with its principal office at the 10th Floor, The Athenaeum Building, 160 Leviste Street, Salcedo Village, Makati City, Metro Manila. Copies of Applicant's relevant corporate documentation such as the Certificate of Registration with the Securities and Exchange Commission (SEC), Articles of Incorporation, latest Audited Financial Statements and latest General Information Sheet are attached to the Application as **Annexes "B", "C", "D", and "E"** respectively.
4. Applicant has the full legal, financial and technical capacity to operate. At present, the Department of Energy (DOE) still has to issue the Certificate of Endorsement stating that Applicant was prequalified in accordance with DOE Circular No. 2004-06-006 and DOE Circular 2005-12-011. A copy of the Certificate of Endorsement will be attached to the Application as **Annex "F"** once it is released by the DOE.
5. Applicant may be served with orders or other legal processes through the undersigned counsel.

COMPLIANCE WITH PRE-FILING REQUIREMENTS

6. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, approved by the Commission on 22 June 2006 as Resolution No. 38, Series of 2005, Applicant has furnished the Sangguniang Bayan of the Municipality of Taytay with copies of the Application with all its annexes. Copies of the certifications from the Sangguniang Bayan of the Municipality of Taytay

¹ The QTP Service and Subsidy Contract (QSSC) is the resulting legal document after combining the provisions of the QTP Service Contract (QSC) and Subsidy Disbursement Agreement (SDA).

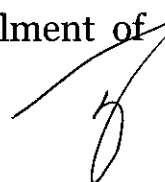


attesting to the fact of such service, are attached as **Annex "G"** of the Application.

7. Furthermore, Applicant has caused the publication of the present Application in its entirety in a newspaper of general circulation within the Municipality of Taytay. Copies of the corresponding Affidavit of Publication and the newspaper are attached to the Application as **Annexes "H" and "H-1"**, respectively.

STATEMENT OF FACTS

8. Under Section 59 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA) and Rule 14 of its Implementing Rules and Regulations (IRR), the provision of electric service in remote and unviable areas that a distribution utility is unable to service shall be opened to QTP.
9. As stable and reliable supply of power is essential to economic growth and sustainability, the electricity service provided by a QTP is envisaged to spur development in an economically unviable area and, in the long term, elevate such area to a level of viability. However, the provision of electricity service in unviable areas is expectedly costly and not economically feasible. It would not be reasonable to charge consumers in rural and remote areas high cost of providing such service.
10. In accordance with Section 70 of the EPIRA, the entry of QTPs to stimulate economic growth in unviable areas is made feasible by a subsidy sourced from the Universal Charge for Missionary Electrification (UC-ME). This enables a QTP to operate viably while charging its consumers rates that are reasonably acceptable in the area, as may be determined by the Commission.
11. Pursuant to Sections 59 and 70 of the EPIRA and its IRR, the DOE issued Department Circular No. 2004-06-006, which prescribes the qualification criteria for QTPs, and Department Circular 2005-12-011, which prescribes the guidelines for the participation of QTPs for provision of electric service in remote and unviable areas.
12. At the time when the regulatory and administrative framework for QTP projects, including mechanisms for the availment of



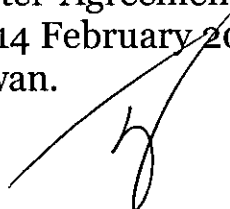
UC-ME subsidy by QTPs, were still being developed, Applicant already commenced its operations as a QTP in Barangay Rio Tuba, Bataraza, Palawan (Rio Tuba) and in Malapascua Island, Barangay Logon, Daan Bantayan, Cebu and was about to begin its operations in Balut Island, Saranggani, Davao Occidental and in Barangays Candawaga and Culasian, Rizal, Palawan.

13. Applicant is a pioneer QTP having been issued the very first Authority to Operate as a QTP in the entire country for its Rio Tuba electrification project. This exemplifies the successful economic upliftment of a remote and unviable area through the entry of a QTP.

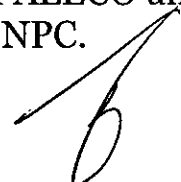
14. **The QTP Service Area.** Liminangcong is a coastal barangay in the Municipality of Taytay, Palawan (the QTP Service Area). It is a remote and unviable area within the franchise area of Palawan Electric Cooperative, Inc. (PALECO). A location map and description of the QTP Service Area is attached to the Application as **Annex "I"**.
 - 14.1. The QTP Service Area is located about 30 kilometers South from El Nido, Palawan and connected to the National Highway via gravel road. There is a total of 709 households covering 9 puroks.

 - 14.2. In Liminangcong, there is a Barangay Power Association (BAPA) which operates a 1x100 kW and 1x40 kW diesel gensets 10 hours daily from 2PM to 12MN. The existing 13.2 kV distribution system needs some rehabilitation due to damaged electrical poles. It also requires line extension to several sitios and line upgrade for better quality of electric services.

15. **Selection of Applicant as Service Provider.** In an Agreement entered into in 2009, the Provincial Government of Palawan (PGP), after a competitive selection process, granted to PSPI the right to perform the electricity service in any of the waived areas in Palawan. A photocopy of the Agreement, forming an integral part of the Application, is attached thereto as **Annex "J"**.
 - 15.1. The original agreement in 2009 was reiterated and reinforced in a Revised Master Agreement duly executed by PGP and PowerSource in 14 February 2013 at Barangay Liminangcong, Taytay, Palawan.



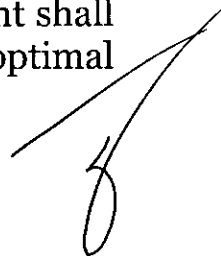
- 15.2. In the Revised Master Agreement, PGP in effect assigned to PowerSource all of PGP's rights and interests under the MOA entered into with PALECO.
16. **Declaration of QTP Service Area as a Remote & Unviable Area and PALECO's Waiver of Service.** In Resolution No. 001, Series of 2005, dated 10 January 2005, PALECO formally waived its franchise privilege in several barangays, including Liminangcong, in favor of a QTP.
- 16.1. As a result of said declaration and by virtue of the Memorandum of Agreement (MOA) dated 15 March 1995 and Subsidiary MOA dated 21 August 2000, PALECO agreed to implement a joint energy prerogative with PGP, granting the latter the right to operate, maintain, and provide electricity in the waived areas. The said Subsidiary MOA stated that the operation, management, and maintenance of the project shall be governed through a separate MOA. A Copy of the separate MOA dated 2001 is attached to the Application as **Annex "K"**.
- 16.2. After the competitive selection process, PowerSource was granted, by virtue of the previous and Revised Master Agreement, all of PGP's rights and interests under the MOA and Subsidiary MOA with PALECO. By virtue thereof, a Waiver Agreement was entered into with PALECO on 17 July 2013. A copy of the Waiver Agreement is attached as **Annex "L"** of the Application.
17. **QTP Operations.** Before Applicant begun its operation in Barangay Liminangcong, there was minimal electrification service operated and managed by the BAPA System.
- 17.1. Due to constant pressure from the local government units and residents, Applicant conceded to their request and began construction and eventual operations. Applicant is currently operating from 2PM to 12MN. Applicant intends to provide 24/7 electricity service. The community population of 709 households will initially yield significant sales of 252,939 kWh on the first year.
- 17.2. QTP operations shall be for a period of fifteen (15) years in accordance with the Waiver Agreement with PALECO and the QTP Service and Subsidy Agreement with NPC.



- 17.3. Applicant's project has been a realization of the goal of the QTP program which is to stimulate economic progress in remote and unviable areas through electrification. The beneficial impact of stable and reliable electricity service to the economy of the local community in the QTP Service Area as well as the daily lives of the consumers cannot be overstated.
18. **Formation of Project Company for Liminangcong**
Similar to its plans in the Rio Tuba Project and Malapascua Project, Applicant intends to incorporate a project company that will invest in the electricity service and perform the functions of a QTP in the QTP Service Area. Correspondingly, Applicant will assign its ATO as a QTP and transfer its rights and interests in the QTP project to the said project company upon the approval of this Application.

SIGNIFICANT ASPECTS OF THE PROJECT
AND THE QTP SERVICE AND SUBSIDY AGREEMENT

19. Under the QSSA, Applicant shall provide 24-hour electricity service in the QTP Service Area for a term of fifteen (15) years. In order to ensure that Applicant will be able to viably serve the QTP Service Area, it may be allowed to avail of the UC-ME Subsidy.
- 19.1. **The Generation Facilities.** Due to small loads in off-peak hours, Applicant will install a modular, flexible and highly redundant diesel generating plant based on three (3) units of small high speed gensets, 3x36 kW, on the first year of operation. This ensures modest capital cost and maximum flexibility in the early years of operations.
- 19.2. Copies of the Certificate of Non-Coverage (CNC) issued by the Department of Environment and Natural Resources (DENR) and Certificate of Compliance (COC) issued by the Commission covering the diesel generating units currently installed in the site are attached to the Application as **Annexes "M" and "N"**.
- 19.3. Applicant intends to comply with Renewable Portfolio Standards and source a certain percentage of its power supply from renewable energy technology. Applicant shall conduct resource assessment and determine the optimal



integration of renewable energy in the distribution system.

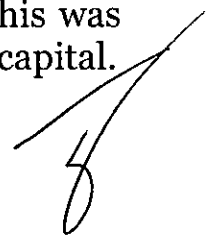
- 19.4. **Availment of UC-ME Subsidy.** The QSSC provides the terms and conditions governing Applicant's availment of the UC-ME Subsidy. For the provision of electricity service, Applicant shall charge and collect from its end users the SARR. Should the FCRR be higher than the SARR, Applicant shall be entitled to recover the difference from the UC-ME Subsidy through the mechanism provided in the QSSC.
20. **Financial Plans/Sources of Funds.** Applicant intends to enter into a long-term lease agreement with a credible generator set(genset)-leasing company in order to minimize generation cost. A long-term lease reduces the up-front capital required and ensures optimal genset operation. In the long-term lease agreement, the genset-leasing company guarantees the necessary genset performance metrics including fuel efficiency, plant availability, and the fixed and variable costs, thereby creating an additional layer of power supply stability.

Fuel supply shall be arranged through a purchase contract with the current fuel provider of NPC. The fuel supply contract shall be established mutually to ensure continuous plant operations. A detailed discussion of the funding/financial aspects of the project is attached as **Annex "O"** of the Application.

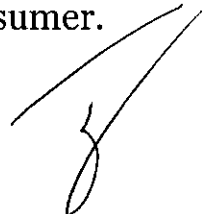
20.1. **Project Cost.** The total capital cost is Twenty Million Seven Hundred Sixty-Eight Thousand Five Hundred Sixty-Five Pesos (Php**20,768,565.00**), consisting of the costs of the plant equipment, buildings, capitalized expenses and working capital for initial stocks of fuels and lubes and mobilization during plant trials and personnel training. A summary of the project cost components is contained in **Annex "P"** of the Application.

20.2. **Debt/Equity Ratio.** The debt-equity ratio for the capital cost of the Generation Facilities shall be 67:33.

20.3. **Computation of Return on Investment/Weighted Average Cost of Capital.** The Weighted Average Cost of Capital (WACC) for the project is 10.5% p.a. This was obtained based on an interest of 9.5 % p.a. on debt capital.



- 20.4. The minimum desired return for equity capital for the project and the cost of debt capital are placed at 12.59% p.a. and 9.5% p.a., respectively, to reflect the significantly higher risks associated with providing electricity service in a remote and unelectrified rural community without an offtake guaranteed by a contractual counter-party. A computation of the above WACC is contained in **Annex "Q"** of the Application.
21. **Purchased Power Rate.** The Full Cost Recovery Rate (FCRR) consists of a levelized base rate of **37.09/kWh**, which shall be automatically adjusted for each billing period based on Philippine and US consumer price indices as well as actual fuel costs, in accordance with the adjustment mechanisms in the QSSC. Pursuant to the ERC QTP Guidelines, Applicant shall charge and collect from the end-users SARR. Should the FCRR be higher than the SARR, Applicant shall be entitled to recover the difference from the UC-ME Subsidy. A detailed discussion on the FCRR, including its breakdown and the rationale supporting the indexation, is attached as **Annex "R"** of the Application.
- 21.1. **Breakdown of the FCRR.** The FCRR reflects fifteen (15) years of operations and the use of the WACC of 10.5% as discounting factor for all costs and generated electricity. A sample computation of the FCRR and the ME Subsidy requirement is attached to the Application as **Annex "S"**.
22. **Cash Flow.**
- 22.1 **Initial Costs, Operating and Maintenance Expenses.** The initial capital costs for the project consist of the diesel plant cost at **Php20,768,565.00**. The capital costs for the first five (5) years, as well as the breakdown of the operating and maintenance expenses for the fifteen (15)-year term of the QSSC, are shown in **Annex "T"** of the Application.
23. **Projected Demand.** The hourly average load curve is presented in **Annex "U"**. Considering the nature of the project, there is no minimum energy off-take, as the sale of power is based on actual energy consumed by each end-user consumer.



The FCRR is determined based on an assumed annual increase in actual energy consumed at four percent (4%). A detailed discussion on the projected demand is contained in **Annex “V”** of the Application. From January 2013 until present, the average load growth in Liminangcong is 5.91%. Moderately, 4% annual increase is assumed in the Financial Model. The historical load and Customer connection profile are shown in **Annex “W”** of the Application.

24. **Procurement of Fuel.** Applicant is sourcing and will source its future diesel fuel supply from potential suppliers willing to deliver fuel to the site. Applicant will procure fuel from the least expensive supplier should additional suppliers become available. Applicant will source its biomass fuel from local farmers and it will also develop its own plantation that may generate the needed biomass fuel.

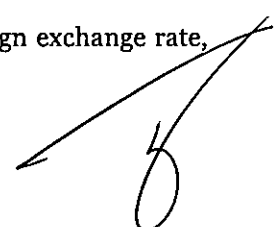
**RATE IMPLICATIONS OF THE QTP SERVICE
AND SUBSIDY AGREEMENT**

25. The grant of an Authority to Operate and the approval of the QSSC, along with the corresponding subsidy support, will enable the Applicant to operate viably and, at the same time, charge a lower tariff on its customers in the QTP Service Area. In the absence of an ERC-approved SARR, the tariff to be charged by the Applicant shall be equivalent to the ERC-approved retail rate of DASURECO, in accordance with Section II, Article IV of the ERC QTP Guidelines.

The following table shows the impact of the QSSC on the electricity rates:

| | Before ERC approval | After ERC Provisional Authority or Final Approval |
|---|----------------------------|--|
| True cost of electricity service (FCRR) | Php33.15/kWh*2 | Php37.09/kWh* |
| Rate paid by consumers | Php33.15/kWh** | Php8.5/kWh |
| Subsidy requirement | none provided | Php28.59/kWh |

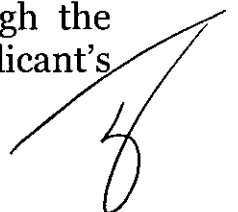
* Subject to periodic adjustments based on consumer price indices, foreign exchange rate, and actual costs, fuel cost adjustment
 ** As of September 2015, VAT-exclusive



26. The subsidy component necessary for the continued supply of electricity that will sustain the economic growth of the QTP Service Area results in an impact on the Universal Charge in the amount of Php28.59/kWh.
27. Applicant respectfully submits that the aforementioned amount is more than reasonable considering the 24-hour, enterprise level service provided under the QSSC that directly results in the significant economic upliftment and improvement in the quality of life in the QTP Service Area which is beyond anything possible in the traditional 6 to 12 hour rural electrification systems.

**ARGUMENTS IN SUPPORT OF
REQUEST FOR INTERIM RELIEF & PROVISIONAL
AUTHORITY (PA) TO OPERATE IN THE QTP AREA**

28. Rule 14 of the Commission's Rules of Practice and Procedure authorizes the issuance of a PA and/or an interim relief prior to a final decision, provided that the facts and circumstances warrant the issuance thereof.
29. Furthermore, the PA will be submitted by the Applicant to its prospective lenders as a requirement for the grant of loans, necessary to finance the project.
30. Moreover, be it emphasized that the Applicant has already secured offers from third parties for the lease of the rights to the generation and distribution facilities for the project. Applicant is, therefore, constrained to request for the issuance of the PA before the expiration of the aforesaid offers.
31. In the matter of interim relief, Applicant is seeking to collect a lower rate through the Subsidized Approved Retail Rate (SARR) instead of the Full Cost Recovery Rate (FCRR) as ordered by the ERC in consideration of the limited paying capacity of its consumers. To stress, the electrification of the QTP Service Area will not be possible if consumers were charged at true cost.
32. Finally, the success of this project with the regulatory imprimatur of this Commission will pave way for further investment by the Applicant in more projects designed to spur economic growth in remote and unviable areas through the provision of a 24-hour reliable electricity service. Applicant's



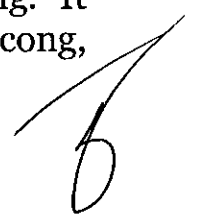
interest in other project sites will be dependent on the success of the present Application, particularly on the availment of the necessary subsidy support under the QTP program. With such support, Applicant looks forward to replicating the success of this project in other areas.

PRAYER

33. PSPI prays that, at the soonest possible time, the Commission grants it provisional and interim relief as follows:
- 33.1. Applicant be granted Authority to Operate as a Qualified Third Party under the ERC QTP Guidelines;
 - 33.2. A Provisional Authority to Operate in the QTP Area be immediately issued in favor of the Applicant pending ERC Resolution.
 - 33.3. The QTP Service Contract, including the Full Cost Recovery Rate therein, be approved;
 - 33.4. Applicant be authorized to charge its customers a tariff equivalent to the ERC-approved retail rate of PALECO, in accordance with Section II, Article IV of the ERC QTP Guidelines; and
 - 33.5. Applicant be permitted to recover from the UC-ME Subsidy the difference between the FCRR and rate charged by Applicant to its consumers; and to this end, NPC be directed to release to Applicant such subsidy in accordance with the terms of the QTP Service Contract.

Finding the said Application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **17 March 2016 (Thursday) at ten o'clock in the morning (10:00 A.M.) at the barangay covered court of Liminangcong, Taytay, Palawan.**

PSPI is hereby directed to cause the publication of the attached Notice of Public Hearing, at its 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 date of the scheduled initial hearing. It is also directed to inform the consumers in Barangay Liminangcong,



Taytay, Palawan, by any other means available and appropriate, of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the Application, this Order, and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

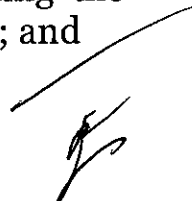
Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor of Palawan and the Municipal Mayor of Taytay for the appropriate posting thereof on their respective bulletin board.

PSPI is hereby directed to furnish all those making requests therefor with copies of the Application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing and pre-trial conference, PSPI must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governor and Mayor or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

PSPI and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and



- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of PSPI to submit the required Pre-trial Brief and Judicial Affidavits of their witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, PSPI must also be prepared to make an expository presentation of their Application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 26 January 2016.

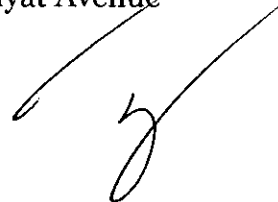
FOR AND BY AUTHORITY
OF THE COMMISSION:



[Handwritten signature]
JOSE VICENTE B. SALAZAR
Chairman and CEO

Copy furnished:

1. Atty. Thomas Angelo A. Santos
Counsel for PSPI
10/F, The Athenaeum Bldg., 160 LP Leviste St.,
Salcedo Village, Makati City
2. National Power Corporation
NPC-SPUG
Quezon Ave. cor. Agham Rd.,
Diliman, Quezon City
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village
Makati City
4. Commission on Audit
Commonwealth Ave., Quezon City
5. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
6. House of Representatives Committee on Energy
Batasan Hills, Quezon City
7. Office of the Barangay Captain
Brgy. Liminangcong, Taytay, Palawan
8. The Municipal Mayor
Taytay, Palawan
9. The Provincial Governor
Province of Palawan
10. Office of the President of PCCI
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building, Sen. Gil Puyat Avenue
Makati City

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