

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE NON-
FIRM ENERGY SUPPLY
AGREEMENT BETWEEN
DAVAO LIGHT AND POWER
COMPANY, INC. AND
WESTERN MINDANAO
POWER CORPORATION,
WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2018-046 RC

**DAVAO LIGHT AND POWER
COMPANY, INC. (DLPC)
AND WESTERN MINDANAO
POWER CORPORATION
(WMPC),**

Applicants.

X-----X

DOCKETED
Date: JUL 06 2018
By: [Signature]

ORDER

Notice is hereby given that on 18 May 2018, a *Joint Application for Approval of Non-firm Energy Supply Agreement* dated 12 April 2018 was filed by applicants Davao Light and Power Company, Inc. (DLPC) and Western Mindanao Power Corporation (WMPC), with prayer for the issuance of provisional authority.

DLPC and WMPC alleged the following in their *Joint Application*:

The Applicants

1. DLPC is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at C. Bangoy Sr. St., Davao City. It is a grantee of a legislative franchise under Republic Act No. 8960 to maintain and operate an electric light and power system for the purpose of distributing electric light, heat and power for sale, in

Davao City and Panabo City, and the Municipalities of Carmen, Sto. Tomas and Braulio Dujali, Province of Davao del Norte.

2. WMPC is a generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 4th Floor, Alphaland Southgate Tower, 2258 Pasong Tamo Extension corner EDSA, Makati City.

3. Applicants may be served notices, orders and other processes of the Honorable Commission through their respective undersigned counsel.

Nature of the Joint Application

4. Section 45(b) of Republic Act No. 9136, or the Electric Power Industry Reform Act of 2001, provides that the distribution utilities may enter into bilateral power supply contracts subject to review by the Honorable Commission. In connection with this, ERC Resolution No. 2, Series of 2015 provides that the distribution utilities and generation companies jointly file with the Honorable Commission their respective power supply agreements.

Statement of Facts

5. Among the declared State policies of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2008 ("EPIRA") as enumerated in Section 2 thereof, is ensuring the quality, reliability, security and affordability of the supply of electric power. DLPC shares in the realization of this State policy.

6. As part of its thrust to provide a more resilient sourcing of the power needs of its customers, DLPC deemed it prudent to have an alternative source of power from suppliers that are willing and capable of supplying power to DLPC on an as-needed, or non-firm, basis.

7. Thus, DLPC sought competitive offers for the non-firm supply of up to 60 MW of capacity from prospective suppliers. After the second round of the competitive selection process, two winning bidders emerged, and DLPC awarded and signed two non-firm supply contracts with the winning bidders, one of which is WMPC.

8. Thus, this instant Joint Application for the approval of the non-firm Energy Supply Agreement ("ESA") between WMPC and DLPC.

Overview of the 100 MW¹ WMPC Power Station

9. **The Generation Facilities.** WMPC shall supply power under the ESA from its 100 MW bunker C-fired diesel power generating plant located in Barangay Sangali, Zamboanga City (the "Power Station").

A description of the technical and economic characteristics of the Power Station is attached hereto as **Annex "A"**.

10. The specific fuel oil consumption ("SFOC") rate of the Power Station shall not be greater than 0.2464 kg/kWh at site condition of 32 deg. C ambient temperature. The SFOC is based on a bunker C fuel oil density of 0.9855 kilogram/liter.

A copy of a certification on the Power Station's SFOC rate is attached hereto as **Annex "B"**.

11. **Project Cost and Operating Expenses.** A summary of the costs of the project is attached hereto as **Annex "C"**. A detailed breakdown of the projected operating and maintenance expenses is attached hereto as **Annex "D."**

12. **Debt Equity Ratio.** The project was funded through loans and equity, with a debt equity ratio of 62:38.

13. **Computation of Weighted Average Cost of Capital ("WACC"), Annual Interest.** The nominal pre-tax WACC of the project is 13.49%. WMPC's interest cost is 7% p.a.

A copy of the computation of the WACC is attached hereto as **Annex "E."** A copy of the indicative term sheet reflecting the interest rate is attached hereto as **Annex "F."**

14. **Fuel Supply.** In order to ensure the supply of fuel for the operations of the WMPC Power Station, WMPC solicited offers from reputable suppliers in the area, and has contracted with the supplier which offered the best terms.

A discussion of the fuel procurement process and a copy of the fuel supply agreement are attached hereto as **Annexes "G"** and **"H,"** respectively.

15. **Environmental Compliance Certificate ("ECC").** The Department of Environment and Natural Resources has issued the necessary ECC covering the Power Station.

A copy of the ECC is attached hereto as **Annex "I."**

16. **DOE Accreditation.** The Department of Energy has issued the necessary endorsement showing that the Power Station is a Block Power Production Facility under the Implementing Rules and Regulations of Executive Order No. 215.

¹ Net dependable capacity

A copy of the said accreditation is attached hereto as **Annex “J.”**

17. **Certificate of Compliance.** This Honorable Commission has issued the necessary Certificate of Compliance for the Power Station.

A copy of the said certification is attached hereto as **Annex “K”**.

Salient Terms and Conditions of the ESA

18. **Contract Period.** The ESA provides for a Contract Period of three (3) years from Operations Effective Date as defined in the ESA. The ESA also stipulates that any time during the Contract Period, the Parties may enter into good faith negotiations to extend the Contract Period under the same terms and conditions of the ESA.

19. **Maximum Contract Demand and Supply of Energy.** The Maximum Contract Demand refers to the maximum quantity (in kilowatts) that DLPC may nominate and draw per Interval as defined in the ESA. Beginning on Operations Effective Date, WMPC shall deliver, on an as-available basis and as-needed by DLPC, the quantities nominated by DLPC up to 60,000 kW (whether from the capacity of the power plants owned or operated by WMPC, any of its Affiliates or any third – party supplier) to DLPC at the Delivery Point.

20. **Adjustments to Maximum Contract Demand.** At any time during the Contract Period, DLPC may send a written request to increase the maximum Contract Demand no later than sixty (60) Days prior to the date of effectivity of such proposed increase, which shall be without prejudice to the right of WMPC to waive the sixty (60) Day notice period. WMPC, may, at its sole option, approve the request to increase the Maximum Contract Demand, and the energy quantities attributable to the additional Maximum Contract Demand shall be paid for by DLPC at the Contract Price. DLPC may also request an adjustment to the Maximum Contract Demand in respect of a particular Billing Period by delivery of written notice thereof at least (30) Days before the date on which such adjustment is proposed to take effect, which shall be without prejudice to the right WMPC to waive the thirty (30) Day notice period, setting out the reasons therefore and providing all documents necessary to support the request. Any such request shall be subject to approval by WMPC in its sole discretion (which approval shall not be unreasonably withheld), and the energy quantities attributable to the additional Maximum Contract Demand shall be paid for by DLPC at the Contract Price.

21. **Monthly Payments.** WMPC shall deliver to DLPC a Billing Statement setting out the Electricity Fees due on account of Contract Energy delivered during each Billing Period on or before the seventh (7th) Day of the Payment Month. If WMPC sourced any capacity and/or energy from another supplier during any particular Billing period, the Billing Statement(s) shall (a) set out the quantities of capacity and/or energy sourced from such other

suppliers and the amount due thereon, (b) identify the account or accounts to which amounts payable to it may be paid, (c) identify value-added taxes due on all capacity and/or energy sourced and delivered, if any, and (d) have attached thereto copies of invoices, statements, or other acceptable substitutes issued by the relevant supplier in respect of any capacity and/or energy sourced and delivered by such supplier.

22. **Penalties.** If DLPC fails to pay the Electricity Fee or any other amounts payable by it under the ESA in full on the due date, it shall pay a penalty of one percent (1%) per month (a fraction of a month to be considered one month) based on the amount due, from the date when such payment is due until the date such amount is received in full by WMPC. In the event that any charges due from WMPC are not credited or paid in accordance with Section 8.1.1 of the ESA, WMPC shall be liable to pay interest one percent (1%) per month (a fraction of a month to be considered one month) based on the unpaid charges, from the date when such amount is due until the date it is received in full by DLPC.

23. **Taxes, Fees and Costs.** Save as otherwise provided in the ESA, each party shall be liable for such taxes, fees, costs and expenses that each may incur on account of the performance of its obligations hereunder, including legal and professional fees, if any. DLPC shall be liable for payment of the Universal Charge, it being understood that the imposition of the Universal Charge pursuant to the provisions of EPIRA shall not be an event of Force Majeure.

24. **Electricity Fees.** Electricity Fees refers to the amount of charges due from DLPC in respect of all energy supplied during a Billing Period, computed in accordance with Schedule 7.2 of the ESA. Schedule 7.2 of the ESA is provided below. The term "Customer" refers to DLPC while "Supplier" refers to WMPC.

Schedule 7.2 Rates Schedule

a. Electricity Fees

The Electricity Fees are exclusive of applicable Value Added Tax ("VAT"), which shall be for the account of Customer and shall be reflected in the Invoice to be issued to Customer. For the avoidance of doubt, the value-added tax that shall be remitted by Customer to supplier is the amount as actually collected by Customer from its customers.

PAYMENTS TO THE SELLER

The Buyer shall make the following payments to the Seller in accordance with the provisions of this Agreement:

I. Monthly Payments

The Monthly Payments shall be paid to the Seller on a monthly basis in accordance with the following formula:

$$\text{Monthly Payments} = \text{CRF} + \text{FOMF} + \text{VOMF} + \text{AFC} + \text{SC} + \text{Taxes}$$

Where:

- CRF = Capital Recovery Fees
 FOMF = Fixed Operation and Maintenance Fee
 VOMF = Variable Operation and Maintenance Fee
 AFC = Actual Fuel Cost
 SC = Start – Up Costs
 Taxes = Value – Added Tax, other applicable taxes and government impositions, if any

1.1. Capital Recovery Fee (CRF)

CRF shall be computed as follows:

$$\text{CRF} = \text{CRFR} \times \text{ED}$$

Where:

- CRF = Capital Recovery Fee, in Pesos

$$\text{CRFR} = \frac{\text{PHP}250.18}{\text{UF}} / \text{no. of hours in the billing month}$$

 UF = Utilization Factor of 0.41 based on the 2016 plant's utilization, in %
 ED = Total kWh delivered during the Billing Month

1.2. Fixed Operation & Maintenance Fee (FOMF)

The Fixed Operation & Maintenance Fee (FOMF) covers the operating and maintenance costs of the WMPC Power Station. It shall be computed according to the following formula:

$$\text{FOMF} = \left[\text{FOMR} \times \left(\left(0.58 \times \frac{\text{CPI}_n}{\text{CPI}_o} \right) + \left(0.02 \times \frac{\text{WPC}_n}{\text{WPC}_o} \right) \right) + \left(0.40 \times \frac{\text{EU}_n}{\text{EU}_o} \times \frac{\text{FPPI}_n}{\text{FPPI}_o} \right) \right] \times \text{ED}$$

Where:

- FOMF = Fixed O&M Fee, in Pesos

$$\text{FOMR} = \frac{\text{PHP } 219.00}{\text{UF}} / \text{total no. of hours in the billing month}$$

 UF = Utilization Factor of 0.41 based on the 2016 plant's utilization, in %

- ED = kWh delivered during the Billing Month
- CPI_n = Consumer Price Index for Metropolitan Manila Area (National Capital Region), all items published by NEDA/NSO for the period of price determination
- CPI_o = Consumer Price Index for Metropolitan Manila Area (National Capital Region), all items published by NEDA/NSO for December 31, 2013 at 128.6
- WPC_n = Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines as published by NEDA/NSO for the period of price determination
- WPC_o = Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines as published by NEDA/NSO as of December 31, 2013 at 672.9
- EU_n = Euro – Peso Exchange Rate for the period of price determination as published by Bangko Sentral ng Pilipinas
- EU_o = Euro – Peso Exchange Rate as of December 31, 2013 as published by Bangko Sentral ng Pilipinas at 60.56
- FPPI_n = Finland Producers’ Price Index for Manufacturing for the period price determination as published in the International Financial Statistics of IMF
- FPPI_o = Finland Producers’ Price Index for Manufacturing as of December 31, 2013 as published in the International Financial Statistics of IMF at 105.7

1.3. Variable Operation & Maintenance Fee (VOMF)

The Variable Operation and Maintenance Fee (VOMF) covers the cost of the use of, among other items, chemicals, lubricants and spare parts, that are directly related to the generation of the WMPC Power Station. It shall be computed according to the following formula:

$$VOMF = \left\{ VOMFR \times \left[\left(0.10 \times \frac{CPI_n}{CPI_o} \right) + \left(0.30 \times \frac{EU_n}{EU_o} \times \frac{FPPI_n}{FPPI_o} \right) + \left(0.60 \times \frac{WPC_n}{WPC_o} \right) \right] \right\} \times ED$$

Where:

- VOMF = Variable O&M Fee, in Pesos
- VOMFR = Variable O&M Fee Rate of Php 0.18/kWh
- ED = kWh delivered during the Billing Month
- CPI_n = Consumer Price Index for Metropolitan Manila Area (National Capital Region), all items published by NEDA/NSO for the period of price determination

- CPI_o = Consumer Price Index for Metropolitan Manila Area (National Capital Region), all items published by NEDA/NSO for December 31, 2013 at 128.6
- WPC_n = Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines as published by NEDA/NSO for the period of price determination
- WPC_o = Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines as published by NEDA/NSO as of December 31, 2013 at 672.9
- EU_n = Euro – Peso Exchange Rate for the period of price determination as published by Bangko Sentral ng Pilipinas
- EU_o = Euro – Peso Exchange Rate as of December 31, 2013 as published by Bangko Sentral ng Pilipinas at 60.56
- FPPI_n = Finland Producers' Price Index for Manufacturing for the period of price determination as published in the International Financial Statistics of IMF
- FPPI_o = Finland Producers' Price Index for Manufacturing as of December 31, 2013 as published in the International Financial Statistics of IMF at 105.7

1.4. Actual Fuel Cost (AFC)

The Actual Fuel Cost (AFC) is the fee paid to the Seller as payment for the procurement and delivery of the fuel oil (Diesel) used in the operation of the WMPC Power Station. The Actual Fuel Cost shall be computed as follows:

$$AFC = FC \times EC \times ED$$

Where:

- AFC = Actual Fuel Cost, in Pesos
- FC = Fuel Cost, The average MOPS of Bunker C Fuel Oil/Heavy Fuel Oil (HFO) deliveries during the period of price determination in Peso/liter
- EC = Efficiency Cap; $\frac{0.2464 \text{ kg/kwh}}{0.9855 \text{ kg/liter}}$
- ED = kWh delivered during the Billing Month

1.5. Start-Up Costs (SC)

The Buyer, on a pro rata basis of the capacity of the WMPC Power Station allocated to the Buyer, shall pay the Seller Start – Up Costs for the cost of starting up the WMPC Power Station after a period of shutdown due to any reason attributable to all the buyers of the

Seller. The Start-Up Costs shall be computed based on the prevailing price of diesel fuel at the time of the Start Up and paid in accordance with the following:

SC = (No. of Cold Start ups x 600 liters x price of Diesel per liter) + (No. of Warm Start ups x 300 liters x price of Diesel per liter)

Type of Start – Up	Liters of Diesel Fuel
Cold Start – up (more than 10 hours of shutdown)	600
Warm Start – up (less than 10 hours of shutdown)	300

1.6. Value Added Tax

The relative Value Added Taxes (“VAT”) of the above fee payments 12% shall be computed as follows:

$$VAT = (CRF + FOMF + VOMF + AFC + SC) \times 0.12$$

For reference, a sample computation of the monthly payment is contained in Schedule 7.2 of the ESA.

25. **Basis for PSA Tariff.** An explanation on the derivation and basis for the tariff under the PSA (“Tariff Explanation”), and its attached supporting financial models (collectively, “Financial Models”) are attached as **Annex “L”** hereof. As discussed hereunder, the Tariff Explanation and the Financial Models are subject of a motion for confidential treatment.

26. **Rate Implication.** An analysis was conducted to determine the impact of the implementation of the ESA on DLPC's generation costs, a copy of which is attached as **Annex “M”** hereof. The following table shows the indicative rate impact:

Estimated Generation Charge* (Year 2018, PhP/kWh)		
Without WMPC	With WMPC	Impact
5.1681	5.2759	0.1078

* Assumptions:

- WMPC is projected to enter in August 2018
- Power Cost used is based on ERC approved rate per supplier
- WMPC will cater the forecasted demand growth and shortfall of PSALM in 2018 and thereafter

27. The following documents are attached as annexes hereof, to support the instant application:

Annex	Document
N	DLPC's Articles of Incorporation (AOI)
O	DLPC's By-Laws
P and P-1	DLPC's General Information Sheet (GIS) and Ownership Structure Map
Q	Articles of Incorporation and By-Laws of WMPC
R	Securities and Exchange Commission Certificate of Registration of WMPC
S	General Information Sheet of WMPC
T	WMPC's Audited Financial Statements
U	Diagram showing WMPC's affiliates and/or subsidiaries
V	DLPC's Demand Side Management Programs
W	PSALM Certification
X	DLPC's Supply and Demand Scenario and Average Daily Load Curves
Y	DLPC's Distribution Development Plan Summaries
Z and Z-1	Invitations to Submit Proposal for the Supply of Power and Bidding Terms of Reference, published on 4 March 2017 and 17 March 2017
AA to AA-4	Letter proposals from bidders
BB and BB-1	DLPC BAC Evaluation Reports dated 15 March 2017 and 29 March 2017
CC	DLPC Board Resolution confirming BAC Evaluation Report
DD	DLPC Notice of Award to WMPC dated 3 April 2018
EE and FF	Matrix of Competitive Selection Process
GG	Certification of the Conduct of CSP
HH	Energy Supply Agreement
II	DLPC's Transmission Service Agreement
JJ	Write-up on Other Documentary Requirements
KK	Judicial Affidavit of Mr. Mark A. Valencia

MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

28. As mentioned above, the Tariff Explanation and Financial Models attached as **Annex "L"** is hereby submitted under a motion to treat information confidential ("Motion").

29. The Tariff Explanation and Financial Models disclose the basis for the tariff under the PSA. They include all the formulas and calculations as well as the assumptions and values considered therein.

30. In accordance with Section 1, Rule 4 of this Honorable Commission's Rules of Practice and Procedure ("ERC Rules"), Applicant WMPC respectfully moves that the Tariff Explanation and

Financial Models be treated as confidential information for the following reasons:

30.1 The Tariff Explanation and Financial Models qualify as a “trade secret” as contemplated under existing jurisprudence.

30.2 In the case *Air Philippines Corporation vs. Pennswell Inc.*,² the Supreme Court defined “trade secret” as follows:

“A trade secret is defined as a plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having commercial value. A trade secret may consist of any formula, pattern, device, or compilation of information that (1) is used in one’s business; and (2) gives the employer an opportunity to obtain advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights.”

31. Also, the Tariff Explanation and Financial Models were prepared and developed for the exclusive use of WMPC, and are designed for the specific use of the company in its power generation business. Consequently, should the Tariff Explanation and Financial Models be disclosed to the public, they could easily be copied or used by WMPC’s competitors or other entities engaged in the power business for their own benefit, and to the prejudice of WMPC. Thus, the commercial value of the said explanation and model will be diminished significantly.

32. Given the foregoing, the Tariff Explanation and Financial Models qualify as “confidential information” as defined under Section 2, Rule 4 of the ERC Rules.

33. In accordance with Section 1 (b), Rule 4 of the ERC Rules, electronic copies of the Tariff Explanation and Financial Models are contained in one compact disc and submitted in a sealed envelope marked with the word “Confidential.”

34. Further, all parties furnished copies of the present Application are not furnished copies of the documents subject the present motion.

35. In accordance with Sections 3 and 4, Rule 4 of the ERC Rules, Applicant WMPC reserves the right to use the tariff

² G. R. No. 172835, 13 December 2007.

explanation and the financial model and its contents as evidence, and respectfully moves for the issuance of a Protective Order.

**ALLEGATIONS IN SUPPORT OF THE
PRAYER FOR PROVISIONAL AUTHORITY**

36. As earlier intimated, the non-firm ESA is a mode proposed by DLPC to provide a more resilient sourcing of the power needs of its customers.

37. In the event that there is a sudden need for DLPC to source power for its customers for reasons such as short term demand growth or temporary unavailability of supply from other suppliers to meet demand, DLPC may call on the non-firm supply from WMPC under the ESA.

38. The grant of a provisional authority will allow DLPC to immediately draw power under the ESA when needed by DLPC's customers. Thus, the immediate approval of the ESA will ultimately redound to the benefit of DLPC's customers in terms of continuous, reliable, efficient and affordable power supply. Attached as **Annex "KK"** hereof is the Judicial Affidavit of Mr. Mark A. Valencia in support of the motion for provisional approval.

PRAYER

WHEREFORE, in view of all the foregoing, it is most respectfully prayed that this Honorable Commission:

1. ISSUE an Order declaring the Tariff Explanation and the Financial Models attached hereto as **Annex "L"** as confidential information within the purview of Rule 4 of the ERC Rules, as well as directing that the same be treated with confidentiality and be protected from public disclosure;
2. ISSUE the corresponding Protective Order in accordance with Section 2 and 4 of the said Rule 4;
3. Pending trial on the merits, PROVISIONALLY APPROVE, the PSA, including all the rates, fees and charges set out therein; and
4. After trial on the merits, APPROVE with FINALITY the PSA, including all the rates, fees and charges set out therein.

Other reliefs just and equitable are likewise prayed for.

Finding the said *Joint Application* to be sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **2 August 2018 at ten o'clock in the morning (10:00 A.M.), at ERC Mindanao Field Office, Mintrade Bldg., Monteverde Avenue corner Sales St., Davao City 8000.**

Accordingly, DLPC and WMPC are hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, 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; and
- 5) Furnish with copies of the *Joint Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission their written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing, consisting of certifications issued to that effect, signed by the

aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by Applicants to inform of the filing of the *Joint Application*, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicants and all interested parties are also required 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:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicants to comply with the above requirements 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 the said date of cancellation.

DLPC and WMPC must also be prepared to make an expository presentation of the instant *Joint 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 *Joint Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 28 June 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


LS:SLAN/ARG/GLS/APV

Copy furnished:

1. Atty. Sherwin Quilatan
Counsel for Applicant DLPC
Davao Light and Power Company, Inc. (DLPC)
C. Bangoy Sr. St., Davao City
2. Atty. Sundy Lorence Lachica and Atty. Abigail T. Madanlo
Counsel for Co-Applicant WMPC
LACHICA AND ASSOCIATES
Suite 2304-B, West Tower, Philippine Stock Exchange Centre, Exchange Road,
Ortigas Center, Pasig City
3. Davao Light and Power Company, Inc. (DLPC)
Applicant
C. Bangoy Sr. St., Davao City
4. Western Mindanao Power Corporation (WMPC)
Co-Applicant
4th Floor, Alphaland Southgate Tower,
2258 Pasong Tamo Extension corner EDSA, Makati City
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
8. House of Representatives Committee on Energy
Batasan Hills, Quezon City
9. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
10. Office of the Governor
Province of Davao del Norte

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11. Office of the LGU Legislative Body
Province of Davao del Norte
12. Office of the Governor
Province of Zamboanga del Sur
13. Office of the LGU legislative body
Province of Zamboanga del Sur
13. Office of the Mayor
City of Davao
14. Office of the LGU legislative body
City of Davao
15. Office of the Mayor
City of Panabo
16. Office of the LGU legislative body
City of Panabo
17. Office of the Mayor
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18. Office of the Mayor
City of Makati
19. Office of the LGU Legislative Body
City of Makati
20. Office of the Mayor
Carmen, Davao del Norte
21. Office of the LGU Legislative Body
Carmen, Davao del Norte
22. Office of the Mayor
Sto. Tomas, Davao del Norte
23. Office of the LGU legislative body
Sto. Tomas, Davao del Norte
24. Office of the Mayor
Braulio Dujali, Davao del Norte
25. Office of the LGU legislative body
Braulio Dujali, Davao del Norte
26. Regulatory Operations Service (ROS)
[Tariffs and Rates Division (TRD)]
17th Floor, Pacific Center Building, San Miguel Ave., Pasig City