

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE LEVEL
OF THE SUPPLEMENTAL
MARKET FEES FOR
CALENDAR YEARS 2024 to
2027 FOR THE PHILIPPINE
WHOLESALE ELECTRICITY
SPOT MARKET (WESM)
WITH MOTION FOR
ISSUANCE OF PROVISIONAL
AUTHORITY,**

ERC CASE NO. 2024-166 RC

**PHILIPPINE ELECTRICITY
MARKET CORPORATION
AND THE INDEPENDENT
ELECTRICITY MARKET
OPERATOR OF THE
PHILIPPINES INC.,**
Applicants.

Promulgated:
January 15, 2025

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ORDER

On 10 December 2024, Philippine Electricity Market Corporation (PEMC) and Independent Electricity Market Operator of the Philippines, Inc. (IEMOP) filed the instant *Joint Application*, dated 12 September 2024, seeking the Commission’s approval of the level of the Supplemental Market Fees for Calendar Years (CYs) 2024 to 2027 for the Philippine Wholesale Electricity Spot Market (WESM), with motions for the issuance of provisional authority.

The pertinent allegations of the *Joint Application* are hereunder quoted as follows:

1. Applicant PEMC is a private non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at the 18th Floor Robinsons Equitable Tower, ADB Avenue corner Poveda Street, Ortigas Center, Pasig City. Applicant PEMC is represented herein by its President, Atty. Elvin Hayes E.

Nidea, who is duly authorized by the Board of Directors of PEMC (“PEM Board”), to file this Application, as evidenced by the Secretary’s Certificate dated 22 August 2024 with Board Resolution No. 2024-74-04 issued on 31 July 2024, a copy of which is hereto attached as *Annex “A”* and made an integral part of this Application.

2. Applicant IEMOP is a non-stock, non-profit corporation duly organized and existing in accordance with Philippine laws, with principal office at the 9th Floor Robinsons-Equitable Tower, ADB Avenue corner Poveda Street, Ortigas Center, Pasig City. Applicant IEMOP is represented herein by its President and CEO, Atty. Richard J. Nethercott, who is duly authorized by the Board of Directors of IEMOP to file this Application, as evidenced by the Secretary’s Certificate dated 09 September 2024, a copy of which is hereto attached as *Annex “B”* and made an integral part of this Application.
3. This Joint Application is being filed pursuant to Section 30 of Republic Act No. 9136, also known as the Electric Power Industry Reform Act of 2001 (“EPIRA”), which states in part, that the “cost of administering and operating the wholesale electricity spot market shall be recovered by the market operator through a charge imposed on all members: Provided, That such charge shall be filed with and approved by the ERC.”¹
4. This Application seeks to obtain authority to collect additional market fees that are not in the regular budget applications for Calendar Years (“CY”) 2024 to 2027 that are already pending with the Honorable Commission. It is being filed separately to allow the Honorable Commission to decide on the merits of this Application independently from other considerations in the regular budget applications. Specifically, this Application shall focus on Applicant PEMC’s mandates under relevant policies on the reserve market including the development of a new monitoring tool and system for the implementation of the Ancillary Services Monitoring Manual (“ASM Manual”) and other requirements for the effective governance of the co-optimized energy and Reserve Market.

BACKGROUND

5. On 07 November 2022, the Department of Energy (“DOE”) issued Department Circular No. DC2022-11-0032,² promulgating amendments to the WESM Rules and Market Manuals for the implementation of the Reserve Market, which includes, among others, the mandate to develop Reserve Conformance Standards (“RCS”) and procedures for monitoring and notifying Ancillary Service Providers (“ASPs”) of their non-compliance with reserve offer submissions and the RCS.

¹ See also Rule 9 (a) of the Implementing Rules and Regulations of the EPIRA.

² Titled “*Adopting further Amendments to the Wholesale Electricity Spot Market (WESM) Rules and Market Manuals for the Implementation of Reserve Market.*”

6. On 24 August 2023, this Honorable Commission issued an *Order* in ERC Case No. 2023-002 RC,³ granting interim relief for herein Applicants PEMC and IEMOP to adopt and implement the proposed Price Determination Methodology (“PDM”) for the co-optimized energy and Reserve Market in the WESM.
7. On 26 September 2023, the DOE issued Department Circular No. 2023-09-0026,⁴ declaring the commercial operations of the Reserve Market. Section 1.2.1 (a) of the said Circular reiterated the mandate for the WESM Governance Arm, through its Enforcement and Compliance Office (“PEMC-ECO”), to finalize, among others, the guidelines for monitoring and compliance with the Reserve Offer Capacity Compliance (“ROCC”) and RCS.
8. In compliance with this mandate, the proposed amendments to the WESM Rules, the new Manual on Ancillary Services Monitoring and the WESM Manual on Dispatch Protocol were submitted by Applicant PEMC to the DOE on 09 November 2023.
9. On 25 January 2024, the DOE issued an Advisory⁵ mandating the start of the full commercial operations of the Reserve Market on 26 January 2024. Subsequently, however, this Honorable Commission issued an *Order* on 25 March 2024⁶ directing the suspension of the implementation of Section 8 of the PDM Manual on Billing and Settlement. To mitigate the effects of the suspension, the DOE issued an Advisory⁷ on 27 March 2024, declaring that the Reserve Market shall revert to Trial Operations until the suspension is lifted.
10. On 10 June 2024, the DOE issued DOE Department Circular No. DC 2024-06-0019 titled, “Adopting Further Amendments to the Wholesale Electricity Spot Market (WESM) Rules and WESM Manual on Dispatch Protocol, and Creation of WESM Manual on Ancillary Services Monitoring Regarding Reserve Market Compliance and Related Enforcement and Actions.” This DOE Circular officially promulgated the ASM Manual which became effective fifteen (15) days after its publication or on 09 July 2024.
11. In the Notice of Resolution dated 26 July 2024, this Honorable Commission resolved to lift the suspension of Section 8 of the PDM Manual and extended the interim relief granted in its Order dated 24 August 2023. Thereafter, the

³ ERC Case No. 2023-002 RC, titled, “*In the Matter of the Application for the Issuance of Rules on Price Determination Methodology for the Implementation of the Co-Optimized Energy and Reserve Market in the Wholesale Electricity Spot Market.*”

⁴ DOE Department Circular No. 2023-09-0026, titled, “*Declaring the Commercial Operations of the Reserve Market and Providing for Further Policies.*”

⁵ DOE Advisory No. 2024-01-001-SEC.

⁶ Order dated 25 March 2024 in ERC Case No. 2023-002 RC.

⁷ DOE Advisory No. 2024-03-001-SEC or “*Additional Guidelines for the Implementation of the Reserve Market (RM) in line with the ERC Order on ERC Case No. 2023-002 RC.*”

DOE issued an Advisory⁸ on 02 August 2024, declaring the resumption of the full commercial operations of the Reserve Market and directing the Governance Arm, among others, to enforce the WESM Rules and Market Manuals, for the successful commercial operations of the co-optimized energy and Reserve Market.

Mandates and Responsibilities of the Applicants under the ASM Manual

12. The responsibilities of PEMC-ECO are enumerated in Sections 3.3.1 to 3.3.5 of the ASM Manual as follows:
- a. Monitor the compliance of ASPs and impose specified penalties based on the result of monitoring and assessment;⁹
 - b. Develop or establish a monitoring tool, system, and procedures that would readily employ and provide practical application in terms of data migration from the Market Operator (“MO”) or System Operator (“SO”), notification to concerned ASPs and user interface, and recalculation of initial results pertaining to possible non-compliance with the RCS and ROCC;¹⁰
 - c. Coordinate with the MO and the SO, as may be deemed necessary, to ensure that all the data and information needed for monitoring and assessment – and upon which the findings shall be based – are correct and complete;¹¹
 - d. Submit reports required under the ASM Manual to the Honorable Commission, DOE, PEM Board, and Compliance Committee;¹² and
 - e. Implement all other notices, resolutions, or decisions, as the case may be, pursuant to the ASM Manual, and have custody of all notices, reports, and records created and issued pursuant to the ASM Manual.¹³
13. On the other hand, the MO was given the following responsibilities, among others:
- a. Establish a procedure for the monitoring or flagging of breach in accordance with the RCS and the rule pertaining to the ROCC through the use of an appropriate facility;¹⁴

⁸ DOE Advisory No. 2024-08-001 SEC, titled, “Resumption of the Full Commercial Operations of the Reserve Market.”

⁹ ASM Manual, Section 3.3.1.

¹⁰ ASM Manual, Section 3.3.2.

¹¹ ASM Manual, Section 3.3.3.

¹² ASM Manual, Section 3.3.4.

¹³ ASM Manual, Section 3.3.5.

¹⁴ ASM Manual, Section 3.1.1.

- b. Provide to the PEMC-ECO all the market data and information that the latter deems necessary for verification, validation, and final determination of the findings or results relative to the monitoring and enforcement of the RCS and the rule pertaining to the ROCC;¹⁵
 - c. Implement any notice that may be served upon it, and carry out the required action, if any, as a result of the enforcement proceedings prescribed in the ASM Manual;¹⁶ and
 - d. Inform, on a quarterly basis, the PEMC-ECO and the SO of the status of suspension or re-application as ASP of the entity that has previously been suspended or deregistered as such.¹⁷
14. Among the foregoing, the task to monitor the compliance of the ASPs requires the monitoring and assessment of two types of Reserve Market Compliance, namely, the Reserve Offer Capacity Compliance (ROCC) and the Reserve Conformance Standards (RCS). Said task is a major addition to the existing monitoring and assessment activities of PEMC-ECO and the demands are as vast and extensive as their existing monitoring coverage. To perform this task and effectively discharge the other mandates provided under the ASM Manual, it is necessary to have a highly dependable and well-maintained monitoring system, adequate data and file server, and manpower resources.

*Basis, Timeliness and Authority to File
the Joint Supplemental Application*

15. Section 1(u) of the DOE Department Circular No. DC 2020-10-0021¹⁸ which further amended the WESM Rules provides for the creation of the PEMC-ECO to administer the enforcement and compliance processes in the WESM. In line with these processes, Applicant PEMC exercises its investigative powers over the energy sector participants through the PEMC-ECO. These investigative powers, including the power to recommend and/or impose sanctions or penalties for breaches of the WESM Rules, have been recognized as valid by the Supreme Court in the case of Power Sector Assets and Liabilities Management Corporation (PSALM) v. ERC and PEMC, (G.R. No. 193521; 17 April 2023).
16. The budget requirements in this Application are necessary for Applicant PEMC to perform its governance functions as mandated under the law and as validated by the Supreme Court. It is being filed separately from the regular budget of

¹⁵ ASM Manual, Section 3.1.2.

¹⁶ ASM Manual, Section 3.1.3.

¹⁷ ASM Manual, Section 3.1.4.

¹⁸ DOE Department Circular No. DC 2020-10-0021, entitled “Adopting Further Amendments to the Wholesale Electricity Spot Market (WESM) Rules.”

Applicant PEMC since the requirements here pertain specifically to the implementation of the ASM Manual for the effective governance of the co-optimized energy and Reserve Market. As such, the period for filing of the market fee application that is “not later than the first working day of July of the current year” as prescribed by the Honorable Commission in its Decision dated 30 January 2008 in the CY 2007 Market Fees Application¹⁹ of PEMC does not apply to this Application.

- 17. The primary basis for the authority to collect market fees for the WESM is Section 30 of the EPIRA which allows the recovery of the costs for administering and operating the WESM by the MO, through a charge applied to all market members, provided that such charge shall be filed with and approved by this Honorable Commission. In addition to this, Section 7.7 of DOE Department Circular No. 2018-01-0002 provides that the budget and revenue requirements of **both** Applicants PEMC and IEMOP shall be recovered from the market fees and that upon approval of the PEM Board, the same shall be filed with the Honorable Commission for approval.
- 18. Clause 2.10.2.3 of the WESM Rules also provides that the proposed structure and level of market fees shall be developed by the MO, subject to approval by the PEM Board prior to filing with the Honorable Commission.
- 19. Thus, pursuant to Section 30 of the EPIRA, Section 7.7 of DOE DC No. 2018-01-0002, and Clause 2.10.2.3 of the WESM Rules, the PEM Board approved the budgetary requirements and proposed structure and level of market fees in this Application as evidenced by the Secretary’s Certificate dated 22 August 2024 with Board Resolution No. 2024-74-03 issued on 31 July 2024, which is hereto attached as Annex "A."

PROPOSED SUPPLEMENTAL MARKET FEES

- 20. On 22 June 2006, the Honorable Commission issued a Decision approving the structure and level of the market transaction fees in the WESM for CY 2005.²⁰ It was ruled that the total amount of market transaction fees shall be apportioned among the generators according to the volume traded by each using the following formula:

$$\begin{aligned} \text{Rate} &= \frac{\text{Total Annual Market Transaction Fees (Php)}}{\text{Total Generation Metered Quantity for the Month (kWh)}} \\ &= P/\text{kWh} \end{aligned}$$

- 21. The instant Application seeks the approval of the Market Transaction Fee for the supplemental budget needed for the implementation of the ASM Manual. The projected budgetary

¹⁹ ERC Case No. 2007-124 RC.
²⁰ ERC Case No. 2005-048 RC.

requirements for this as approved by the PEM Board, is ONE HUNDRED TWENTY-THREE MILLION TWO HUNDRED EIGHTEEN THOUSAND AND ONE HUNDRED PESOS (PhP123,218,100.00) broken down as follows:

Budget Item	Supplemental Budgetary Requirements (in PhP Million)				Total
	Q4 2024	2025	2026	2027	
A. Capital Expenditure (CAPEX)					
1. Software Component					
· Custom Software Development	8.215	12.322	-	-	20.537
· Off-the-Shelf Software Licenses	4.244	-	-	-	4.244
· VAPT	-	0.35	-	-	0.35
2. Hardware Component	5.484	5.484	-	-	10.968
3. Laptop Replacement	1.218				1.218
4. Office Equipment	0.4				0.4
Sub-total CAPEX	19.561	18.156	0	0	37.717
B. Maintenance and Other Operating Expenses (MOOE)					
1. System Audit (30% of the system development cost)	-	-	6.1611	-	6.1611
2. Software Maintenance	-	1.9	8.065	8.065	18.03
3. Hardware Maintenance	-	3.63	3.5	3.5	10.63
4. Rental	0.404	1.615	1.696	1.781	5.496
5. Other Miscellaneous Expense	0.584	0.837	0.837	0.837	3.095
Sub-total OPEX	0.988	7.982	20.2591	14.183	43.4121
C. Personnel Services (PS)					
Total of 8 personnel (5 ECD ²¹ ; 2 ISTD ²² and 1 FIRD ²³)	3.02	12.308	13.009	13.752	42.089
Sub-Total PS	3.02	12.308	13.009	13.752	42.089
Total Supplemental Budget	23.569	38.446	33.2681	27.935	123.2181

22. The projected budgetary requirements cover the following budget components:

²¹ **ECD** stands for the Enforcement and Compliance Department; **ISTD** stands for the Information System and Technology Department; and **FIRD** stands for the Finance and Internal Relations Department.

²² *Ibid.*

²³ *Ibid.*

- a. Capital Expenditures (CAPEX) – consists of the acquisitions, enhancements, and upgrades to the monitoring systems such as the following:
- (i) Creation of new servers with increased storage. PEMC is highly dependent not only on market data, but also on data storage and servers used for storing and managing databases and for providing access to authorized users. The current database servers and storage of PEMC can only accommodate the existing data needs and process of PEMC which is used in regular market and compliance monitoring in the WESM. Given that the monitoring of the Reserve Market compliance will require regular, if not daily data transfers from the SO and MO, which have different data resolutions, i.e., per second data or three hundred (300) times the amount of data within a five-minute resolution, the establishment of new servers with increased storage is indispensable to ensure the proper regulation and governance of the Reserve Market;
 - (ii) Creation of a Monitoring Tool System. This is pursuant to the express requirement under Section 3.3.2. of the ASM Manual for PEMC-ECO to develop or establish a monitoring tool, system, and procedures that would readily employ and provide practical application in terms of data migration from the MO or SO, notification to concerned ASPs and user interface, and recalculation of initial results pertaining to possible non-compliance with the RCS and ROCC.

At present, PEMC-ECO uses an automated system for compliance monitoring called the Compliance Post-Evaluation and Monitoring System (“**CPEMS**”). CPEMS is a web-based application that provides a platform for informing the WESM trading participants of flagged probable breaches, allowing participants' interface (through submission of responses and supporting documents), and integration of the process of verification, assessment, and reporting results. This system is being used by PEMC-ECO, the WESM Compliance Officers (WCOs) and WESM Enforcement Officers (WEOs) of the WESM Member-Generators across all regions in the Philippines totaling around four hundred fifty (450) external users at present.

With the expansion of the WESM due to the integration of the Reserve Market, there is a

need to upgrade and enhance the existing monitoring tool and to transition to a fully robust system that is more fitting to RCS monitoring – a system that could handle and process a large volume of data, provide an active interface, allow multiple processes and integration of, and linkage to, various procedures. The new system should be able to cut down on time for data transfer and processing, monitoring, assessment, reporting, and thereby fast tracking the implementation of enforcement actions.

- (iii) Conduct of Vulnerability Test/s. A new system with such a regular interface with external users could be vulnerable to cyberattacks and threats, especially with the exponential growth of internet interconnections nowadays. Since PEMC-ECO will be establishing a new system to monitor the Reserve Market, it is highly recommended that a comprehensive security testing be conducted on it through Vulnerability Assessment and Penetration Testing (VAPT), which is aimed at identifying and addressing cybersecurity vulnerabilities;

- b. *Maintenance and Other Operating Expenses (MOOE)*
– This includes, among other things, systems audit, rent, utilities, repairs and maintenance, contracted services, materials, supplies, and subscriptions.

- (i) *Conduct of Systems Audit.* Considering the purpose of the compliance monitoring system and the financial impact of the monitoring results on the settlement process, which may ultimately affect the rights of ASPs as providers and the National Grid Corporation of the Philippines (“NGCP”) as the buyer of ancillary services, it is necessary to conduct systems audit and maintenance to ensure data security, integrity, and reliability. The Systems Audit is vital in determining whether a newly developed system is operating effectively, efficiently, and in conformance with the standards set out in ASM Manual. It involves evaluating the design, implementation, and performance of various modules or aspects of the system, such as IT infrastructure, security protocols, data management, and internal controls.

- c. *Personnel Services (PS)* pertain to the salaries and benefits of the additional manpower needed to perform tasks in the areas of enforcement, database and system administration, and finance. Currently, the demands for the existing daily compliance monitoring of PEMC-ECO are already overwhelming as the number of

registered WESM Members from Luzon, Visayas, and Mindanao continually increases. Based on the latest WESM Registration Data of IEMOP, there are around four hundred fifty (450) WESM registered generation facilities that are being monitored by PEMC-ECO.

The major addition to the PEMC's compliance scope and coverage as mandated by the WESM Rules and the ASM Manual necessarily entails additional workload for PEMC given the frequency of monitoring, the magnitude and intricacy of the data, data processing, and enforcement proceedings, the number of reports to be generated, the high financial implication on the settlement process, and the regular coordination with the ASPs, NGCP, and IEMOP. Without additional manpower, it would be challenging for the existing personnel to perform additional tasks as vast as this without compromising not only the quality of monitoring and enforcement activity but also the due process requirements under the WESM Rules and the ASM Manual.

23. A discussion of the specific budgetary requirements falling within the foregoing cost components and their justifications are provided in the judicial affidavits of witnesses that are hereto attached and made integral parts of this Application.
24. It is respectfully submitted that the supplemental budgetary requirements for implementation of the ASM Manual and the monitoring of the Reserve Market by Applicant PEMC are sufficient to cover the requirements thereof, subject to any further change in the policy or regulatory issuances. Moreover, the proposed supplemental budget excludes the costs for systems audit on the market systems and enhancements and other requirements for the commercial operations of the Reserve Market that were included and covered under the market fee applications for CY 2024 to 2027.
25. With regard to taxes, the amounts proposed herein by the Applicants are net of applicable taxes, such as corporate income and value-added taxes, and without prejudice to the filing of a supplemental application to cover such taxes as may be finally adjudged by the relevant authorities, in light of the pending issue on the taxability of the market fees as stated in BIR Ruling No. OT-323-2021 dated 24 August 2021. The Joint Application does not also cover possible changes in expenses due to changes in law, rules or regulations, compliance with other regulatory requirements and other external factors.
26. The supplemental budget is proposed to be recovered over a period of four (4) years, starting from the fourth (4th) quarter of CY 2024 until CY 2027, in consideration of the timeline for the acquisition and development of the required systems and manpower for the implementation of the ASM Manual. Based

on initial indicative figures, the estimated supplemental market fee rate per year are as follows:

Budget Item	Proposed Supplemental Budget (PHP in Millions)			
	4Q 2024	2025	2026	2027
A. Capital Expenditures	19.561	18.156	0	0
B. Operational Expenditures	0.988	7.982	20.2591	14.183
C. Personnel Services	3.02	12.308	13.009	13.752
Total Supplemental Budget	23.569	38.446	33.2681	27.935
<i>Total Projected Generation MQ (in GWh)</i>	<i>28,702</i>	<i>122,872</i>	<i>131,109</i>	<i>139,902</i>
Supplemental Market Fee Rate	0.00082116 2	0.00031289 5	0.00025374 4	0.0001996 75

27. The computation of the supplemental market fee rate used the same formula as previously approved by the Honorable Commission and is based on the Luzon, Visayas, and Mindanao energy forecast for CY 2024-2027, a copy of which is hereto attached as Annex “H” and is made an integral part of this Application.
28. The market fees shall be collected from the generation companies registered with the WESM and shall be assessed based on their actual generation. Thus, the amount of market fees that will be collected monthly shall be calculated by multiplying the market fee charge/rate by the actual metered generation metered quantities, in kWh, for the month as follows:

$$\text{Market Fee Rate (PhP/kWh)} = \frac{\text{Total Annual Market Fee}/12}{\text{Total Generation Metered Quantity}}$$

Motion for Issuance of Provisional Authority

29. The factual allegations set forth above are re-pleaded in support of the Motion for Issuance of Provisional Authority.
30. With the resumption of the commercial operations of the Reserve Market, effective 05 August 2024, as declared through DOE Advisory 2024-08-001 SEC dated 02 August 2024 and the effectivity of the ASM Manual, the need for the urgent resolution of this Application cannot be overemphasized.
31. The efficient implementation of the mandates under the WESM Rules and the ASM Manual highly depends on the technical and financial capacity of Applicant PEMC as the Governance Arm of the WESM to ensure the performance of the compliance and monitoring functions of PEMC-ECO.

Paramount to the fulfillment of the objectives of reserve market governance is the timely recovery of costs by the Applicants, as mandated under the WESM Rules and the EPIRA.

32. Thus, Applicants respectfully pray for the issuance of a provisional authority for Applicant IEMOP, as the Market Operator of the WESM authorized to collect the market fees, to collect the proposed supplemental market fees in the amount of ONE HUNDRED TWENTY-THREE MILLION TWO HUNDRED EIGHTEEN THOUSAND AND ONE HUNDRED PESOS (PhP123,218,100.00) and impose the proposed market fee charges below from all generation companies registered in the WESM, pending final resolution of this Application and subject to the following schedule and corresponding market fee rate to be per corresponding year:

Budget Item	Proposed Supplemental Budget (PHP in Millions)			
	4Q 2024	2025	2026	2027
Supplemental Budget	23.569	38.446	33.2681	27.935
Market Fee Rate	0.000821162 (P/kWh)	0.000312895 (P/kWh)	0.000253744 (P/kWh)	0.000199675 (P/kWh)

33. In support of this Application and this Motion for Issuance of Provisional Authority, Applicants herein submit the following documents, copies of which are hereto attached and made integral parts of this Application:

Annex	Document
C	Software and Hardware Discussion Paper on CPEMS 2.0
D	Description of Miscellaneous Budget Line Items
E	Secretary's Certificate on Compensation and Benefits
F	Details on Additional Positions
G	Energy Forecast for CY 2024 to 2029
H	Judicial Affidavit of Atty. Ma. Hazel M. Gubaton-Lopez, Chief Enforcement and Compliance Officer
I	Judicial Affidavit of Mr. Patrick S. Fernandez, PEMC Chief Information System and Technology Officer
J	Judicial Affidavit of Mr. Herbie C. Ngirngir, PEMC Chief Financial Officer

Motion for Confidential Treatment of Information

34. Applicants respectfully move for the confidential treatment of the Secretary's Certificate on Compensation and Benefits and Details on Additional Positions hereto attached as **Annexes E and F**, respectively, copies of which are submitted as password-protected files which form part of Applicants' submission.
35. The cited documents should be accorded confidential treatment and protected from public disclosure, as well as kept separate from the records of this case during the pendency of the proceedings in the instant case, and after the

termination thereof, since they contain the list of positions and the corresponding salary of the employees. These are confidential in nature and are subject to protection against unauthorized disclosure under the Data Privacy Act (Republic Act No. 10173). Further, the disclosure of this information may be a source of competitive advantage for the recipient of the information and Applicants IEMOP and/or PEMC will be vulnerable to pirating and loss of key personnel or may become a basis for discontent and comparison among the relevant parties.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission to:

- (i) GRANT the Applicants’ prayer for the issuance of a provisional authority pending final resolution of this instant Joint Application, to collect the proposed supplemental market fees in the amount of ONE HUNDRED TWENTY-THREE MILLION TWO HUNDRED EIGHTEEN THOUSAND AND ONE HUNDRED PESOS (PhP123,218,100.00) from all generation companies registered in the WESM subject to the following schedule and corresponding market fee rate to be imposed per corresponding year:

Budget Item	Proposed Supplemental Budget (PHP in Millions)			
	4Q 2024	2025	2026	2027
Supplemental Budget	23.569	38.446	33.2681	27.935
Market Fee Rate	0.000821162 (P/kWh)	0.000312895 (P/kWh)	0.000253744 (P/kWh)	0.000199675 (P/kWh)

- (ii) after due notice and hearing, render judgment APPROVING the proposed supplemental market fees in the total amount of ONE HUNDRED TWENTY-THREE MILLION TWO HUNDRED EIGHTEEN THOUSAND AND ONE HUNDRED PESOS (PhP123,218,100.00) for the implementation of the Ancillary Services Monitoring Manual and the monitoring of the Reserve Market to be recovered over a period of four (4) years; and
- (iii) to confirm the confidentiality of the Secretary's Certificate on Compensation and Benefits and Details on Additional Positions hereto attached as Annexes E and F, respectively, and direct that the said documents be treated as confidential and therefore protected from public disclosure during the pendency of the proceedings in the instant case, and after the termination thereof; in a manner deemed appropriate by the Honorable Commission in accordance with Rule 4 of the ERC Rules of Practice and Procedure.

The Applicants pray for such other reliefs just and equitable under the premises.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and venue, or online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020²⁴ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure):²⁵

Date	Platform	Activity
06 March 2025 (Thursday) at nine o'clock in the morning (09:00 A.M.)	Energy Regulatory Commission, Hearing Room 11th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Brgy. San Antonio, Pasig City	Determination of compliance with jurisdictional requirements and Expository presentation for Luzon stakeholders
11 March 2025 (Tuesday) at nine o'clock in the morning (09:00 A.M.)	Energy Regulatory Commission, Visayas Area Operations Divisions (VAOD), 7th Floor, Kepwealth Building, Samar Loop, Cebu Business Park	Expository presentation for Visayas stakeholders
18 March 2025 (Tuesday) at nine o'clock in the morning (09:00 A.M.)	Energy Regulatory Commission, Mindanao Area Operations Division (MAOD), 6th Floor, BIZ Bldg., c/o BORMAHECO, Inc., 209 J.P. Laurel Avenue, Bajada, Davao City	Expository presentation for Mindanao stakeholders
01 April 2025 (Tuesday) at	Microsoft Teams Application	Pre-Trial Conference and

²⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
²⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date	Platform	Activity
nine o'clock in the morning (09:00 A.M.)		Presentation of Evidence
01 April 2025 (Tuesday) at two o'clock in the afternoon (02:00 P.M.)		Presentation of Evidence
08 April 2025 (Tuesday) at nine o'clock in the morning (09:00 A.M.)		Presentation of Evidence
08 April 2025 (Tuesday) at two o'clock in the afternoon (02:00 P.M.)		Presentation of Evidence
15 April 2025 (Tuesday) at nine o'clock in the morning (09:00 A.M.)		Presentation of Evidence
15 April 2025 (Tuesday) at two o'clock in the afternoon (02:00 P.M.)		Presentation of Evidence

Joint Applicants PEMC and IEMOP are directed to attend the said hearings at the designated venues.

RELATIVE THERETO, Applicants PEMC and IEMOP are hereby directed to:

- 1) Cause the publication of the attached *Notice of Public/Virtual 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 virtual hearing;

- 2) Furnish with copies of this *Order* and the attached *Notice of Public/Virtual Hearing* the Office of the Mayor of Pasig City and the Local Government Unit (LGU) of Pasig City for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Public/Virtual 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, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial virtual hearing, PEMC and IEMOP must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of 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/Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspaper where the said *Notice of Public/Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Public/Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned City Mayor and its LGU legislative body or their duly authorized representatives, bearing the seals of their offices;

- 3) The evidence of other means employed by PEMC and IEMOP to inform the consumers within the affected area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Public/Virtual Hearing* by the OSG, the 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, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, PEMC and IEMOP are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Offices of the City Mayor and its Local Legislative Body, and to submit proof of posting thereof.

Joint Applicants PEMC and IEMOP, and all interested parties are also required to submit via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual 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 therefor, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Joint Applicants PEMC and IEMOP must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled initial hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of PEMC and IEMOP to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings.

Joint Applicants PEMC and IEMOP must also be prepared to make an expository presentation of the instant *Joint Application*, aided by whatever communication medium that it 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, the nature of the *Joint Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Joint Application* must be cited in support thereof.

Joint Applicants PEMC and IEMOP are hereby directed to file a copy of their Expository Presentation via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. PEMC and IEMOP shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.

Joint Applicants PEMC and IEMOP are hereby directed to submit, through personal service, registered mail, or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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Finally, PEMC and IEMOP, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 15 January 2025.

FOR AND BY AUTHORITY
OF THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service


LS: AVL/MMM

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ORDER /15 JANUARY 2025
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