

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This **Memorandum of Agreement (MOA)**, entered into and executed this 11th day of March 2004 at Pasay City, Metro Manila, Philippines, by and between:

The **ENERGY REGULATORY COMMISSION**, a government agency organized under the laws of the Republic of the Philippines, with principal office at the 16th Floor Pacific Center Building, San Miguel Avenue, Pasig City, Metro Manila, represented herein by its Chairman, **RODOLFO B. ALBANO, JR.**, hereinafter referred to as the **ERC**,

-and-

The **PHILIPPINE ECONOMIC ZONE AUTHORITY**, a government corporation, organized and established under Republic Act No. 7916, with principal office at Roxas Boulevard corner San Luis Street, Pasay City, Metro Manila, represented by its Director General, **LILIA B. DE LIMA**, hereinafter referred to as the **PEZA**.

WITNESSETH :

WHEREAS, Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act, provides that the ERC shall promote competition, encourage market development, ensure customer choice and penalize abuse of market power in the restructured electricity industry and shall be responsible for key functions in the restructured industry;

WHEREAS, Section 22 of Republic Act No. 9136 provides that the distribution of electricity shall be subject to regulation by the ERC while Section 6 of Republic Act No. 9136 and Rule 5 of its Implementing Rules and Regulations vest the ERC with certain powers over generation companies;

WHEREAS, Section 7 of Republic Act No. 7916, as amended by Republic Act No. 8748, provides that within the framework of the Constitution and the interest of national sovereignty and territorial integrity of the Republic, economic zones shall be developed, as much as possible, into a decentralized, self-reliant and self-sustaining industrial, commercial/trading,

agro-industrial, tourist, banking, financial and investment centers with minimum government intervention, with transportation, telecommunications, and other facilities needed to generate linkage with industries and employment opportunities for its own inhabitants and those of nearby towns and cities;

WHEREAS, Section 12(c) of Republic Act No. 7916, as amended, vests the PEZA Board with the authority to regulate the establishment and operation of utilities, other services and infrastructures (e.g., heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc.), inside economic zones and to fix reasonable and competitive rates, fares, charges and fees therefor;

WHEREAS, Section 80 of Republic Act No. 9136, provides among others, that the provisions with respect to electric power under Section 11(c) of RA 7916, as amended, is deemed repealed;

WHEREAS, Section 13(d) of Republic Act No. 7916, as amended, provides that PEZA, in coordination with local government units concerned and appropriate agencies, is authorized to construct, acquire, own, lease, operate and maintain on its own or through contract, franchise, license, bulk purchase from the private sector and build-operate-transfer scheme or joint venture, adequate facilities and infrastructure, such as light and power systems, water supply and distribution systems, telecommunication and transportation, buildings, structures, warehouses, roads, bridges, ports and other facilities for the operation and development of economic zones;

WHEREAS, export-producers and service-exporters operating inside economic zones, most of which are foreign enterprises, are very concerned with power quality and supply reliability and cost of power;

WHEREAS, both ERC and PEZA recognize the importance of ensuring good quality and reliable uninterrupted power supply, in addition to maintaining competitive power pricing inside the economic zones to accelerate the country's investment promotion and export development efforts, creation of employment and other economic opportunities, particularly in the countryside;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties to this MOA have agreed to cooperate and coordinate efforts insofar as overseeing the operations of power generation and distribution utilities inside the PEZA-registered economic zones with the following delineation of their powers, functions and responsibilities:

1. Economic Zone Power Generation Utilities Enterprise

- a. PEZA shall register, based on requirements prescribed by the ERC new generation utilities enterprises for power to be supplied

exclusively to economic zone locator enterprises operating within the metes and bounds of PEZA-registered economic zones as well as self-generation facilities of economic zone locator enterprises, and endorse the same to the ERC for the issuance of the required Certificates of Compliance (COC).

- b. Existing power generation utilities, including entities with self-generation facilities, shall apply for the issuance of a COC with the ERC. Provided all the requirements are complied with, ERC shall notify the generation companies of its action within thirty (30) working days from date of application.
- c. PEZA-registered power generation utilities enterprises and economic zone locator enterprises that own generation facilities shall be required to comply with the same technical, financial and environmental requirements and/or standards of the Philippine Grid Code and the Philippine Distribution Code, such issuances as may be prescribed by the ERC, and such additional standards as may be required by PEZA, appropriate in the operation of the said facilities within the PEZA-registered economic zones.
- d. Prior to the implementation of retail competition and open access, ERC, in coordination with PEZA, shall undertake the fixing of generation power rates charged to economic zone locator enterprises. Failure on the part of ERC to act on the said application within thirty (30) working days from receipt thereof would be deemed an automatic approval thereof.
- e. Generation facilities operating within the PEZA-registered economic zones shall submit to ERC proofs of its compliance with Rule 29 of the Implementing Rules and Regulations of RA 9136 in accordance with the guidelines set forth by the Department of Energy (DOE).

2. Economic Zone Power Distribution Utilities Enterprises

- a. PEZA-registered power distribution utilities enterprises shall be required to comply with the same technical, financial and environmental requirements and/or standards prescribed by the Philippine Distribution Code, and such additional standards as may be required by ERC and PEZA.
- b. ERC, in coordination with PEZA, shall undertake the fixing of distribution rates to be charged to economic zone locator enterprises, taking into consideration the special requirements of economic zone locator enterprises. In recognition of the importance of the stability of the power supply within the economic zones, ERC undertakes to expediently act on the said applications.

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- c. PEZA shall monitor the compliance of registered power distribution utilities enterprises with regard to the collection from all economic zone power end-users and its subsequent remittance to the Power Sector Assets and Liabilities Management Corporation (PSALM) of the universal charge set by ERC.

3. Settlement of Disputes

ERC, in coordination with PEZA, shall settle disputes pertaining to power generation, distribution and/or supply of electricity inside the economic zones.

This MEMORANDUM OF AGREEMENT shall take effect upon execution thereof by the parties.

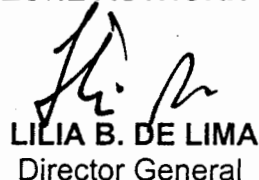
IN WITNESS WHEREOF, the parties have hereunto affixed their signatures this 11th day of March 2004 at Pasay City, Metro Manila, Philippines.

ENERGY REGULATORY COMMISSION



RODOLFO A. ALBANO
Chairman

PHILIPPINE ECONOMIC ZONE AUTHORITY

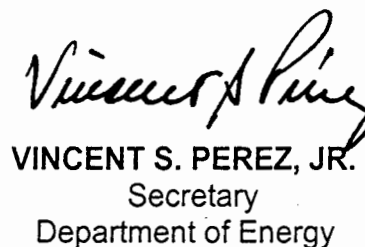


LILIA B. DE LIMA
Director General

WITNESSES:



CESAR V. PURISIMA
Secretary
Department of Trade & Industry



VINCENT S. PEREZ, JR.
Secretary
Department of Energy

by

ACKNOWLEDGMENT

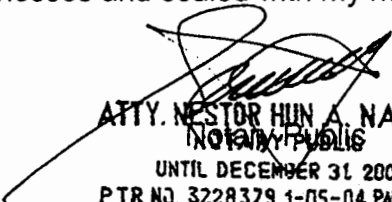
REPUBLIC OF THE PHILIPPINES)
PASAY CITY)s.s.

Before Me, **PASAY CITY** this 11th day of March 2004,
personally appeared:

Name	Community Tax Certificate No.	Date Issued	Place Issued
RODOLFO B. ALBANO, JR.	01970700	1/5/04	Cabagan, Isabela
LILIA B. DE LIMA	21002265	3/11/04	Pasay City

known to me the same persons who executed the foregoing instrument and acknowledged that the same is their free and voluntary act and deed as well as that of the entities represented.

Said instrument refers to a Memorandum of Agreement consisting of five (5) pages, including the page where this Acknowledgment is written, signed by the parties and their witnesses and sealed with my notarial seal.


ATTY. NESTOR HUN A. NADAL
NOTARY PUBLIC
UNTIL DECEMBER 31 2004
PTR NO. 3228379 1-05-04 PASAY CITY
IBP NO. 599830 12-04-03 CAM. SUR

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