



MARKETS & SECURITIES REGULATION DEPARTMENT

December 9, 2020

AC ENERGY PHILIPPINES, INC.

4th Floor, 6750 Office Tower
Ayala Avenue, Makati City 1226
Telephone No. (+632) 7730-6300;
Fax No. (+632) 7751-6511

ATTENTION: **JOHN ERIC T. FRANCIA**
President and Chief Executive Officer

RE: **Request for Confirmation of Exempt Transaction**

Gentlemen:

This refers to **AC ENERGY PHILIPPINES, INC.**'s ("ACEN" or the "Company") application requesting for confirmation that its proposed offering of up to **Two Billion Two Hundred Sixty-Seven Million Five Hundred Eighty Thousand Four Hundred Thirty-Four (2,267,580,434) Common Shares** ("Rights Shares"), with a par value of One Peso (₱1.00) per share, at an offer price at **[₱2.37]** per Rights Share is exempt from the registration requirement under Section 8 of the Securities Regulation Code ("Code"). In connection therewith, an exemption fee in the amount of Five Million Four Hundred Thirty Three Thousand Six Hundred Ninety Nine Pesos (₱5,433,699.00) was paid to the Commission on November 22, 2019 under Official Receipt No. 1863246.

The Company is of the view that its Stock Rights Offer and Domestic Institutional Offer are exempt from registration under Sections 10.1 (e),¹ and (l)² of the Code, respectively.

¹ Section 10. Exempt Transactions. – 10.1. The requirement of registration under Subsection 8.1 shall not apply to the sale of any security in any of the following transactions: xxx

(e) The sale of capital stock of a corporation to its own stockholders exclusively, where no commission or other remuneration is paid or given directly or indirectly in connection with the sale of such capital stock.

xxx

² Section 10. Exempt Transactions. – 10.1. The requirement of registration under Subsection 8.1 shall not apply to the sale of any security in any of the following transactions: xxx

(l) The sale of securities to any number of the following qualified buyers:

(i) Bank;

(ii) Registered investment house;

(iii) Insurance company;

(iv) Pension fund or retirement plan maintained by the Government of the Philippines or any political subdivision thereof or manage by a bank or other persons authorized by the Bangko Sentral to engage in trust functions;

Stock Rights Offer under Section 10.1 (e) of the Code:

FIRST ROUND

The Rights Shares shall be offered on a pre-emptive rights basis to Eligible Shareholders of the Company as of [•] (“Record Date”). Holders of Common Shares as of the Record Date who are eligible to participate in the Rights Offer are: (i) holders located inside the Philippines and (ii) holders located outside the Philippines where it is legal to participate in the Rights Offer under the securities laws of such jurisdiction without requiring registration or the need to obtain regulatory approvals under such laws (“Eligible Shareholder”).

AC Energy, Inc. (“AC Energy”), which beneficially owns an aggregate of [11,175,442,928] of the Company’s Common Shares, representing [81.62]% of the outstanding Common Shares of Issuer as of the latest filed Prospectus dated November 14, 2020, has advised the Company that it will not participate in the Rights Offer in order to provide maximum availability of the Rights Shares to minority Eligible Shareholders, but will have the option to participate in the Institutional Offer.

Under the Philippine Stock Exchange’s (“PSE”) Revised Listing Rules, the Company shall set the Record Date which shall not be less than 15 Trading Days from approval of the PSE Board of Directors.

This First Round of the Offer shall consist of a total of [2,267,580,434] Offer Shares.³ Each Eligible Shareholder may subscribe to one (1) Share for every [1.1100] Common Shares held, as of the Record Date, at the Offer Price in the First Round of the Rights Offer.

SECOND ROUND

In this mandatory round, the unsubscribed Rights Shares from the First Round of the Rights Offer (“Additional Rights Shares”) shall be offered to those shareholders that exercised their rights in the prior round and had simultaneously signified their intention to subscribe to any unsubscribed Rights Shares by tendering payment of the total Offer Price of all Rights Shares subscribed to, including all Rights Shares in excess of their entitlements. Subscriptions to the Additional Rights Shares are payable in full upon submission of the Application.

If the aggregate number of Additional Rights Shares available for subscription equals or exceeds the aggregate number of additional subscriptions, an applicant will be allocated the number of Additional Rights Shares indicated in his or her Application. In case all applications for additional subscriptions exceed the total Additional Rights

(v) Investment company or;

(vi) Such other person as the Commission may rule by determine as qualified buyers, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management.

³ The Rights Shares and the Institutional Shares are collectively referred to as the “Offer Shares” and the Rights Offer and the Institutional Offer are collectively referred to as the “Offer.”

Shares, the Company shall allocate said unsubscribed Rights Shares among the Eligible Shareholders for Additional Rights Shares primarily in proportion to their respective shareholdings as of Record Date to the total shareholdings of all applicants to the Additional Rights Shares, but in any case at the full discretion of the Company, provided that no applicant for Additional Rights Shares shall be allocated more Additional Rights Shares than the number for which such applicant has applied. There can be no guarantee made as to the number of Additional Rights Shares an applicant may be allocated. A subscription for Additional Rights Shares is irrevocable on the part of the applicant and may not be cancelled or modified by such applicant.

Holdings of existing Common Shares in certificated and scripless form will be treated as separate holdings for the purpose of calculating entitlements under the Offer. Fractions of Rights Shares will not be allotted to existing shareholders and fractional entitlements will be rounded down to the nearest whole number of Rights Shares. Such fractions will be aggregated and sold for the benefit of the Company.

THE UNDERWRITERS

BPI Capital Corporation (“BPI Capital”) and China Bank Capital Corporation (“China Bank Capital”) will act as Joint Lead Underwriters of the Rights Offer and the Institutional Offer. **No underwriting fees will be collected with respect to the Rights Offer, in compliance with the requirements of the PSE.** The rules governing the exemption of the Rights Offer from the registration requirements of the **SRC require that the Joint Lead Underwriters do not receive any remuneration or compensation, in connection with the Rights Offer.**

BPI Capital and China Bank Capital are duly licensed by the SEC to operate as investment houses and were licensed by the SEC to engage in underwriting or distribution of securities to the public in 1994 and 2015, respectively. Except for BPI Capital, the Joint Lead Underwriters do not have direct relationship with the Company in terms of share ownership by their respective major stockholder/s and do not have any right to designate or nominate a member of the Board. BPI Capital Corporation is a wholly-owned subsidiary of the Bank of the Philippine Islands (“BPI”). **AC Energy and BPI are affiliated companies, each with Ayala Corporation as a major shareholder.**

Domestic Institutional Offer under Section 10.1 (I) of the Code:

DOMESTIC INSTITUTIONAL OFFER

The Joint Lead Underwriters have agreed to firmly underwrite the Rights Offer in accordance with the underwriting agreement entered into with the Company (the “Underwriting Agreement”) to ensure that any Offer Shares that, after the mandatory Second Round of the Rights Offer are either not taken up or subscribed to by Eligible Shareholders or not paid for by Eligible Shareholders will be fully subscribed. In case there are Rights Shares remaining after the mandatory Second Round of the Rights Offer, the remaining Rights Shares shall be sold by the Joint Lead Underwriters to

qualified buyers, as defined in the 2015 Implementing Rules and Regulations of the Code (“SRC IRR”) (“Institutional Investors”), at the same Offer Price as the Rights Shares (the “Institutional Offer” and, for clarity, Rights Shares offered to Institutional Investors shall be referred to as the “Institutional Shares”). Any Institutional Share not taken up by Institutional Investors shall be taken up by the Joint Lead Underwriters, pursuant to the Underwriting Agreement.

Stock Rights Offer Price

The Offer Shares will be offered at an Offer Price of [P2.37] per Offer Share.

The Offer Price has been determined based on the Valuation Report in respect of ACEN’s shares in the ACE Philippine Transaction.⁵ The Offer Price was set to enable Eligible Shareholders and Institutional Investors to participate in the Offer at such terms aligned with the issuance of Common Shares in the ACE Philippine Transaction.

As of Pricing Date, the Offer Price represents a discount of [●]% from the closing price and a discount of [●]% from the [●]-day volume weighted average price for each of the [●] consecutive trading days immediately prior to (and including) the Pricing Date (“VWAP”) of the Company’s Common Shares traded on the PSE. As of Pricing Date, the closing price and the [●]-day VWAP of the Company’s Common Shares are P[●] and P[●], respectively.

Based on the Company’s representations and after ascertaining that its proposed issuance does not constitute a splitting of the Offer that has the effect of circumventing the registration requirements under Sections 8 and 12 of the Code but that the arrangement is designed to meet the requirements of PSE, this Department finds the transactions under the *first and second round of Rights Offer*, and the *Domestic Institutional Offer* **EXEMPTED under Sections 10.1 (e) and (l) of the Code, respectively, provided that the following conditions are met:**

1. To fully satisfy the conditions imposed by the Company Registration and Monitoring Department relative to its approval of ACEN’s authorized capital stock prior to commencement of the subject stock rights offering;
2. The Valuation Report mentioned herein shall be made part of the prospectus or any offer material for the stock rights offer and the subsequent domestic institutional offer and made as an attachment to SEC Form 10.1.
3. The prospectus or offer material shall contain and disclose the relationship between BPI Capital Corp. and the issuer. This relationship shall also be disclosed in SEC Form 10.1.
4. The Company shall submit an undertaking to the SEC within three (3) business days after receipt of this letter that it will file at the end of the first and second round of the Rights Offer period, but prior to the start of the

⁵ AC Energy assigned to the Company its shares in certain Philippine companies in exchange for 6,185,182,288 Common Shares of the Company, valued at P2.37 per share.

Domestic Institutional Offer period, a separate SEC Form 10.1 once the final number of Rights Share has been determined and Underwriting Agreement once the same has been signed and executed;

5. The Company shall submit to the Commission within three (3) business days prior to listing of the subject Rights Shares a breakdown of the legal fees detailing the amount charged in connection with the subject Stock Rights Offering;
6. The Company shall exclude from the legal fees deducted from the proceeds of the Stock Rights Offer the portion charged in relation to the application to increase the capital stock of the company and accordingly reflect the changes (i.e use of proceeds) in the Prospectus and other documents that may be affected;
7. The Company shall commence its Offer only after fully, accurately and timely disclosing the information in SEC Form 10.1 and the Prospectus including the final Offer Price, separately for both the first and second round, and the Domestic Institutional Offer. A copy of the final version of SEC Form 10.1, the Prospectus, the Underwriting Agreement and the independent Valuation Report shall be filed with the Commission on or before the commencement date of the Offer; and
8. To apprise the public of the resulting increase in the total number of issued and outstanding shares, the Company is directed to file a report to PSE and SEC within three (3) business days from the end of the Offer using SEC Form 17-C disclosing:
 - 8.1 The total number of shares issued broken down as follows:
 - (a) Shares issued under Section 10.1 (e); and
 - (b) Shares issued under Section 10.1 (l).
 - 8.2 The resulting total number of issued and outstanding shares post-issuance.

Further, it is emphasized that the finding does not cover the international offering, if any, as the same shall be governed by the laws of the applicable jurisdiction of the country where said offer is to be conducted. The Company is further reminded of the requirements under Rule 10.1.9 of the 2015 SRC IRR (exempt from registration, but not from other requirements and liabilities) notwithstanding the availability of exemption.

Furthermore, it is understood that any future offer or sale of these shares shall be subject to the registration requirements of the Code unless such offer or sale will qualify as an exempt transaction. The Company is also advised that this Department has not reviewed the Prospectus or any offer material in the same manner as that filed for registration considering that the action sought is only confirmation of exempt transaction. Thus, in any case, it should be understood that it is the ultimate

obligation of the Company and its Underwriters to ensure that complete and accurate material information are provided to investors.

Moreover, it shall be understood that the foregoing confirmation is rendered based solely on the representation of the Company together with the facts and circumstances surrounding the present application and relevant solely to the particular issue raised herein. It shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances. If upon further inquiry or investigation, it is determined that the facts relied upon are different from the representations made by the Company, this confirmation shall be rendered void.

Finally, this Confirmation Letter (i) supersedes the previously issued Confirmation Letter dated April 6, 2020 to reflect the changes and representations made by the Company in its latest Prospectus dated November 14, 2020 and (ii) effective only until January 31, 2021; subsequently, the Company shall file with this Department a request for **re-validation** of the foregoing confirmation of exemption and, consistent public interest and protection of investors, **update** the prospectus or offering circular and other pertinent documents, if necessary.

Very truly yours,

signed

VICENTE GRACIANO P. FELIZMENIO, JR.

Director