

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

IN THE MATTER OF THE JOINT
APPLICATION FOR APPROVAL
OF THE POWER SUPPLY
AGREEMENT (PSA) ENTERED
INTO BY AND BETWEEN
ILIGAN LIGHT AND POWER,
INCORPORATED (ILPI) AND
POWERSOURCE PHILIPPINES
ENERGY, INCORPORATED
(PSPEI), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY

ERC CASE NO. 2015-007 RC

ILIGAN LIGHT AND POWER,
INCORPORATED (ILPI) AND
POWERSOURCE PHILIPPINES
ENERGY INCORPORATED
(PSPEI),

Applicants.

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DOCKMENT
Date: FEB 10 2015
No. 12

ORDER

On January 14, 2015, Iligan Light and Power, Incorporated (ILPI) and PowerSource Philippines Energy, Incorporated (PSPEI) filed a joint application for approval of their Power Supply Agreement (PSA), with prayer for the issuance of provisional authority.

In the said joint application, ILPI and PSPEI alleged, among others, that:

Nature of the Application

1. The joint application is submitted to the Commission for due consideration and approval of the PSA executed by and between ILPI and PSPEI pursuant to Rule 20 (B) of its Rules of Practice and Procedure approved on June 22,

2006 in Resolution No. 38, Series of 2005 (the ERC Rules) and other relevant rules and regulations;

The Applicants

2. ILPI is a private electric distribution utility duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at Bro. Jeffrey Road, Palao-o, Iligan City. It holds a franchise to operate a light and power service in the City of Iligan (the Franchise Area);
3. PSPEI is a corporation duly organized and existing under the laws of the Republic of the Philippines with its principal office at 10th Floor, The Athenaeum Building, 160 Leviste Street, Salcedo Village, Makati City. It is in the process of securing its Board of Investments (BOI) Certificate of Registration and will submit to the Commission a copy of said document during the course of the proceedings for the joint application;

Compliance with Pre-filing Requirements

4. In compliance with Rule 6 of the ERC Rules, a copy of the instant joint application with all its annexes and accompanying documents was furnished to the *Sangguniang Panlungsod* of Iligan;
5. Furthermore, they caused the publication of the present joint application in its entirety, excluding its annexes, in a newspaper of general circulation within the Franchise Area;

Statement of Facts

6. Under Section 23 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA), a Distribution Utility (DU) shall have the obligation to supply electricity in the least cost manner to its captive market, subject to the collection of retail rate duly approved by the Commission;

7. In accordance with the EPIRA provision, the Department of Energy (DOE), through Circular No. 2003-12-11, particularly, Section 1 thereof declared that "[a]ll distribution utilities must henceforth take cognizance and assume full responsibility to forecast, assure and contract for the supply of electric power in their respective franchise areas to meet their obligations as a distribution utility";
8. It must be noted that Mindanao, including Iligan City where ILPI principally operates, has long been experiencing widespread rotational power interruptions due to power supply deficiency. These power interruptions adversely affect the businesses and the lives of the electricity consuming public. According to the 2012-2013 Supply-Demand Outlook issued by the DOE, a total of 1,600 MW additional capacity is needed during the planning period to meet the electricity demand and the required reserve margin of the Mindanao Grid;
9. The Power Sector Assets and Liabilities Management Corporation (PSALM)/National Power Corporation (NPC) is the main power supplier in the Mindanao Grid and of ILPI. PSALM/NPC has a Contract for the Supply of Electricity (CSEE) with ILPI which expired last December 25, 2012. The said CSEE was renewed up to December 25, 2016 but the contract volume was significantly reduced by an average of thirty-five percent (35%). As a result, ILPI was forced to implement rotational brownouts and to procure power supply from more expensive sources;
10. During the Customer's Forum held in Davao City on August 11, 2014, PSALM presented the Mindanao Power Supply Outlook for 2015-2016. It declared that the supply allocation for its customers for 2015 will be reduced by a maximum of eighteen percent (18%) and will be further reduced in 2016 to a maximum of forty-six percent (46%). These will result to a reduction in ILPI's average PSALM allocation down to only 10.9 MW. In addition, there is uncertainty of electricity supply coming from PSALM after the CSEE expires on December 25, 2016;
11. Notably, PSALM has issued a certification confirming that it has insufficient capacity to supply ILPI's additional

power requirements beyond the contracted energy and equivalent demand in the current power supply contract;

12. ILPI's energy and demand requirements are projected to significantly increase in the next few years based on the existing growth rate of 2.3% per annum, as evidenced by ILPI's Distribution Development Plan (DDP) and Power Supply and Demand Scenario;
13. Moreover, ILPI's demand is expected to increase even further as the local government of Iligan City is taking initiative to rehabilitate and operate the facilities of the National Steel Corporation (NSC), one of the largest steel manufacturing plants in Asia.¹ It is important for ILPI, being the franchised distribution utility, to procure additional capacity to service the requirements of the NSC plant and contribute to the economic improvement of the City of Iligan;
14. Therefore, to ensure power supply adequacy in Iligan City, it is imperative for ILPI to enter into long-term power supply contracts from suppliers other than PSALM;
15. Starting 2012, ILPI solicited offers from generation companies to supply its growing power requirements. Among the offers ILPI considered and evaluated was from PowerSource Philippines, Incorporated (PSPI) which committed to build a 20MW embedded power plant within the Franchise Area through a Special Purpose Company, herein PSPEI. PSPEI's power plant is scheduled to be commissioned in December 2018;
16. Based on ILPI's evaluation, it was determined that the proposal of PSPEI is advantageous to its customers. Considering that the power plant of PSPEI will be located within the Franchise Area and will be connected directly to ILPI's power distribution network, ILPI will be able to avoid paying transmission charges to the National Grid Corporation of the Philippines (NGCP);

¹ "Iligan City to Revive Mothballed NSC", Manila Bulletin, August 17, 2014, www.mb.com.ph

17. In addition to the cost savings, since PSPEI is an embedded generator, it is capable of delivering electricity of better quality and reliability since its power plant will be subjected to fewer power interruptions arising from grid-related faults and/or transmission line constraints. It is also obligated to supply ILPI back-up energy and capacity during forced outage beyond allowable threshold levels;
18. Given the need to secure long-term power supply and considering the advantages of procuring electricity from PSPEI, and following extensive negotiations, they signed the PSA subject of the instant joint application on November 28, 2014;

Salient Features of the PSA

19. *Generation Facilities.* The electric power supply will come from a 1 x 20 MW Circulating Fluidized Bed Combustor Boiler (CFBCB) coal-and-biomass-fired power plant to be constructed, owned and operated by PSPEI (the PSPEI Power Plant). The PSPEI Power Plant has been designed as a baseload plant expected to operate on a 24/7 basis;
20. *Commercial Operation Date.* Subject to the satisfaction of certain conditions precedent enumerated in the PSA, the Commercial Operation Date is on December 26, 2018 or such later date as may be agreed upon by them;
21. *Term.* The term shall be twenty-five (25) years from the Commercial Operation Date;
22. *Contracted Capacity.* The Contracted Capacity of 12,000 kW is to be made available by PSPEI to ILPI to meet the latter's baseload requirements as indicated in and subject to the terms and conditions of the PSA;
23. *Stages of Supply.* PSPEI shall supply power to ILPI during commissioning of the PSPEI Power Plant and thereafter, during full commercial operations of said plant. ILPI will pay a lower rate during commissioning, as discussed in the subsequent paragraphs;

24. **Generation Charge.** ILPI shall pay the generation charge consisting of variable and fixed charges, subject to annual adjustments. The generation charge to be paid by ILPI will depend on whether power is delivered before the Commercial Operation Date or beginning on Commercial Operation Date. ILPI will pay the Monthly Payments for electricity supplied beginning on Commercial Operation and the Commissioning Output Charge for electricity supplied prior to the Commercial Operation Date;

The formula for computing these charges are as follows:

A. Beginning on Commercial Operation Date

ILPI will pay PSPEI the Monthly Payments on a monthly basis in accordance with the following formula:

$$\text{Monthly Payments} = \text{CRF} + \text{Fixed O\&M} + \text{Variable O\&M} + \text{Fuel Cost} + \text{Taxes} + \text{RCP}$$

Where:

A.1 Capital Recovery Fees (CRF)

Capital Recovery Fees which shall be computed as follows:

$$\text{CRF} = \text{CRF}_{\text{base}} * \text{CC} * [\text{Forex}_{\text{adj}} + 100\%]$$

Where:

$$\text{CRF}_{\text{base}} = \text{Base Capital Recovery Fee, in PhP1,414.52/ kW}$$

$$\text{Forex}_{\text{const}} = \text{The weighted average Foreign exchange rate (in PhP per US\$), as certified by an independent external auditor, based on actual receipts for dollar-denominated payments made to contractors during construction and}$$

development until the Scheduled Operations Date

The total amount subject to adjustment for changes in the Foreign exchange rate shall not exceed US\$45.5 million

To illustrate, if PSPEI pays for US\$ 20 Million of the total US\$45.5 Million budget at a Foreign Exchange rate of PhP45.00 per US\$1.00 and pays for the remaining US\$ 25.5 Million in PhP40.00 per US\$1.00, the $Forex_{adj}$ shall be computed as $((PhP45.00 \text{ per US\$1.00}) * (US\$20 \text{ Million}) + (PhP40.00 \text{ per US\$1.00}) * (US\$25.5 \text{ Million})) / (US\$45.5 \text{ Million})$ or PhP42.20 per US\$1.00

$Forex_{adj}$ = The factor to adjust the CRF_{base} for changes in the Foreign exchange rate (PhP per US\$) during construction and development.

It shall be computed as the percent increase or decrease of the $Forex_{CONST}$ to the $Forex_{base}$ multiplied by 98.69%

To illustrate, if $Forex_{CONST}$ equals PhP42.20 per US\$1.00, $Forex_{adj}$ shall be $[(PhP42.20 \text{ per US\$1.00} / PhP42.00 \text{ per US\$1.00}) - 1] * (98.69\%)$ or 0.46%

CRF_{base} = Base Capital Recovery Fee, in PhP1,414.52/ kW

$Forex_{base}$ = PhP42.00 per US\$1.00

CC = Contracted Capacity, in kW

A.2 Fixed Operation & Maintenance Fee (Fixed O&M)

The Fixed O&M Fee covers the operating and maintenance costs of the Power Plant. It shall be computed according to the following formula:

$$\text{Fixed O\&M} = \left[(\text{PH O\&M}_{\text{base}} * \text{PH CPI Index}) + (\text{US O\&M}_{\text{base}} * \text{US CPI Index} * \text{FX Index}) \right] * \text{CC}$$

Where:

$\text{PH O\&M}_{\text{base}}$ = Actual Base Philippine Peso O&M Fee in PhP418.34/kW

PH CPI Index = Which shall be calculated as the ratio of the Philippine Consumer Price Index (CPI) for All items, as posted by the Bangko Sentral ng Pilipinas (BSP) in www.bsp.gov.ph for the month in which the Billing period starts and the Philippine CPI [for All Items] as of the month of the signing of the agreement

$\text{US O\&M}_{\text{base}}$ = Actual Base US Dollar O&M Fee in PhP220.97/kW

US CPI Index = Which shall be calculated as the ratio of the United States (US) CPI for All Items, as posted by the Bureau of Labor Statistics (BLS) in www.bls.gov for the month in which the Billing period starts and the US CPI for All Items as of the month of the signing of the agreement

FX Index = Which shall be calculated as the ratio of the Peso to US Dollar exchange rate, as published by the BSP on the meter reading date and PhP42.00 per US\$1.00

CC = Contracted Capacity of 12,000 kW

A.3 Variable Operation & Maintenance Fee (VAR O&M)

The Variable O&M Fee covers the cost of the use of, among other items, chemicals, lubricants, spare parts, that are directly related to the generation of the Power Plant. It shall be computed according to the following formula:

$$\text{VAR O\&M} = \text{VAR O\&M}_{\text{base}} * \text{PH CPI Index} * \text{ED}$$

Where:

$$\text{VAR O\&M}_{\text{base}} = \text{Actual Base Philippine Peso O\&M Fee in PhP0.5722/kWh}$$

$$\text{PH CPI Index} = \text{As defined in Section 2.2 of this Schedule B}$$

$$\text{ED} = \text{Electricity delivered during the billing period in kWh}$$

A.4 Fuel Cost

Fuel Cost shall be computed according to the following formula:

$$\text{Fuel Cost} = \frac{[(\text{Coal Cost} * \text{CR}_{\text{coal}} * Y) + (\text{Biomass Cost} * \text{CR}_{\text{biomass}} * (1-Y))]}{\text{Conversion Factor} * \text{ED} + \text{Savings}_{\text{biomass}}}$$

Where:

$$\text{Coal Cost} = [\text{Coal Price}_{\text{base}} * \text{Coal Price Index} + \text{Transport} + \text{Tax}] * \text{FX Index} * \text{FX}_{\text{base}}$$

Where:

Coal Price_{base} = Fifty percent (50%) of the globalCOAL Monthly Index for Newcastle (reported under the heading "NEWC Index") adjusted for coal quality and fifty percent (50%) of the Indonesian low-ranked coal (HBA) price index for Eco Coal, in US\$/MT, for the month in which the Agreement was signed

Coal Price Index = the ratio of 50% of the globalCOAL Monthly Index for Newcastle (reported under the heading "NEWC Index") adjusted for coal quality and 50% of the from Indonesian low-ranked coal (HBA) price index for Eco Coal, in US\$/ton, for the month in which the billing period starts to Coal Price_{base}

FX Index = As defined above

Transport = Actual cost of transporting coal from source to plant site including coal handling costs, in US\$/MT

Tax = Shall be the Bureau of Customs duties and any other similar government charges on coal that Supplier has actually incurred, in US\$/MT, for the month in which the billing period starts

FX_{base} = PhP42 : 1US\$

CR_{coal} = Coal consumption rate equal to 0.8235 kg/kWh and escalated thereafter at rate of 1.5% per year

Y = Percentage of energy derived from Coal

Biomass Cost = Actual delivered cost of Biomass for rice hulls, in PhP/MT

CR_{biomass} = Biomass consumption rate equal to 1.1157 kg/kWh and escalated thereafter at rate of 1.5% per year. In the event that any types of Biomass other than rice hulls are available for the use in the Plant and such use is technically and commercially feasible, the CR_{biomass} shall be adjusted to reflect the applicable consumption rate for such type of biomass

(1-Y) = Percentage of energy derived from Biomass

Conversion Factor = 1,000 kg/MT

ED = As defined in A.3

$Savings_{\text{biomass}}$ = Zero or 50% * $\left[\frac{(\text{Coal Cost} * CR_{\text{coal}}) - (\text{Biomass Cost} * CR_{\text{biomass}})}{\text{Conversion Factor}} * ED * (1 - Y) \right]$, whichever is higher

PSPEI has the option to source coal from local sources or procure biomass if the fuel cost for the locally sourced coal or biomass is lower than the fuel cost for foreign sourced fuel as computed in accordance with the above formula

A.5 Taxes

Taxes shall mean Value Added Tax and other applicable taxes, if any

A.6 Reimbursable Cost Payments (RCP)

The Reimbursable Cost Payment for each billing period shall be derived from the definitions of Replacement Capacity and Energy and Back-up Capacity and Energy under Section 8.6, based on the following formula:

$$\text{RCP} = \text{RCEC} + \text{BCEC} + \text{ORC}$$

Where:

A.6.1 Replacement Capacity and Energy Costs (RCEC)

ILPI shall pay PSPEI Replacement Capacity and Energy Costs in accordance with the invoice provided by PSPEI of the Replacement Capacity and Energy

B.6.2 Backup Capacity and Energy Costs (BCEC)

ILPI shall pay PSPEI Backup Capacity and Energy Cost equivalent to the Monthly Payment had there been no Forced Outage

B.6.3 Other Reimbursable Cost (ORC)

This refers to any applicable ancillary charges by NGCP for the capacity nominated for ILPI

For reference, a sample computation of Monthly Payments is shown in Schedule C of the PSA

B. Before Commercial Operation Date

For electricity supplied by PSPEI prior to the Commercial Operation Date, ILPI shall pay Commissioning Output Charge. The Commissioning Output Charge shall be computed as follows:

**Commissioning Output Charge = Variable O&M +
Fuel Cost + Taxes**

Where:

VAR O&M = Computed in accordance with A.3
above

Fuel Cost = Computed in accordance with A.4
above

Taxes = as defined in A.5 above

C. Additional Capacity & Dispatchable Energy Charge

ILPI shall pay PSPEI the Additional Capacity and Dispatchable Energy Charge for any electricity supplied in excess of the Contracted Capacity and Dispatchable Energy at the Commission-approved rate

25. *Ancillary Charges, Taxes, Similar Fees.* All ancillary service charges, taxes, fees and other imposts are included in the monthly bill and shall be payable by ILPI;
26. *Prompt Payment Discount (PPD).* ILPI is entitled to a PPD of one percent (1%) of the Capital Recovery Fee for the billing period if payment is made in full earlier than the 20th day of the month;
27. *Replacement Power During Allowed Outage.* Beginning on Commercial Operation Date, during plant outage within the Allowed Outage, PSPEI shall source replacement power, on a best effort basis, from other suppliers of ILPI, or of any third party, including the Wholesale Electricity Spot Market (WESM) or its equivalent. Such replacement power shall be at full pass-through cost to ILPI. The Allowed Outage is the sum of hours allocated for Scheduled Maintenance Outage and Forced Outage within the year;
28. *Back-up Power in Excess of Allowed Outage.* Beginning on Commercial Operation Date, in the event that PSPEI

exceeds its Allowed Outage for the year, it shall be responsible for obtaining power from other suppliers of ILPI, or of any third party, including the WESM or its equivalent at the Contracted Rate. In case PSPEI is unable to deliver power to ILPI, the latter may opt to procure power from other sources. In no case however shall ILPI pay more than the Contracted Rate in this instance where: a) PSPEI has exceeded its Allowed Outage for the year; and b) power is sourced from other suppliers by either ILPI or PSPEI;

29. *Start-up Costs.* Beginning on Commercial Operation Date, if ILPI fails to accept delivery of electric power from PSPEI due to reasons attributable to ILPI, the latter is required to pay Start-up Costs (which include among others the cost of light or heavy fuel oil, additives, water and sorbents) to PSPEI within thirty (30) days from receipt of written demand from PSPEI;
30. *Increase / Decrease in Contracted Capacity.* During the term of the PSA, PSPEI may make available to ILPI electricity in excess of the Contracted Capacity upon written request of the latter. Such electricity shall be paid at the Contracted Rate. In anticipation of the implementation of open access in Mindanao, ILPI may also request for a reduction of its demand from PSPEI as a result of the transfer of any of its contestable customers. Such reduction, however, shall be granted only upon the fulfillment of certain reasonable conditions;
31. *Security Deposit.* Not later than thirty (30) days prior to the Scheduled Commercial Operations Date, ILPI shall deliver to PSPEI a Security Deposit in the form of a bank guarantee or irrevocable letter of credit equivalent to the highest projected monthly payment for the first contract year, and to the actual highest monthly payment in the preceding year for every year thereafter. In case ILPI is unable to pay its obligations under the PSA, PSPEI has a right to draw against the Security Deposit. ILPI has the obligation to maintain the Security Deposit for the duration of the PSA;
32. *Adjustments Due to Force Majeure.* They are excused from performing their respective obligations under the PSA in the event of Force Majeure, provided that the

party claiming Force Majeure has an obligation to notify the other party within twenty-four (24) hours from the occurrence of said force majeure. The PSA term shall be extended equal to the duration of the force majeure event;

33. *Assignment.* PSPEI has the right to assign the contract to its lenders for financing purposes. In case of such assignment, ILPI agrees to give either PSPEI or its lenders additional time to cure the event of default which gave rise to the assignment. In case the assignment provision is enforced, ILPI agrees to execute a direct agreement with PSPEI's lenders for the assignee to step into the rights of the assignor;
34. *Termination Fee.* If ILPI is unable to remedy a Customer Event of Default within ninety (90) days after receipt of a Notice of Customer Default, PSPEI may terminate the PSA and ILPI shall be liable to pay a termination fee (defined in the PSA as "Termination Payment") equivalent to seventy-five percent (75%) of the net present value of the adjusted Capital Recovery Fees multiplied by the Contracted Capacity for the remaining term of the PSA had it not been terminated. The formula for computing the Termination Payment is as follows:

$$NPV = \sum_{t=1}^n \frac{Values}{(1+rate)^t}$$

Where:

Values = The stream of adjusted Capital Recovery Fees multiplied by the Contracted Capacity for the remaining term of the PSA had it not been terminated

Rate = Seven percent (7%) *per annum*

35. *DOE Endorsement.* On November 24, 2014, the DOE issued Certificate of Endorsement No. 2014-10-005 certifying that the PSPEI Power Plant is consistent with the government's Power Development Plan (PDP);

36. *Environmental Compliance Certificate (ECC)*. PSPEI filed with the Environmental Management Bureau (EMB) – Department of Environment and Natural Resources (DENR) its application for an ECC on October 30, 2014;
37. *Certificate of Compliance (COC)*. Pursuant to ERC Resolution No. 9, Series of 2010, PSPEI shall file its application for a COC not later than three (3) months prior to the commencement of commercial operations;

Rate Impact Analysis

38. ILPI has conducted a generation rate impact simulation to determine the impact of the implementation of the PSA on its generation costs, assuming that power to be supplied by PSPEI is included in its generation mix;
39. A summary of the simulation on IPLI's generation rate impact is shown in the table below:

Year	In PhP/kWh				
	Effective Blended Generation Rate WITHOUT PSPEI	Effective Blended Generation Rate WITH PSPEI	Rate Impact: Increase/ (Decrease)	Estimated Savings from Avoided NGCP Transmission Costs	Net Estimated Increase/ (Decrease)
2019	5.5878	5.8382	0.2504	0.85	(0.5996)
2020	5.5299	5.7754	0.2455	0.85	(0.6045)

While the table above shows a slight increase in ILPI's generation rate upon entry of PSPEI in its generation mix starting in 2019, it must be noted that said increase is counterbalanced by the avoided transmission costs of NGCP estimated at PhP0.85/kWh (since PSPEI will be an embedded generator of ILPI) thereby resulting to a net savings per kWh charged by ILPI to its customers;

Allegations to Support Motion for Confidential Treatment of Information

40. Under Rule 4 of the ERC Rules, the Commission may, upon request of a party and determination of the

existence of conditions that would warrant such remedy, treat certain information submitted to it as confidential;

41. They are submitting the following documents pursuant to the foregoing Rule: PSPEI's Project Cost, Weighted Average Cost of Capital (WACC) Computation, Sources of Funds/Financial Plans, Fuel Procurement Process and Breakdown of O&M Expenses, marked as Annexes "Q", "R", "S", "T" and "U", respectively;
42. These documents contain certain non-public information, data and calculations involving business operations and financial trade secrets reflecting PSPEI's investment and business calculations. Under Article 22 of the PSA, they agreed not to disclose the provisions of the PSA to any third person except to a party's advisors, agents and counsels, or to banks and financial institutions providing security for PSPEI's obligations under financing agreements, or to ILPI's prospective investors and lenders;
43. They, thus move that Annexes "Q", "R", "S", "T" and "U" not be disclosed and be treated as confidential documents in accordance with Rule 4 of the ERC Rules. Accordingly, they submit one (1) copy of Annexes "Q", "R", "S", "T" and "U" in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential";

Summary of Submitted Documents

44. In support of the instant joint application, they submit to the Commission the following documents which are referred to herein and summarized below, thus:

Annex	Nature of Document
A	Power Supply Agreement
B	ILPI's Franchise
C	PSPEI's Securities and Exchange Commission (SEC) Certificate of Registration
D	PSPEI's Articles of Incorporation
E	PSPEI's Latest General Information Sheet (GIS)
F	Proof of receipt by the <i>Sangguniang Panlungsod</i> of Iligan

G	Affidavit of Publication
H	Copy of Newspaper where joint application was published
I	PSALM Certification
J	ILPI's DDP
K	ILPI's Supply and Demand Scenario
L	Affidavit on ILPI's Procurement Process
M	Description of PSPEI Power Plant
N	DOE Certificate of Endorsement
O	ECC Application
P	Rate Impact Simulation
Q	Project Cost Computation
R	WACC Computation
S	Sources of Funds/Financial Plans
T	PSPEI's Fuel Procurement Process
U	Breakdown of O & M Expenses
V	Sworn Statement from ILPI in Support of Prayer for Provisional Authority
W	Sworn Statement from PSPEI in Support of Prayer for Provisional Authority

Arguments in Support of Motion for Provisional Authority

45. As stated in the foregoing discussion, ILPI's forecasted demand is expected to increase significantly in the coming years. In addition, NPC/PSALM's supply is expected to lower after the CSEE expires in 2016 by a maximum of forty-six percent (46%), as stated in the Mindanao Power Supply Outlook for 2015-2016 presented by PSALM during the Customer's Forum held in Davao City on August 11, 2014;

46. Based on the Supply and Demand Scenario prepared by ILPI, ILPI may suffer a power supply deficit ranging from an average of 8 MW to a maximum of 12 MW in 2019 if PSPEI does not start delivering power in December 2018. This deficit is expected to increase annually if PSPEI fails to go on-line given the consistent increase in ILPI's demand;

47. Thus, there is a need for ILPI to secure long-term power supply in order to adequately service the needs of the residents and business enterprises within the Franchise Area;
48. Moreover, the construction of the PSPEI Power Plant requires substantial financing from lending institutions and investors. Such financing in turn requires a determination of the Commission-approved tariff. Likewise, the project's implementation is bound by contractual milestones including approval of the PSA by the Commission. A provisional approval of the PSA from the Commission, together with an indicative tariff, is critical in the evaluation to be made by financial institutions and potential investors of the project;
49. Notably, securing the financing for the PSPEI Power Plant triggers the timely implementation of the project and achievement of the Commercial Operations Date, that in turn ensures that PSPEI is able to provide power in a timely manner to ILPI, which is in dire need of reliable supply of electricity;
50. Sworn statements attesting to the allegations made in the joint application in connection with the prayer for issuance of a provisional authority are submitted to the Commission;
51. Therefore, they move for the provisional approval of the instant joint application pursuant to Rule 14 of the ERC Rules; and

Prayer

52. Thus, they pray that the Commission:
 - 52.1 Immediately issue an Order provisionally approving their PSA subject of the instant joint application as well as the generation rate and adjustment mechanisms indicated therein;

52.2 Issue an Order: a) treating Annexes "Q", "R", "S", "T", and "U" and the information contained therein as confidential; b) directing their non-disclosure pursuant to Rule 4 of the ERC Rules; and c) prescribing the guidelines for the protection thereof; and

52.3 After due hearing, render judgment making the provisional approval of the said PSA permanent.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **March 3, 2015 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at Fontina Coffee Shop, Andres Bonifacio Avenue, Tibanga, Iligan City.**

ILPI and PSPEI are hereby directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing. They are also directed to inform ILPI's customers, by any other means available and appropriate, of the filing of the instant application, their reasons therefor, and of the scheduled hearing thereon.

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

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Mayor of Iligan City for the appropriate posting thereof on its bulletin board.

ILPI and PSPEI are hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

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

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

- (a) a summary of admitted facts and proposed stipulation of facts;
- (b) the issues to be tried or resolved;
- (c) the documents or exhibits to be presented, stating the purposes and proposed markings thereof; and
- (d) the number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

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

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

SO ORDERED.

Pasig City, February 2, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson *per y*

Copy Furnished:

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