

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE CONTRACTS FOR THE SUPPLY OF ELECTRIC ENERGY ENTERED WITH DISTRIBUTION UTILITIES LOCATED IN THE MINDANAO GRID WITH PRAYER FOR ISSUANCE OF PROVISIONAL AUTHORITY

ERC CASE NO. 2021-107 RC

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM),
Applicant.

Promulgated:
December 31, 2021

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 24 December 2021, Power Sector Assets and Liabilities Management Corporation (PSALM) filed an Application dated 26 October 2021, seeking the Commission's approval of the Contracts for the Supply of Electric Energy (CSEE) it entered into with various Distribution Utilities (DUs) located in the Mindanao grid with prayer for issuance of provisional authority.

The pertinent allegations of the said Application are hereunder quoted, as follows:

- Pursuant to Section 67 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" ("EPIRA"), PSALM respectfully submits this Application for the approval ("Application") of the terms and conditions of the Contracts for the Supply of Electric Energy ("CSEE") entered into by and between PSALM and twenty-one (21) Electric Cooperatives ("ECs") and one (1) Distribution Utility ("DU") located in the Mindanao Grid, namely:
 - Agusan del Norte Electric Cooperative, Inc. ("ANECO");¹
 - Agusan del Sur Electric Cooperative, Inc. ("ASELCO");²
 - Bukidnon Second Electric Cooperative, Inc. ("BUSECO");³
 - Camiguin Electric Cooperative, Inc. ("CAMELCO");⁴
 - Cotabato Electric Cooperative, Inc. ("COTELCO");⁵
 - Davao Del Norte Electric Cooperative, Inc. ("DANEKO");⁶
 - Davao Oriental Electric Cooperative, Inc. ("DORECO");⁷
 - Iligan Light and Power, Inc. ("ILPI");⁸
 - Lanao del Norte Electric Cooperative, Inc. ("LANECO");⁹
 - Misamis Occidental I Electric Cooperative, Inc. ("MOELCI I");¹⁰
 - Misamis Occidental II Electric Cooperative, Inc. ("MOELCI II");¹¹
 - Misamis Oriental II Rural Electric Service Cooperative, Inc. ("MORESCO II");¹²
 - Siargao Electric Cooperative, Inc. ("SIARELCO");¹³
 - South Cotabato I Electric Cooperative, Inc. ("SOCOTECO I");¹⁴
 - South Cotabato II Electric Cooperative, Inc. ("SOCOTECO II");¹⁵
 - Sultan Kudarat Electric Cooperative, Inc. ("SUKELCO");¹⁶
 - Surigao del Norte Electric Cooperative, Inc. ("SURNECO");¹⁷
 - Surigao del Sur I Electric Cooperative, Inc. ("SURSECO I");¹⁸
 - Surigao del Sur II Electric Cooperative, Inc. ("SURSECO II");¹⁹
 - Zamboanga del Sur I Electric Cooperative, Inc. ("ZAMSURECO I");²⁰
 - Zamboanga del Sur II Electric Cooperative, Inc. ("ZAMSURECO II");²¹ and
 - Zamboanga del Norte Electric Cooperative, Inc. ("ZANEKO").²²

The foregoing are hereinafter referred to as the "Contracting DUs" and PSALM's CSEEs with the Contracting DUs are hereinafter referred to as the "Subject CSEEs."

- PSALM is a government-owned and controlled corporation created by virtue of the EPIRA, with principal office address at 24th Floor Vertis North Corporate Center 1, Astra corner Lux Drives, North Avenue, Quezon City.
- Pursuant to Section 49 of the EPIRA and the consequent assignment on 11 May 2009 of all National Power Corporation ("NPC") power supply contracts to PSALM, NPC assigned and transferred to PSALM all its rights and obligations in, to, and under its CSEEs and other similarly or substantially equivalent power supply contracts with NPC power customers (collectively referred to as "Power Supply Contracts").

The NPC Assignment Letter dated 11 May 2009 is hereto attached as Annex "A."
- On and from 11 May 2009, the Power Supply Contracts were deemed amended as follows: (i) all references to NPC therein shall be treated as references to PSALM; (ii) PSALM shall be deemed the Supplier under said Power Supply Contracts; and (iii) the rights and obligations of the parties shall be governed by and construed in accordance with said Power Supply Contracts, as amended by the 11 May 2009 Assignment Letter. Thus, this instant application by PSALM.
- The Subject CSEEs were executed based on the ERC-approved template under ERC Resolution No. 08, Series of 2005 issued on 07 July 2005. On 09 August 2005, said template was later amended by this Honorable Commission in its Resolution No. 15, Series of 2005.
- In ERC Resolution No. 33, Series of 2006, "Resolution Clarifying the Purpose of the Adoption of the Transition Supply Contract ("TSC") Template," the ERC clarified that the TSC Template should merely serve as a guide for the DUs and NPC and should not be construed as the contract contemplated under Section 67 of the EPIRA.
- PSALM previously filed similar applications for the approval of the terms and conditions of CSEEs and/or Letters of Agreement ("LOA") of the DUs located in the Mindanao Grid, which were subsequently approved by this Honorable Commission on the following dates:

Date Filed	ERC Case No.	Type of Contract	Date of Decision
15 March 2011	2011-038 RC	CSEE and LOA	24 January 2012
19 September 2011	2011-128 RC	CSEE	25 February 2013
07 October 2011	2011-139 RC	CSEE	25 February 2013
20 January 2012	2012-007 RC	CSEE	25 February 2013
01 April 2013	2013-055 RC	CSEE	09 December 2013
02 December 2013	2013-218 RC	CSEE and LOA	20 June 2017
02 December 2014	2014-175 RC	CSEE and LOA	Deliberated and approved during this Honorable Commission's meeting on 16 August 2016. ²³
04 November 2016	2016-186 RC	CSEE and LOA	24 October 2017
27 July 2017	2017-067 RC	LOA	20 January 2021

PSALM's Pending CSEE/LOA Applications with the ERC Relative to the DUs Located in the Mindanao Grid

ERC Case No. 2020-016 RC

- On 06 July 2020, PSALM filed an application docketed as ERC Case No. 2020-016 RC for the approval of duly executed and negotiated LOAs in the Mindanao Grid with the following DUs:
 - Cagayan Electric Power and Light Company, Inc. ("CEPALCO") and
 - COTELCO.
- These DUs have existing CSEEs that were submitted for approval in PSALM's application under ERC Case No. 2018-054 RC. The revisions PSALM introduced in the CSEEs under said application consist of (i) those found in Annex I of the CSEEs (which reflects the Contracted Energy and the corresponding Equivalent Demand); and (ii) the amendment of Section 3.1 on Contract Duration.
- The above LOAs reflect a change on the Contract Energy and Equivalent Demand (in Annex I of their respective CSEEs) based on the generation forecast and allocation as requested and concurred by the DUs by maintaining the match between the total revised allocation of the Mindanao customers and the generation forecast. In addition, the above LOAs have a duration that maintains the existing CSEE contract duration which is set to expire on 25 December 2020.
- The said application is pending resolution before this Honorable Commission.

ERC Case No. 2018-054 RC

- On 08 June 2018, PSALM filed an application docketed as ERC Case No. 2018-054 RC for the approval of several duly executed and negotiated CSEEs in the Mindanao Grid with the following DUs:
 - ANEKO;
 - ASELCO;
 - BUSECO;
 - CAMELCO;
 - CEPALCO;
 - COTELCO;
 - DANEKO;
 - Davao del Sur Electric Cooperative, Inc. ("DASURECO");
 - DORECO;
 - First Bukidnon Electric Cooperative, Inc. ("FIBECO");
 - ILPI;
 - LANECO;
 - MOELCI I;
 - Misamis Oriental I Rural Electric Service Cooperative, Inc. ("MORESCO I");
 - MORESCO II;
 - SIARELCO;
 - SOCOTECO II;
 - SUKELCO;
 - SURNECO;
 - SURSECO I;
 - SURSECO II;
 - Zamboanga City Electric Cooperative, Inc. ("ZAMCELCO");
 - ZAMSURECO I;
 - ZAMSURECO II
 - ZANEKO
 - Cotabato Light and Power Company ("CLPC");
 - Davao Light and Power Company, Inc. ("DLPC");
 - Lanao del Sur Electric Cooperative, Inc. ("LASURECO");
 - Maguindanao Electric Cooperative, Inc. ("MAGELCO");
 - MOELCI II; and
 - SOCOTECO I.
- The foregoing CSEEs were executed based on the template approved by this Honorable Commission under Resolution No. 8, Series of 2005 as amended by Resolution No. 15, Series of 2005. Likewise, the CSEEs incorporated the changes previously proposed by PSALM and approved by the DUs, which changes were contained in the CSEEs approved by this Honorable Commission in PSALM's application in ERC Case No. 2013-055 RC and subsequent applications.
- The revisions made in the CSEEs under said application consist of (i) those found in Annex I of the CSEEs (which reflects the Contracted Energy and the corresponding Equivalent Demand); and (ii) the amendment of Section 3.1 on Contract Duration.
- The said application is pending resolution before this Honorable Commission.

The Subject CSEEs Between PSALM and the Contracting DUs

- Pursuant to Section 5, Article III of the ERC's Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rate, PSALM is filing the instant Application for the approval of the Subject CSEEs duly negotiated with the Contracting DUs.

Copies of the Subject CSEEs are attached hereto as Annexes "B" to "B-21," respectively.
- As mentioned above, PSALM previously executed separate CSEEs with the Contracting DUs, which were included in PSALM's pending application for approval docketed under ERC Case No. 2018-054 RC.
- Further, the Subject CSEEs were executed based on the ERC-approved template under ERC Resolution No. 08, Series of 2005. Likewise, these CSEEs incorporated the minor changes previously proposed by PSALM and approved by the DUs, which changes were contained in the CSEEs approved by this Honorable Commission in PSALM's Application in 2013-055 RC and subsequent applications.

Salient Provisions of the Subject CSEEs

- The respective Contract Durations of the Subject CSEEs are identified below:

	CSEE	Contract Duration
1	PSALM-ANEKO	26 December 2020 to 25 December 2025
2	PSALM-ASELCO	26 December 2020 to 25 December 2023
3	PSALM-BUSECO	26 December 2020 to 25 December 2023
4	PSALM-CAMELCO	26 February 2021 to 25 December 2023
5	PSALM-COTELCO	26 December 2020 to 25 December 2022
6	PSALM-DANEKO	26 December 2020 to 25 December 2025
7	PSALM-DORECO	26 February 2021 to 25 December 2023
8	PSALM-ILPI	26 December 2020 to 25 December 2023
9	PSALM-LANECO	26 February 2021 to 25 December 2023
10	PSALM-MOELCI I	26 December 2020 to 25 December 2023
11	PSALM-MOELCI II	26 February 2021 to 25 December 2023
12	PSALM-MORESCO I	26 February 2021 to 25 December 2023
13	PSALM-MORESCO II	26 February 2021 to 25 December 2022
14	PSALM-SIARELCO	26 December 2020 to 25 December 2023
15	PSALM-SOCOTECO I	26 December 2020 to 25 December 2023
16	PSALM-SOCOTECO II	26 December 2020 to 25 December 2023
17	PSALM-SUKELCO	26 December 2020 to 25 December 2025
18	PSALM-SURNECO	26 February 2021 to 25 December 2023
19	PSALM-SURSECO I	26 December 2020 to 25 December 2023
20	PSALM-SURSECO II	26 February 2021 to 25 December 2023
21	PSALM-ZAMSURECO I	26 February 2021 to 25 December 2023
22	PSALM-ZAMSURECO II	26 December 2020 to 25 December 2023
23	PSALM-ZANEKO	26 December 2020 to 25 December 2023

- The PSALM-ANEKO CSEE has the following salient provisions, apart from those mentioned in the preceding paragraphs:

(i) **CONTRACT ENERGY**

- Contract Energy and Equivalent Demand as indicated in Annex I may be changed by PSALM due to a change in the projected available capacity of PSALM's power plants and at any time during the duration of the Contract due to the privatization of any of the assets of PSALM pursuant to the EPIRA.

- CUSTOMER shall nominate month-ahead its hourly and daily energy quantity requirements three (3) days before the start of the next billing period based on its Daily Load Profile as reflected in Annex 1a. On a day to day transaction, the CUSTOMER shall confirm the schedule of hourly energy requirements to PSALM on the day ahead. PSALM shall declare to WESM the schedule of hourly energy

requirements delivered to customers immediately on the day after.

(ii) **ASSIGNABILITY**

- PSALM may assign or transfer part or all of its rights and obligations in the supply of Contract Energy herein stated, to any such entity, provided that prior written notice is given to CUSTOMER Ninety (90) days before the actual transfer. This Contract shall remain binding to Parties, their successors and assignees. PSALM warrants that any sale, assignments, transfer, or subcontracting of the Contract shall not affect or impair CUSTOMER's rights and obligations with respect to quantity and price of electricity, Contract effectivity, incentives, discounts and other terms and conditions of this Contract. The assignee shall, by written instrument, assume the rights and obligations of PSALM to CUSTOMER. When a CUSTOMER has been assigned by the PSALM to a Successor Generating Company (SGC) by virtue of the privatization of the PSALM Generating Plant pursuant to the EPIRA, the SGC has the option to renegotiate this Contract with the CUSTOMER within six (6) months from the actual transfer of the CUSTOMER to the SGC. If the CUSTOMER and the SGC fail to reach an agreement, either Party shall have the right to terminate this Contract.

- CUSTOMER may assign, sell or transfer a part or all of its Contract Energy and/or Equivalent Demand either permanently or for a certain number of billing periods, subject to the written consent of PSALM under the following conditions, and which consent shall not be unreasonably withheld:

- CUSTOMER has obtained certification from NGCP, that the transmission, sub-transmission, substation and other facilities can accommodate the increase in the power requirements of the assignee/transferee.
- CUSTOMER has submitted necessary proof that the buyer, assignee or transferee has no outstanding obligation to PSALM, and undertakes to assume the obligations of CUSTOMER and to pay for the additional expenses necessary or incidental to the transfer.
- Assignment of CUSTOMER to assignee shall comply with the forms provided in Annex IVa and Annex IVb of this Contract.
- THE ASSIGNEE SHALL ASSUME ALL OBLIGATIONS OF THE CUSTOMER related to Contract Energy that might arise in a pending suit with the ERC or in Arbitration proceedings.

(iii) **SECURITY DEPOSIT**

- The Security Deposit shall be equivalent to 100% of the average contracted energy indicated in Annex I of the CSEE and shall become valid and effective for the duration of this Contract.

(iv) **FORM AND TIME OF POSTING**

- The Security Deposit may be required to be posted upon privatization of the generating asset/s to which this Contract is allocated or assigned as provided for in Section 4.8 hereof if the prospective buyer, assignee, transferee or successor-in-interest so requires. It shall be in the form of cash, cash bond, manager's or cashier's check, bank certified check, irrevocable stand-by letter of credit, performance bond or bank guarantee "callable on demand" issued by a financial institution, or any other forms of security such as but not limited to escrow account to be administered by a bank acceptable to PSALM. In the event the Security Deposit of the CUSTOMER becomes nil, the PSALM reserves the right to refuse or discontinue supply of electric energy. In cases of partial depletion of the Security Deposit, the CUSTOMER shall replace the Security Deposit not later than thirty (30) days thereafter. PSALM reserves the right to continue supply of electric energy to the extent of Security Deposit of the CUSTOMER.

(v) **RELEASE OF SECURITY DEPOSIT**

- The Security Deposit (for the portion that should be settled within the WESM) shall be returned to the CUSTOMER within thirty (30) days upon presentation of proof of compliance with the prudential requirements of the WESM. PSALM shall return or release the Security Deposits to CUSTOMER including interest earned, subject to deductions for any amounts owed by CUSTOMER to PSALM. Security Deposits, except those in the form of letter of credit or performance bond, shall earn interest based on prevailing savings deposit rate of the Land Bank of the Philippines (LBP).

(vi) **BASIC ENERGY CHARGE**

- The Basic Energy Charge (BEC) applied to the CUSTOMER's hourly energy consumption which shall be the ERC-approved NPC/PSALM's Time of Use (TOU) generation rates, which is attached as Annex III, plus adjustments in the tariff such as, but not limited to Deferred Accounting Adjustments (DAAs) and the Incremental Currency Exchange Rate Adjustments (ICERA), the RA 9136 Mandatory Rate Reduction Adjustments. The basic energy charge to be applied to the contracted energy shall be in accordance with Section 7.1 of this Contract.

Energy consumption higher than the contracted level shall be sourced by the Customer from the Wholesale Electricity Spot Market at the Wholesale Electricity Spot Market rate and paid directly to the Independent Electricity Market Operator of the Philippines (IEMOP).

- The BEC shall be applied to the CUSTOMER's hourly energy consumption based on the hourly nominated energy quantity mentioned in Section 4.1.1.

(vii) **MINIMUM CHARGES**

- CUSTOMER shall pay the minimum charge based on the Contract Energy per billing period as indicated in Section 4.1 of this Contract using the basic energy charge if CUSTOMER has not fully taken or failed to consume the Contract Energy, subject to deductions and adjustments as expressly provided for in this Contract.

(viii) **SERVICE INTERRUPTION ADJUSTMENT**

- Should the supply of electricity be interrupted or curtailed to a level below the Contract Energy due to the fault or lack of generation capacity of the PSALM, even if CUSTOMER was at that time unable to take or consume electricity, the Contract Energy shall be adjusted to actual off-take below contract level for all hours when service was curtailed or interrupted based on declaration of power curtailment issued by the NGCP.