

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE
JOINT APPLICATION FOR
THE APPROVAL OF THE
POWER SUPPLY
AGREEMENT BETWEEN
MORE ELECTRIC AND
KEPCO SPC POWER
CORPORATION AND
KEPCO SPC POWER
CORPORATION WITH
MOTIONS FOR PROVISIONAL
AUTHORITY AND
CONFIDENTIAL TREATMENT
OF INFORMATION

ERC CASE NO. 2022-019 RC

MORE ELECTRIC AND
KEPCO SPC POWER
CORPORATION,
Applicants.
Promulgated:
April 25, 2022

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 28 March 2022, More Electric and
Power Corporation (MORE) and KEPCO SPC Power Corporation
(KSPC) filed a Joint Application dated 12 January 2022, seeking the
Commission's approval of their Power Supply Agreement (PSA) with
Motion for provisional authority and confidential treatment of
information.

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

I. THE APPLICANTS

- 1. KSPC is a duly authorized generation company and existing
under and by virtue of the laws of the Republic of the
Philippines with principal address at 7th Floor, Cebu Holdings
Center, Cebu Business Park, Cebu City.
2. MORE POWER is a duly franchised private distribution
utility, duly organized and existing under and by virtue of the
laws of the Republic of the Philippines with principal address at
GST Corporate Center, Quezon St., Iloilo City. It has been
granted a franchise under Republic Act 11212 to provide
electric distribution services in Iloilo City, Province of Iloilo
(the "Franchise Area"). It has also been granted a Provisional
Certificate of Public Convenience and Necessity by this
Honorable Commission in an Order dated 05 March 2020 in
ERC Case No. 2018-019MC.
3. Applicant KSPC is represented by its Vice President for
Marketing, Mr. Kim, Youngrak as shown in the attached
Secretary's Certificate dated November 29, 2021.
4. Applicant MORE POWER's representative, Mr. Roel Z.
Castro, its President and COO, has likewise been authorized
to file this Joint Application as evidenced by a Secretary's
Certificate dated August 31, 2021.
5. The parties may be served with orders and other processes of
this Honorable Commission through understated counsels;

II. NATURE OF THE APPLICATION

- 6. Pursuant to Rule 20 (B) of the ERC Revised Rules of Practice and
Procedures, approved by this Honorable Commission on 17
December 2020 in Resolution No. 01, Series of 2021 in relation to
DC2018-02-0003 this Application is submitted to this Honorable
Commission for the approval Applicants' Power Supply Contract
("PSC" for brevity) signed and notarized on October 4, 2021 and
October 14, 2021.
7. In compliance with Rule 6, Sec. 2 of the ERC Revised Rules of
Practice and Procedures, a series of 2021, applicants have
furnished the Office of the City Mayor and Sangguniang
Panlungsod with a copy of the present application with all its
annexes and accompanying documents. Certifications were
issued by the said Local Government Unit's officers attesting to
the fact of service of the copy of the present Application and its
Annexes.
8. Furthermore, applicants have caused the publication of the
present application in its entirety in the local newspaper of
general circulation within the franchise area of MORE
POWER.

IV. STATEMENT OF FACTS

- MORE POWER CONDUCT OF A
COMPETITIVE SELECTION
PROCESS.
9. In view of the anticipated expiration of MORE Power's Power
Supply Contracts with PSALM which are set to expire on
January 25, 2022 and July 25, 2022, and in view of the
increasing demand for electricity, and the need to ensure
continuous and reliable supply of electricity, MORE POWER,
through a Third-Party Bids and Awards Committee (TPBAC),
conducted a Competitive Selection Process (CSP) through
OPEN AND COMPETITIVE BIDDING in accordance
with the requirements and procedures under Department of
Energy (DOE)/Department Circular DC2018-02-003 for the
procurement of 45MW power supply with a committed
base-load demand as follows:

Table with 2 columns: Duration and Demand (MW).
Row 1: Phase 1: January 26, 2022 and shall remain effective for a period of ten (10) years - 20
Row 2: Phase 2: July 26, 2022 and shall remain effective for a period of ten (10) years - 25

- 10. The Terms of Reference for the power supply agreement
includes the following requirements:

Main contract requirements table with columns: Type of Contract, Firm - Base Load, Annual Contracted Energy, Contract Period, Penalty in case of Delay in Construction of new power plants, Supply Type, Technical Parameters, Tariff Structure.

- 11. The Invitation to Bid was published on May 6 and 13, 2021 in the
Daily Tribune and KSPC submitted its Intention to submit
a Bid, along with several other interested Generation
Companies. Thereafter, MORE POWER, in line with the CSP
Rules asked KSPC to submit its pre-qualification documents.
12. As soon as the pre-qualification documents were reviewed
and evaluated by the MORE POWER TPBAC, KSPC was
informed of its pre-qualification and was informed that it can
already pay the Bidding Document Fee.
13. To meet the target period under the CSP Rules, MORE
POWER TPBAC proceeded to conduct the Bidding Process as
follows:
a. MORE POWER bid out a total of 45MW: 20MW for
Phase I and another 25MW for Phase II. The opening
of bids was held last 13 August 2021 in Iloilo City. For
Phase I, KSPC came up with two offered prices for
Block 1 and Block 2, each at 10MW. For Phase II, KSPC
likewise offered 3 blocks at 10 MW each, in compliance
with the TOR requirement but at different prices for each
block.

- b. Based on its received Bid Proposals (Confidential) and
as explained in its Detailed Evaluation Report
(Confidential), the TPBAC determined that KSPC's
offer for Phase II-Block II and Block III at a contracted
capacity of 10 MW each, turned out to be the best bids
for the said blocks.
c. In accordance with the board resolutions duly
approved in a special meeting, the MORE POWER
TPBAC issued a Notice of Award to KSPC, and KSPC in
turn issued a Confirmation on the Notice of Award.
d. The details of the CSP conducted by MORE POWER
are contained in the Sworn Certification (Confidential)
executed by its President and COO, Mr. Roel Z. Castro.
14. On 14 October 2021, MORE POWER and KSPC executed the 20
MW Power Sales Agreement (PSA) subject of this
application.

ABSTRACT OF THE POWER
SUPPLY AGREEMENT AND
RELATED INFORMATION

- 15. The PSA's salient features are described in the succeeding
paragraphs and form part of the executive summary, to wit:
a. Supply of Electricity. SELLER shall make available to the
BUYER during the Contract Period the Contracted Capacity
and its associated Energy, as provided in Schedule 3, and in
accordance with the terms of this Agreement. The Parties
agree that SELLER shall have no obligation to supply more
than the Contracted Capacity and its associated Energy,
except as otherwise provided in this Agreement.
The SELLER shall make available the Contracted Capacity
and its associated Energy primarily from the Plant but shall
have the sole exclusive right, without regard to the availability
of the Contracted Capacity at the Delivery Point, to source
energy from the WESM, or its successor wholesale market, or
any other sources. If the Contracted Capacity is sourced, in
whole or in part by the SELLER from the WESM or any other
sources pursuant to this paragraph, it shall have the same
effect as though energy is made available from the Plant to the
Delivery Point.
b. Contract Period. The supply of power from the BUYER to the
SELLER shall cover a period of ten (10) years, and shall take
effect starting July 26, 2022 until July 25, 2032.
c. Delivery Points. Electric power will be directly delivered to the
BUYER's metering nodes as provided in Schedule 8. Any line
rental shall be for the account of the SELLER.
d. Obligation during Outage. During Outage, whether Scheduled
Outage or Unscheduled Outage, SELLER shall supply or cause
the supply of replacement power to the BUYER (the
"Replacement Power") during the period of the relevant
plant's outage at the same rate agreed herein. SELLER's
supply of Replacement Power shall only be to the extent of the
Contracted Capacity. In the event of failure of the SELLER to
provide the replacement power, BUYER shall be allowed to
find replacement power but shall be for the account of the
SELLER, subject to the payment to the BUYER of
administrative fee of Pp 0.35/kWh.
e. Contract Quantity.

Block I

Table for Block I showing Bill Month, No. of days, Regular Year, Leap Year, Hours, Capacity (MW), Regular Year, Leap Year, Energy, kWh.

Block 2

Table for Block 2 showing Bill Month, No. of days, Regular Year, Leap Year, Hours, Capacity (MW), Regular Year, Leap Year, Energy, kWh.

- f. Reduction in Contracted Capacity. BUYER shall be entitled to
a reduction in the Contracted Capacity as a result of the
transfer of any of the BUYER's existing captive customers as
of the date of execution of this Agreement upon written
application by the BUYER to the SELLER at least sixty (60)
days prior to such reduction, by reason of the following:
i. the lowering of the threshold of contestability in
relation to the implementation of Retail
Competition and Open Access (ROA), or
ii. the Green Energy Option Program or relevant
Renewable Energy Act of 2008, or
iii. the Net Metering Program or
iv. other relevant laws issued by the Philippine
Government.
The guidelines for reduction in contracted capacity are outlined in
Article 5.
g. Electricity Fees. In respect of each Billing Month within the
Contract Period, BUYER shall pay Electricity Fees to SELLER
in accordance with Schedule 5. The BUYER shall not be made
to pay for electricity fees pertaining to capacity that it can no
longer accept due to circumstances mentioned under Article 5
of this Agreement or to capacity that SELLER for some reason
is unable to deliver.
h. Adjustments to the Basic Energy Charge
i. The local components of the Basic Energy Charge
subject to escalation shall be based on the
Philippine Consumer Price Index published by the
Philippine Statistics Authority.
ii. The foreign components of the Basic Energy Charge
subject to escalation shall be based on the US
Consumer Price Index published by US Bureau of
Labor Statistics (USBLS).
iii. The Foreign exchange rate shall be the Ph Peso vs. US
Dollar exchange rate as published by the Bangko
Sentral ng Pilipinas on or before the last day of the
Billing Month.
iv. The Capacity and its associated Energy shall be billed
in Philippine Peso per kilowatt hour (Pp/kWh), in
accordance with Schedule 5.
v. For Additional Contracted Capacity and its associated
Energy, if any, BUYER shall pay Electricity Fees to
SELLER in accordance with Schedule 5.
i. Responsibility for Taxes, Fees and Costs. i. SELLER shall be
responsible for and shall directly make payment to third
parties of its obligations for following amounts:
1. Connection Charges;
2. Energy Imbalance Fees in connection with its
participation in the WESM;
3. WESM line rental charges for the transmission of
associated Energy under this agreement from the
SELLER'S WESM Node to the Delivery Point;
4. Benefits to Host Communities Charges;
5. Value-added tax on any of the foregoing amounts; and
All other new taxes, increased tax rates, fees, charges
and costs (including penalties) arising from this
Agreement that are not expressly permitted to be
passed through to BUYER by the terms of this
Agreement.
ii. BUYER shall be responsible for and shall directly make
payment to third parties of its obligations for the following
amounts:
1. WESM Market Fees;
2. Any charges by NGCP for the supply of electricity at its
Point(s) of Delivery; and
3. All other new taxes, increased tax rates, fees, charges
and costs (including penalties) arising from this
Agreement that are not expressly permitted to be
passed through to BUYER by the terms of this
Agreement.
j. Non-Payment. SELLER may bill the BUYER interest charge
for non-payment of any undisputed amount billed under this
Agreement. SELLER shall compute the interest charge using
the rate per annum of the Treasury Bills at due date,
multiplied by the number of days from the date when such
payment is due plus three percent (3%) per annum until the
date such amount is received in full by SELLER. Subject to
Section 6.3, the SELLER has the sole option to draw from the
Security Deposit in the amount that is due plus interest
indicated herein. Should the SELLER utilize the Security
Deposit, the SELLER shall send a written notice to the BUYER
to replenish the said Security Deposit within fifteen (15) days
from receipt.
k. Force Majeure. As used herein, "Force Majeure" shall mean
any event not within the reasonable control, directly or
indirectly, of the Party affected, but only if and to the extent
that (i) such event, despite the exercise of reasonable
diligence, cannot be or is caused to be prevented, avoided or
removed by the Party affected, (ii) the Party affected has taken
all reasonable precautions, due care and reasonable
alternative measures in order to avoid the effect of such event
on the Party's ability to perform its obligation, and to mitigate
the consequences thereof, and (iii) such event is not the direct
or indirect result of a Party's negligence or the failure of such
Party to perform any of its obligations. An event of Force
Majeure shall include, but not be limited to, any of the
following events enumerated in Article 9.

- l. Termination Due to Prolonged Force Majeure. Either Party
may terminate this Agreement upon delivery of a Termination
Notice at least thirty (30) days to the effectivity of the
termination, if an event of Force Majeure occurs during the
Contract Period that prevents BUYER from receiving or
SELLER from delivering electricity at the Delivery Points for a
period in excess of six (6) consecutive months.
m. Payments on Termination. Upon termination of this
Agreement due to the default or breach of either Party under
14.1 and 14.3-1 hereof, the defaulting Party shall pay the
other Party all unpaid fees including interest, as well as
liquidated damages in the form of a termination penalty
amounting to the present value of the Capital Recovery Fees,
as specified in Schedule 5 for the remainder of the Contract
Period and in accordance with the formula provided in
Schedule 7.
n. Schedules. The Schedules referred to in the PSA and attached
thereto are as follows:

RATE IMPLICATION OF THE
POWER SUPPLY AGREEMENT

- 17. Rate Impact. The following table shows the generation rate
impact:

Table: GENERATION RATE IMPACT ANALYSIS - A (before REPCO SPC POWER CORPORATION). Columns: POWER SUPPLIER, % share on Energy, Annual Energy Demand (GWh), Annual Energy Demand (MWh), WT, Total.

Table: GENERATION RATE IMPACT ANALYSIS - B (after REPCO SPC POWER CORPORATION). Columns: POWER SUPPLIER, % share on Energy, Annual Energy Demand (GWh), Annual Energy Demand (MWh), WT, Total.

- ASSUMPTIONS:
1. Forecasted energy for 2022 is based on the 2.5% annual average growth rate of Iloilo City consistent with the latest PSP submitted by MORE to the DOE for the conduct of the CSP.
2. Supplier 1 and KEPCO SPC POWER CORPORATION purchased energy were based on 100% contracted energy as contained in the power supply contract.
3. Excess/deficit energy will be sold/purchased from the Wholesale Spot Market. For the Analysis A, energy in lieu of KSPC will be taken from the spot market.
4. KSPC electricity fee is reflective of their base bid price during the CSP.
5. WESM rates based on the actual monthly average node price of MORE Power from January to September 2021, and October to December of 2018. WESM rates for 2020 not used as it reflects irregular prices due to the several quarterly classifications because of the COVID-19 pandemic.

- 18. Due to the volatility of spot market prices, the supply of power
from KEPCO SPC Power Corporation (KSPC) will result to a
decrease in the total generation rate of P.26/kWh (VAT
exclusive).
19. In support of this application, Applicants submit the following
Documentary Requirements per ERC Checklist of Pre-Filing
Requirements for Applications for Approval of Power Supply
Agreement ("ERC Checklist"):

Table: Annex - Description. Lists various documents and requirements from A to AA.

- 20. Pursuant to Rule 4 of the ERC Revised Rules of Practice and
Procedures (ERC Revised Rules), applicants respectfully move
that the following documents: Power Supply Agreement
(Annex "O"), PSA Executive Summary (Annex "Q"), KSPC's
Power Rate Calculation and Financial Data (Annex "R"),
KSPC's Coal Supply Contract (Annex "T"), KSPC's Audited
Financial Statement for 2020 (Annex "V") as described above,
shall be treated as confidential information as they contain
formula and pricing structures, trade secrets, and other
proprietary information that are not generally available to the
public, and their undue disclosure would prejudice their owners.
Each page of these documents is stamped "Confidential" and
signed, and the documents are submitted with this
application in a sealed envelope for the perusal of the
concerned personnel of the Honorable Commission.
21. In its Instructions to Bidders, MORE POWER bound itself to
keep all bids submitted by the qualified bidder as confidential.
In compliance with this undertaking, the Bid Proposals
received by MORE POWER (Annex "N-74"), the TPBAC
Evaluation of Bids with the Abstract of Bids (Annex "N-75")
and the Certification from MORE POWER President and COO

- on the conduct of the CSP (Annex "N-76") (collectively, these
Annexes shall be referred to as "MORE POWER Confidential
Documents") are hereby requested to be considered
confidential as these documents contain information about
the bids received by MORE POWER from the other qualified
bidders during the conduct of the CSP.
22. The interests of the consumers of MORE POWER will be
sufficiently protected by the Commission's evaluation of the
rates under the PSA without the need to disclose the contents
of Annexes (O, Q, R, T, V, N-74, N-75 & N-76). The
reasonableness and transparency of the prices of electricity is
to be assured by the Honorable Commission through its own
review and verification of the foregoing documents sought to
be afforded confidential treatment in the evaluation and
handling thereof.
23. In accordance with Section 1(b), Rule 4 of the Revised Rules,
Applicants hereby submit one copy each of the KSPC
Confidential Documents, Annexes O, Q, R, T, V, and MORE
POWER Confidential Documents, Annexes N-74, N-75 & N-
76 in a separate sealed envelope, with each page of the
documents stamped with the word "Confidential."
24. Applicants also move that the Honorable Commission will
prescribe the proper procedure for the handling and return of
the aforesaid confidential information at the close of the
proceedings, pursuant to Section 4 of the ERC Revised Rules.

Allegations in Support of the Motion
for Provisional Authority

- 25. Pursuant to Rule 14 of the ERC Revised Rules, applicants
respectfully move for the issuance of a provisional authority
based on the submitted affidavit and Documentary
Requirements, authorizing the applicants to implement their
PSA pending the full hearing of, and subject to the final ruling
on, this application.
26. As can be seen in the demand supply scenario of MORE
POWER, a 25MW tranche of its current contract with the
Power Sector Assets and Liabilities Management Corp.
(PSALM) is set to expire on 25 July 2022. This expiring
portion of MORE POWER's contract with PSALM is what is
set to be supplied under the PSA with Joint Applicant KSPC.
27. In the absence of a provisional authority, MORE POWER's
captive customers would be exposed to the volatile prices in
the Wholesale Electricity Spot Market ("WESM") from the
above stated expiration of the contract with PSALM. The
immediate commencement of the delivery of power from
KSPC to MORE POWER pursuant to the PSA will address and
secure the power supply requirements of MORE POWER and
of the latter's end-users.
28. Further, as discussed above, the rate impact simulation
demonstrates the substantial reduction in power generation
rates by which will be enjoyed by MORE POWER should the
provisional authority prayed for in the instant Application be
granted.

- 29. It is for these reasons that Applicants are urgently praying for
the immediate grant by the Honorable Commission of a
provisional authority to allow KSPC to supply power to MORE
POWER by 25 July 2022 and consequently protect electricity
consumers in Iloilo City from the volatilities of WESM prices.

- 30. A copy of the Affidavit executed by MORE POWER's
President and Chief Operating Officer and authorized
representative, Roel Z. Castro, in support of the prayer for
issuance of provisional authority is hereto attached and made
an integral part hereof.

RELIEF

- Applicants pray that the Honorable Commission:
(a) Issue an Order treating Annexes O, Q, R, T, V, N-74, N-75
& N-76 as described above, as confidential
information, prescribing therein the proper procedure
for their handling and return;
(b) Issue a Provisional Authority pending full hearing of
and final ruling on this application;
(c) Render a Decision approving the PSA and this
application within sixty (60) calendar days from the
submission of all documentary requirements in
accordance with Section 3 (e) of the Energy Virtual
Online One Stop Shop Law (Republic Act No. 11234).

Applicants pray for other equitable relief.

The Commission has set the Joint Application for determination
of compliance with the jurisdictional requirements, expository
presentation, Pre-trial Conference, and presentation of evidence on the
following dates and online platform for the conduct thereof, pursuant
to Resolution No. 09, Series of 2020 - 2 dated 24 September 2020 and
Resolution No. 01, Series of 2021 dated 17 December 2020 (ERC
Revised Rules of Practice and Procedure):³

Table with 3 columns: Date, Platform, Activity.
Row 1: 20 May 2022 (Friday) at nine o'clock in the morning (9:00 A.M.), Microsoft Teams, Determination of compliance with the jurisdictional requirements and expository presentation
Row 2: 27 May 2022 (Friday) at nine o'clock in the morning (9:00 A.M.), Microsoft Teams, Pre-trial Conference and presentation of evidence

Accordingly, MORE and KSPC are hereby directed to host the
virtual hearing at MORE's principal office located at GST
Corporate Center, Quezon St., Iloilo City, as the designated
venue for the conduct thereof, and ensure that the same is open to the
public and the community quarantine guidelines are observed at all
times. Moreover, MORE and KSPC shall guarantee that, during the
conduct of the expository presentation, the participation of the public
shall not be impaired.

Any interested stakeholder may submit its comments and/or
clarifications at least one (1) calendar day prior to the scheduled virtual
hearing, via electronic mail (e-mail) at docke@erc.ph, copy furnish the
Legal Service through legal@erc.ph. The Commission shall give
priority to the stakeholders who have duly submitted their respective
comments and/or clarifications, to discuss the same and propound
questions during the course of the expository presentation.

Moreover, any persons who have an interest in the subject matter
of the instant case may become a party by filing with the Commission
via e-mail at docke@erc.ph, copy furnish the Legal Service through
legal@erc.ph, a verified Petition to Intervene at least five (5) calendar
days prior to the date of the initial virtual hearing and subject to the
requirements under Rule 9 of the ERC Revised Rules of Practice and
Procedure, indicating therein the docket number and title of the case
and stating the following:

- 1) the petitioner's name, mailing address, and e-mail
address;
2) The nature of petitioner's interest in the subject matter of
the proceeding and the way and manner in which such
interest is affected by the issues involved in the proceeding;
and
3) A statement of the relief desired.

Likewise, all other persons who may want their views known to
the Commission with respect to the subject matter of the case may file
through e-mail at docke@erc.ph, copy furnish the Legal Service
through legal@erc.ph, their Opposition or Comment therein at least
five (5) calendar days prior to the initial virtual hearing and subject to
the requirements under Rule 9 of the ERC Revised Rules of Practice
and Procedure. No particular form of Opposition or Comment is
required, but the document, letter, or writing should contain the
following:

- 1) The name, mailing address, and e-mail address of such
person;
2) A concise statement of the Opposition or Comment; and
3) The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may
access the copy of the Joint Application on the Commission's official
website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the
scheduled initial virtual hearings by providing the Commission, thru
legal.virtualhearings@erc.ph, with their respective e-mail addresses
and indicating therein the case number of the instant Joint
Application. The Commission will send the access link/s to the
aforementioned hearing platform within five (5) working days prior to
the scheduled hearings.

WITNESS, the Honorable Commissioners ALEXIS M.
LUMBATAN, CATHERINE P. MACEDA, FLORENSIDA G.
BALDO-DIGAL and MARKO ROMEO L. FUENTES, Energy
Regulatory Commission, this 31st day of March 2022 in Pasig City.

Signature block for AGNES VST DEVANADERA, Chairperson and CEO of the ERC. Includes the ERC logo and Office of the Chairperson details.

³ Separate Acknowledgments for Signatories were made before two Notaries Public.
⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.