

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

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE LETTERS OF AGREEMENT WITH DISTRIBUTION UTILITIES LOCATED IN THE VISAYAS GRID, WITH PRAYER FOR ISSUANCE OF PROVISIONAL AUTHORITY

ERC CASE NO. 2022-039 RC

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

Promulgated:
June 09, 2022

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 26 May 2022, Power Sector Assets and Liabilities Management Corporation (PSALM) filed an Application dated 30 March 2022, seeking the Commission's approval of its Letters of Agreement (LOA) with the Distribution Utilities in the Visayas Grid, with prayer for issuance of provisional authority.

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

- This is an Application for the approval of the terms and conditions of the Letters of Agreement ("LOA") between PSALM and Northern Samar Electric Cooperative, Inc. ("NORSAMELCO"), Iloilo II Electric Cooperative, Inc. ("ILECO II"),² and Cebu I Electric Cooperative, Inc. ("CEBECO I"),³ respectively, pursuant to Section 67 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" ("EPIRA").

- Applicant 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 via an Assignment Letter dated 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 Contracts for the Supply of Electric Energy ("CSEE") and other similarly or substantially equivalent power supply contracts with NPC power customers (collectively referred to as the "Power Supply Contracts").

A copy of the Assignment Letter dated 11 May 2009 is 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 Letter Agreement.

Thus, this instant application by PSALM.

- The CSEEs subject of the PSALM-NORSAMELCO, PSALM-ILECO II, PSALM-CEBECO I LOAs 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 subsequently amended by this Honorable Commission in its Resolution No. 15, Series of 2005.

- In ERC Resolution No. 33, Series of 2006,⁴ the ERC clarified that the Transition Supply Contract ("TSC") Template should merely serve as a guide for the Distribution Utilities ("DUs") and NPC and should not be construed as the contract contemplated under Section 67 of the EPIRA.

- PSALM filed similar Applications in 2011, 2012, 2013, and 2014 for the approval of the terms and conditions of CSEEs effective 26 December 2010 to 25 December 2011, 26 December 2011 to 25 December 2012, 26 December 2012 to 25 December 2013, and 26 December 2013 to 25 December 2014, respectively.

- By reason of the public bidding to privatize the rights to the contracted energy under the Unified Leyte Geothermal Power Plant ("ULGPP") and the asset sale of the Naga Power Plant Complex, PSALM no longer renewed the CSEEs that expired on 25 December 2014.

- On 08 June 2018, PSALM filed its application docketed as ERC Case No. 2018-055 RC for the approval of the CSEEs for the duration of 26 December 2017 to 25 December 2020, duly executed and negotiated with the following:

- Leyte III Electric Cooperative, Inc. ("LEYECO III"); and
- Leyte V Electric Cooperative, Inc. ("LEYECO V").

- The foregoing CSEEs were executed based on the template approved by this Honorable Commission under Resolution No. 08, Series of 2005 as amended by Resolution No. 15, Series of 2005. Likewise, the 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 applications in ERC Case No. 2012-008 RC, ERC Case No. 2013-044 RC, ERC Case No. 2013-169 RC, and ERC Case No. 2014-173.

- The revisions made in the CSEEs under said application consist of: (a) those found in Annex 1 of the CSEEs (which reflects the Contracted Energy and the corresponding Equivalent Demand); and (b) the amendment of Section 3.1 on Contract Duration.

- In a Decision dated 20 January 2021, the Honorable Commission confirmed and approved the CSEEs entered into by PSALM with LEYECO III and LEYECO V for a contract term of three (3) years from 26 December 2017 to 25 December 2020.

- On 31 May 2019, PSALM filed a similar application docketed as ERC Case No. 2019-040 RC for the approval of several duly executed and negotiated CSEEs in the Visayas Grid with the following DUs:

- Biliran Electric Cooperative, Inc.;
- Bohol Electric Cooperative, Inc.;
- Bohol II Electric Cooperative, Inc.;
- Don Orestes Romuladec Electric Cooperative, Inc.;
- Eastern Samar Electric Cooperative, Inc.;
- Leyte II Electric Cooperative, Inc.;
- Leyte IV Electric Cooperative, Inc.;
- NORSAMELCO;
- Samar I Electric Cooperative, Inc.;
- Samar II Electric Cooperative, Inc.; and
- Southern Leyte Electric Cooperative, Inc.

- These CSEEs had a duration from 26 December 2018 to 25 December 2019.

- 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 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 applications in ERC Case

No. 2012-008 RC, ERC Case No. 2013-044 RC, ERC Case No. 2013-169 RC, and ERC Case No. 2014-173 [RC].

- The revisions made in the CSEEs under said application consist of (i) those found in Annex 1 of the CSEEs (which reflects the Contracted Energy and the corresponding Equivalent Demand); and (ii) the amendment of Section 3.1 on Contract Duration.

- Also included in the said application were the LOAs of LEYECO III and LEYECO V. The LOAs were necessary to accommodate LEYECO III's and LEYECO V's requests for an increase in contract demand and energy.

- In a Decision dated 21 July 2021, the Honorable Commission confirmed and approved the CSEEs entered into by PSALM with the eleven (11) DUs enumerated above as well as the LOAs entered into by PSALM with LEYECO III and LEYECO V.

PSALM'S PENDING CSEE AND LOA APPLICATIONS WITH THE ENERGY REGULATORY COMMISSION

- PSALM filed similar applications for the approval of duly executed and negotiated CSEEs and LOAs in the Visayas Grid, which were docketed by this Honorable Commission as follows:

Date Filed	Docket Number	Type of Contract
06 July 2020	ERC Case No. 2020-014 RC	CSEE
20 September 2021	ERC Case No. 2021-074 RC	LOA
23 September 2021	ERC Case No. 2021-076 RC	CSEE
23 September 2021	ERC Case No. 2021-078 RC	CSEE
30 September 2021	ERC Case No. 2021-081 RC	CSEE
05 November 2021	ERC Case No. 2021-089 RC	CSEE

- The CSEEs in the foregoing applications were executed based on the ERC-approved template under ERC Resolution No. 08, Series of 2005. Likewise, the 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 applications in ERC Case Nos. 2012-008 RC, 2013-044 RC, 2012-169 RC, and 2014-173 RC.

- In general, the revisions made in the CSEEs and LOAs under the foregoing applications primarily consist of (i) those found in Annex 1 of the CSEEs (which reflects the Contracted Energy and the corresponding Equivalent Demand); and/or (ii) the amendment of Section 3.1 on Contract Duration.

- The foregoing applications are pending resolution by this Honorable Commission.

The LOAs subject of this Application

- 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 LOAs duly negotiated with NORSAMELCO, ILECO II, and CEBECO I, respectively.

The LOAs duly negotiated with NORSAMELCO, ILECO II, CEBECO I are attached as Annexes "B", "B-1", and "B-2," respectively.

The PSALM-NORSAMELCO LOA

- NORSAMELCO has an existing CSEE with PSALM covering the period from 26 December 2021 to 25 July 2022, which was submitted for approval to this Honorable Commission under ERC Case No. 2022-004 RC.

- In its letter dated 14 September 2021, NORSAMELCO requested for a five-month extension of its existing CSEE effective 26 July 2022 until 25 December 2022 and an increase in Contract Energy, which PSALM agreed to. Hence, the parties executed the PSALM-NORSAMELCO LOA.

A copy of NORSAMELCO's 14 September 2021 letter is attached hereto as Annex "C."

- The revisions introduced by the PSALM-NORSAMELCO LOA consist of: (a) those found in Annex 1 of the CSEE (which reflects the Contract Energy and the corresponding Equivalent Demand); and (b) the amendment of Section 3.1 on Contract Duration.

- It is further understood that the PSALM-NORSAMELCO LOA shall be an integral part of the CSEE between PSALM and NORSAMELCO, and the terms and conditions not otherwise affected by the above-mentioned amendments shall remain valid and effective.

The PSALM-ILECO II LOA

- ILECO II has an existing CSEE with PSALM covering the period from 26 December 2020 to 25 December 2021, which was submitted for approval to this Honorable Commission under ERC Case No. 2021-078 RC.

- ILECO II has an existing LOA dated 14 October 2021 on the increase of Contract Energy in the CSEE, which forms an integral part of the CSEE, and which is also undergoing the pre-filing process with this Honorable Commission.

- In its letter dated 03 September 2021, ILECO II requested for an extension of the CSEE for an additional period of one-year or until 26 December 2021. However, PSALM only granted ILECO II a seven-month period extension to commence on 26 December 2021 and end on 25 July 2022 in view of the expiration of the Power Purchase Agreement between PSALM and ULGPP. Hence, the parties executed the PSALM-ILECO II LOA.

- The PSALM-ILECO II LOA amended the Section 3.1 of the said existing PSALM-ILECO II CSEE on Contract Duration.

A copy of ILECO II's 03 September 2021 letter is attached as Annex "D."

- It is further understood that the PSALM-ILECO II LOA shall be an integral part of the CSEE between PSALM and ILECO II, and the terms and conditions not otherwise affected by the above-mentioned amendment shall remain valid and effective.

The PSALM-CEBECO I LOA

- CEBECO I has an existing CSEE with PSALM covering the period from 26 February 2020 to 25 December 2021, which was submitted for approval to this Honorable Commission under ERC Case No. 2021-076 RC.

- In its letter dated 10 November 2021, CEBECO I requested for a one-year extension of its existing CSEE effective 26 December 2021 until 25 December 2022. PSALM only granted the request for extension for a seven-month period to commence on 26 December 2021 and end on 25 July 2022 in view of the expiration of the Power Purchase Agreement between PSALM and ULGPP. Hence, the parties executed the PSALM-CEBECO I LOA.

A copy of CEBECO I's 10 November 2021 letter is attached hereto as Annex "E."

- The PSALM-CEBECO I LOA amended the Section 3.1 of the said existing PSALM-CEBECO I CSEE on Contract Duration.

- It is further understood that the PSALM-CEBECO I LOA shall be an integral part of the CSEE between PSALM and CEBECO I, and the terms and conditions not otherwise affected by the above-mentioned amendment shall remain valid and effective.

- A summary of the Contract Energy, Equivalent Demand, and Load Factor of the LOAs subject of this Application is attached hereto as Annexes "F", "F-1", and "F-2."

- Further, in compliance with Section 2, Rule 6 (Pre-Filing Requirements) of this Honorable Commission's Resolution No. 01, Series of 2021,⁵ and in support of the instant Application for the CSEEs' approval, a copy of the instant Application (including Annexes) was furnished to the offices of the City Mayor and the Sangguniang Panlungsod of Quezon City (Annexes "G" and series). The Application (excluding Annexes) was also published in a newspaper of general circulation (Annex "H" and series).

PSALM is exempted from joining the mandatory CSP in the procurement of power supply

- This Honorable Commission recognized that PSALM is exempted from joining the mandatory Competitive Selection Process ("CSP") in the procurement of power supply. In a

letter dated 20 September 2016 (Annex "I"), this Honorable Commission said that PSALM need not participate in the CSP due to the nature of its operations.

- Notably, this Honorable Commission recognized PSALM's exemption from joining the CSP in its Decisions in ERC Case No. 2016-186 RC⁶ and ERC Case No. 2019-040 RC.⁷ Moreover, in its Decision in ERC Case No. 2019-040 RC, this Honorable Commission referred to Section 2 of the Department of Energy's Department Circular No. 2018-02-0003⁸ to further justify PSALM's exemption from joining the CSP.

ALLEGATIONS IN SUPPORT FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

- PSALM acknowledges that the continued operation of the DUs is indispensable to the economic efficiency of the franchise area they service, not to mention the ripple effect of that efficiency to the economic growth of the entire country. In order for these DUs to continue lawfully drawing electricity from the grid, it is imperative that they enter into agreement/s with PSALM as Supplier for the supply of electricity, through a contract of sale for electricity and related letters of agreement, hence the respective LOAs.

- A grant of Provisional Authority ("PA") to execute the LOAs subject of this Application will ultimately redound to the benefit of end consumers

- Attached as Annex "J" is the Judicial Affidavit of Engr. James Marvin A. Mamaradlo, the Corporate Staff Officer B of the Electricity Trading Department under PSALM's Privatization and Asset Management Group, attesting to the truth of the above matters.

- Pursuant to ERC Rules of Practice and Procedure, this Honorable Commission may exercise its discretion by granting a PA or an Interim Relief prior to a final decision.

- It is understood that the PA or Interim Relief sought by Applicant PSALM, which may be granted by this Honorable Commission, shall be subject to adjustments and other conditions that this Honorable Commission may impose after its hearing and final determination.

PRAYER

WHEREFORE, Applicant PSALM most respectfully prays that this Honorable Commission APPROVES the LOAs duly negotiated with NORSAMELCO, ILECO II, and CEBECO I, respectively. It is likewise prayed that a PA BE ISSUED authorizing PSALM to implement the subject LOAs with the concerned DUs in the Visayas Grid.

Other reliefs just and equitable under the premises are likewise prayed for.

The Commission hereby sets the instant 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 2020⁹ dated 24 September 2020 and Resolution No. 01, Series of 2021 dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):¹⁰

Date and Time	Platform	Activity
04 August 2022 (Thursday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation
11 August 2022 (Thursday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

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 doCKET@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 person 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 doCKET@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:

- The petitioner's name, mailing address, and e-mail address;
- 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
- 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 likewise file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon 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:

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

Any of the persons mentioned in the preceding paragraphs may access the copy of the 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 hearing by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant Application. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 6th day of June 2022 in Pasig City.

AGNES VST DEVANADERA
Chairperson and CEO

LS: JTB / LSP / MCCG



¹ Hereinafter referred to as "PSALM-NORSAMELCO LOA."
² Hereinafter referred to as "PSALM-ILECO II LOA."
³ Hereinafter referred to as "PSALM-CEBECO I LOA."
⁴ Resolution Clarifying the Purpose of the Adoption of the TSC Template.
⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.
⁶ Dated 24 October 2017.
⁷ Dated 21 July 2021.
⁸ Entitled "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement By the Distribution Utilities of Power Supply Agreement for the Captive Market."
⁹ Entitled: A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
¹⁰ Entitled: Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.