

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN BOHOL LIGHT COMPANY, INC. (BLCI) AND SPC ISLAND POWER CORPORATION (SIPC), WITH PRAYER FOR PROVISIONAL AUTHORITY AND CONFIDENTIAL TREATMENT OF INFORMATION

ERC CASE NO. 2023-109 RC

BOHOL LIGHT COMPANY, INC. (BLCI) AND SPC ISLAND POWER CORPORATION (SIPC),
Applicants.

Promulgated:
November 16, 2023

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 02 October 2023, Bohol Light Company, Inc. (BLCI) and SPC Island Power Corporation (SIPC), filed an *Application* dated 17 April 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with prayer for provisional authority and confidential treatment of information.

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

- Applicant BLCI is a private distribution utility existing under the laws of the Republic of the Philippines, with principal office located at BLCI Building, R. Enerio Street, Poblacion III, Tagbilaran City, Bohol, Philippines. BLCI's application for the renewal of its Certificate of Public Convenience and Necessity (CPCN), docketed as ERC Case No. 2021-012 MC, is pending resolution before the Honorable Commission. BLCI may be served with processes and papers of this Honorable Commission through its undersigned counsel.
- BLCI has a legislative franchise to operate and maintain a distribution system in Tagbilaran City, Province of Bohol and is authorized to charge all its customers for their electric consumption at the rates approved by the Honorable Commission.
- Applicant SIPC is a corporation duly organized and existing under the laws of the Republic of the Philippines, with its principal office address at 7th Floor BDO Tower Paseo, 8741 Paseo de Roxas Avenue, Makati City. It owns and operates the Bohol Diesel Power Plant in Dampas District, Tagbilaran City, Bohol. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.
- Due to the effects of Typhoon "Odette" (international name, Rai), electric supply within the Province of Bohol, including the franchise area of BLCI, was severely affected. In view thereof, and in order to provide the pressing and immediate need to supply electric power to its customers until connection to the rest of the grid is restored, BLCI sought to source additional capacity through an emergency bilateral supply agreement with SIPC, which has available uncontracted capacity.
- To enter into said emergency bilateral supply agreement with SIPC, BLCI secured from the Department of Energy (DOE) an exemption from the requirement to conduct a Competitive Selection Process (CSP).
 - Copies of BLCI's letters dated December 22, 2021 and December 28, 2021 are attached as Annexes "Q" and "P," while the initial response letter from the DOE dated December 24, 2021 is attached as Annex "S."
 - Thereafter, the DOE granted the BLCI's request for certificate of exemption from the conduct of CSP in a letter dated December 29, 2021 (Annex "T") and issued Certificate of Exemption COE-CSP-2021-12-022 (Annex "U").
 - As a result, BLCI executed an *Emergency Power Supply Agreement* ("EPSA") with SIPC for a contract energy of up to 5.2 Megawatts (5.2MW).

6. Likewise, BLCI sought and secured from the Honorable Commission an interim approval to implement the provisions of the EPSA with SIPC.

6.1 Copies of BLCI's letters dated December 28, 2021 and December 29, 2021 are attached as Annexes "Q" and "R." In its letter dated December 29, 2021 (Annex "V"), the Honorable Commission affirmed that "the issuance by the DOE of the Certificate of Exemption from the conduct of Competitive Selection Process (COE-CSP) immediately authorizes the requesting Distribution Utility to implement the subject EPSA sans any provisional authority issued by the ERC, and the rate applicable shall be the rate equivalent to or lower than the latest ERC-approved generation tariff for same or similar technology in comparable areas."

" x x x

3.1 Agreement Effectivity Date.

This Agreement shall become effective (the "Agreement Effectivity Date") upon concurrence of the following conditions (the "Conditions Precedent"):

- Issuance by the DOE of a Certificate of Exemption from Competitive Selection Process (COE-CSP)
- The Seller started delivery of electricity to the Buyer (the "Effective Date").

Notwithstanding the requisite concurrence of the conditions precedent for Agreement Effectivity Date, the Buyer's request for delivery of electricity by the Seller, pending issuance of the Provisional Authority by the ERC constitutes a recognition by the Buyer of its obligation to pay the Seller commencing at the time the Seller actually delivered electricity to the Buyer (Effective Date). The lack of or failure to secure a Provisional Authority or final approval of this Agreement from the ERC does not extinguish nor constitute a ground to revoke Buyer's recognition of its obligation to pay the Seller.

3.2 Term.

The term of this Agreement shall cover the period from the Effective Date, until the completion of power restoration from the damages caused by Typhoon Odette but shall not exceed one (1) year from the period allowed in the COE-CSP or until December 23, 2022.

x x x

4.3 ERC Approval.

The Buyer and the Seller shall jointly file with the ERC the necessary applications for the approval of this Agreement and of the pricing structure set out in Annex "D" and Annex "E". Both parties shall exert their best efforts to obtain such approval as promptly as practicable following the submission of its application. All expenses for the approval of this Agreement by the ERC shall be borne by the Seller.

Moreover, in the joint filing of the application for approval of this Agreement, the Parties shall petition the ERC to retroact the coverage of its approval (provisional and final) should there be a need to do so.

x x x

ARTICLE 5 - SUPPLY OF ELECTRICITY

5.1. Delivery and Settlement of Bilateral Contract Quantity

(a) Upon the terms and subject to the conditions set out herein, commencing on the Effective Date and until the completion of

power restoration but which shall not exceed one (1) year from the period allowed in the COE-CSP or until December 23, 2022, the Seller shall deliver the energy to the Buyer, and the Buyer shall pay the agreed rate.

x x x

ARTICLE 6—MONTHLY BILLING AND PAYMENTS

6.1 Monthly Billings

The Seller shall issue energy billing to the Buyer based on the declared BCQ to the WESM.

6.2 Monthly Payments.

Commencing on the Effective Date and continuing throughout the Term, the Buyer shall pay to the Seller an amount (the "Monthly Payment") calculated in accordance with formula set out in Annex "D" and Annex "E" after reconciliation & settlement, exclusive of value added taxes and any other applicable taxes, fees and charges. Pursuant to WESM Rules, the Seller shall issue monthly billing to the Buyer.

All transmission and WESM-related charges shall not form part of the settlement between the Seller and the Buyer.

6.3 Invoicing.

Following the Effective Date, the Seller shall send its invoice to the Buyer within Ten (10) days after each Billing Month with all relevant attachments that show the confirmed Metered Quantity (MQ) declarations to the Market Operator, setting forth the Monthly Payment due for that Billing Month, together with the corresponding VAT and other applicable taxes, fees and charges due thereon, as stipulated in Annex "E". Such invoices shall be denominated in Philippine Pesos. If the Buyer disputes all or a portion of the Monthly Payment set out in the invoice, then the provisions of Article 6.5 shall apply.

6.4 Payment Due Date; Overdue Charges.

- The Buyer shall pay the Seller the Monthly Payment due, together with value added taxes, other applicable taxes, fees and charges due thereon, as indicated in the final invoice without deduction, set-off or counterclaim of any nature whatsoever, (i) by wire transfer to the bank account or accounts specified by the Seller in the final invoice, or (ii) by check at the offices of the Seller identified in the final invoice, in each case on or before the 25th day of the month following the Billing Month. Any amount not paid after the Payment Due Date shall earn twelve percent (12%) interest per annum.
- Upon receipt of payment from the Buyer, the Seller shall issue to the Buyer a VAT official receipt covered by the said payment.

6.5 Disputed Invoices.

If the Buyer disputes amounts due from it as set out in the invoice delivered by the Seller pursuant to Article 6.3, the Buyer shall, within five (5) days from receipt of such invoice from the Seller, provide written notice to the Seller indicating the amount disputed and stating the basis of such dispute in reasonable detail. The Buyer shall pay the amount not disputed by it on or before the due date.

The Parties shall endeavor to settle the dispute within seven (7) days from the Seller's receipt of such written notice from the Buyer.

If the Parties agree on a settlement amount, such amount shall become due and payable within five (5) days after the settlement thereof, together with interest thereon as set out in Article 6.4(a) above from the original due date on which such amount should have been paid up to the date which payment is made. If no such notice is received by the Seller from the Buyer within the aforementioned period, the Buyer shall be deemed to have absolutely and unconditionally accepted the accuracy of the invoice. Amounts not disputed shall be due and payable on the Payment Due Date.

ARTICLE 7 – METERING

Pursuant to the WESM Rules, the Seller shall not be responsible to the actual metered quantity of the Buyer as this shall not be the basis of billing of the Seller to the Buyer. The Final HCQ (or Five-Minute as applicable) prescribed on the Day-Ahead Nominations declared to MO as BCQ on the day following each Trading Day is the sole basis of billing and settlement pursuant to the WESM Rules.

ARTICLE 8 - TERMINATION

This Agreement shall terminate upon, the completion of power restoration from the damages caused by Typhoon Odette but shall not exceed one (1) year from the period allowed in the COE-CSP or until December 23, 2022."

- It should be noted that the Contract Price under the EPSA between BLCI and SIPC is the rate approved by this Honorable Commission in its *Order* dated March 18, 2016 in ERC Case No. 2019-001 RC, equivalent to PHP P2.2373/kwh plus fuel fee. Accordingly, the effective rate under the EPSA between BLCI and SIPC is as follows:

SIPC			
Billing Period	Basic Rate	+ Fuel Cost	Effective Rate Before VAT
December 26, 2021 to January 25, 2022	2.2373	+ 10.5386	12.7759
January 26, 2022 to February 25, 2022	2.2373	+ 11.1321	13.3694

- Applicants submit the following Documentary Requirements per ERC *Pre-Filing Checklist for Applications For Approval Of Power Supply Agreement* ("ERC Revised PSA Checklist"):

Annex	Description
Government Requirements	
A	BLCI's Certificate of Incorporation, Articles of Incorporation, Bylaws, and Amended Articles of Incorporation
B	BLCI's General Information Sheet for 2021
C	SIPC's Certificate of Incorporation, Articles of Incorporation and Bylaws, Amended Articles of Incorporation
D	SIPC's 2021 and 2022 General Information Sheet
E	SIPC's Environmental Compliance Certificate (ECC)
F	SIPC's Provisional Authority to Operate
G	SIPC's DOE Certificate of Endorsement No. 2021-01-005
Supply and Demand Scenario	
H	BLCI's Distribution Development Plan and Power Supply Procurement Plan
H-1	Certificate of Submission dated September 14, 2022
I	BLCI's Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, Average Daily Load Curve
J	BLCI's Single-line Diagram
K	BLCI's Performance Assessment (Reliability)
BLCI's Emergency Procurement Process	
L	Terms of Reference
M	BLCI's letter to SIPC dated December 20, 2021
N	SIPC's Price Offer dated December 27, 2022
O	BLCI's letter to DOE and ERC dated December 22, 2021
P	BLCI's letter to DOE dated December 28, 2021
Q	BLCI's letter to ERC dated December 28, 2021
R	BLCI letter to the ERC dated December 29, 2021
S	DOE letter dated December 24, 2021
T	DOE letter dated December 29, 2021
U	DOE Certificate of Exemption COE-CSP-2021-12-022
V	ERC letter dated December 29, 2021
Power Supply Agreement	
W	BLCI and SIPC's Emergency Power Supply Agreement
X	Verified Certification of Plant Readiness
Y	SIPC's Transmission Service Agreement/s and Metering Service Agreement/s (<i>Confidential</i>)
Generation / Power Rate	
Z	Executive Summary of the Emergency Power Supply Agreement
AA	Details of the SIPC's Generation/Power Rate Calculations and Financial Model (<i>Confidential</i>)
BB	SIPC's Sworn Statement regarding its Fuel Procurement Process (<i>Confidential</i>)
CC	Relevant technical and economic characteristics of generation capacity, installed capacity, mode of operation, and dependable capacity of SIPC's Bohol Diesel Power Plant (BDPP) (<i>Confidential</i>)
DD	BLCI's Audited Financial Statements
EE	SIPC's Audited Financial Statements
FF	SIPC's WESM Registration

- Applicants also submit the following explanations on the inapplicability of some requirements listed in the ERC's Revised PSA Checklist:

Annex	Inapplicable Requirements
GG	BLCI's Certification of Inapplicability
HH	SIPC's Certification of Inapplicability

II. Allegations in Support of the Motion for Confidential Treatment of Information

- Pursuant to Rule 4 of the ERC *Revised Rules of Practice and Procedure* (ERC Revised Rules), applicants respectfully move that Annexes Y, AA, BB, and CC, 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 will 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 exclusive perusal of the Honorable Commission's concerned personnel only.

- Applicants respectfully 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.

III. Allegations in Support of the Prayer for Provisional Authority

- As previously mentioned, power supply in the Province of Bohol was severely affected by Typhoon "Odette." Consequently, if the EPSA were not implemented during the period when the Province of Bohol was isolated from the rest of the grid, consumers within the franchise area of BLCI would not have had available electric power, which was desperately needed for the BLCI consumers to recover from the devastating effects of Typhoon "Odette."
- Accordingly, there is a paramount necessity for the approval of the instant *Application*, and for the issuance of a provisional authority so that BLCI can recover the costs of power that its consumers were able to consume during the period when the Province of Bohol was isolated from the rest of the grid.
- In support of this *Application*, the Judicial Affidavit of Engr. Eleuterio C. Regis, BLCI's Operations Manager, is attached as ANNEX "II" and made an integral part hereof.

RELIEF

- Applicants pray that the Honorable Commission –
 - Issue an Order treating Annexes Y, AA, BB, and CC, as described above, as confidential information, prescribing therein the proper procedure for their handling and return;
 - Upon initial review of the instant *Application* and pending hearing on the merits, issue an *Order* provisionally approving the implementation of the EPSA between BLCI and SIPC, and thereby confirming the authority of SIPC to charge and collect from BLCI the electricity fees based on the interim rates allowed by the Honorable Commission in its letter of 29 December 2021, and authorizing BLCI to pass the full amount thereof to its consumers; and
 - After trial on the merits, issue a *Decision* approving the EPSA, and thereby authorizing SIPC to charge and collect from BLCI the electricity fees based on the final rates approved by the Honorable Commission, and authorizing BLCI to pass the full amount thereof to its consumers.
- Applicants pray for other equitable relief.

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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 platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021² (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
17 January 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams or Zoom Application	Determination of compliance with jurisdictional requirements and Expository presentation
24 January 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and presentation of evidence

Accordingly, Applicants BLCI and SIPC are hereby directed to host the virtual hearings at **BLCI Building, 51 Ramon Enerio Street, Poblacion III, Tagbilaran City, Bohol 6300, Philippines** 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, Applicants 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 e-mail at docket@erc.ph, and 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, all 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 docket@erc.ph, and 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 must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state 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 file through e-mail at docket@erc.ph, and 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. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. 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.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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 hearings by providing the Commission, through legal.virtualhearings@erc.ph, 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 hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 16th of November 2023 in Pasig City.

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MONALISA C. DIMALANTA
Chairperson and CEO

IS: BBB /MCC/ MCCG



¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.