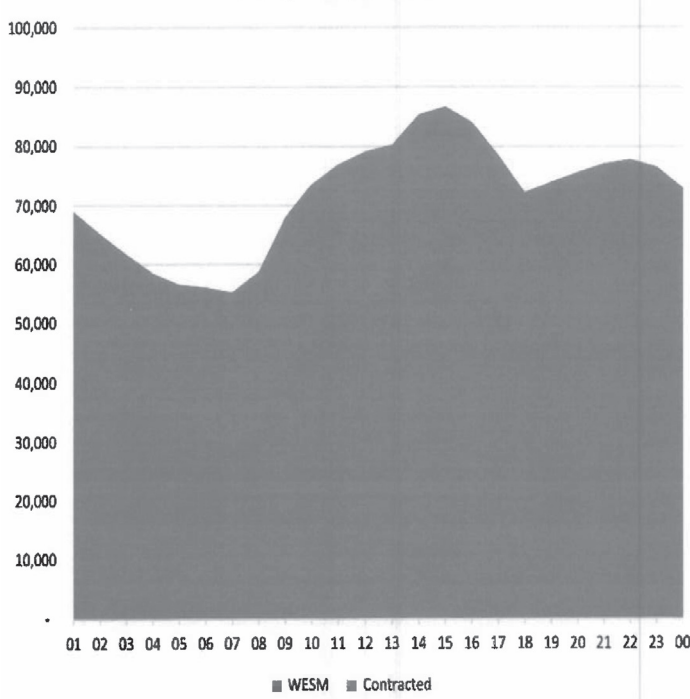


Average Daily Load Curve



17. The indicative rate impact on SFELAPCO's overall generation rate with and without the additional supply from MPPCL are as follows:

Generation Rate Impact of PSA with MPPCL, PhP/kWh	
September 26 to October 25, 2023 average WESM Peaking Rate	PhP7.97
With MPPCL	PhP7.46
Rate Impact (Savings)	PhP0.51

18. Copies of the foregoing documents and/or information are attached to the Joint Application as annexes and made integral parts hereof:

Annex	Documents/Information
"A"	PSA entered into by and between SFELAPCO and MPPCL
"A-1"	Executive Summary of the PSA
"B"	SFELAPCO's Articles of Incorporation
"C"	SFELAPCO's By-laws
"C-1"	SFELAPCO's verified List of Board of Directors
"C-2"	SFELAPCO's General Information Sheet
"D"	SFELAPCO's latest Distribution Development Plan ("DDP") and Load Forecast Projections
"E"	Demand Side Management ("DSM") Program
"F"	SFELAPCO's Demand Supply Scenario
"G"	SAIDI and SAIFI
"H"	List of Contestable Customers
"I"	SFELAPCO's Invitation to Bid
"J"	Terms of Reference
"K"	Proposal, Term Sheet and Response
"L"	SFELAPCO's Secretary's Certificate certifying the approval of evaluation report on PSA
"M"	Notice of Award
"N"	SFELAPCO's Secretary's Certificate authorizing the execution of the PSA
"O"	SFELAPCO's Secretary's Certificate showing the Approval of the Matters related to the Filing of the Joint Application
"P"	Rate Impact Simulation
"Q"	SFELAPCO's Affidavit in support of the prayer for provisional authority or interim relief
"R"	Single-line Diagram Connection
"S"	DU's Special Bids and Awards Committee ("SBAC") Evaluation Report.
"S-1"	Bid's Evaluation Report
"T"	Matrix and type of Competitive Selection Process ("CSP").
"U"	Certification from General Managers (for ECs) or CEO/COO (for Private Corp.) for conducting CSP.
"V"	SFELAPCO's Write-Up on Non-Applicable Documents
"W"	Transmission Service Agreement
"W-1"	Metering Service Agreement
"W-2"	WESM Registration
"X"	Letter to the ERC Chairperson Containing the Relevant Dates of the CSP
"Y"	MPPCL 2007 Articles of Incorporation
"Y-1"	MPPCL 2021 Amended Articles of Partnership
"Z"	Write-up/Explanation on the Requirement of List of Shareholders (GIS Sheet)
"AA"	Write-up/Explanation on the Shareholders Agreement
"BB"	MPPCL Secretary's Certificate Re: Ultimate Parent Company
"CC"	Write-up/Explanation on the Non-applicability of Certificate of Registration with the Board of Investments ("BOI") for MPPCL Units 1 and 2
"CC-1"	Certificate of Registration BOI of MPPCL Units 3 and 4
"DD" to "DD-2"	Environmental Compliance Certificates for Units 1-3 of MPPCL
"EE"	Certification of Ongoing Evaluation signed by the Market Operations Service Director Sharon O. Montañer
"FF"	Write-up - Explanation on the Non-applicability of the DOE Certificate of Endorsement ("COE") for MPPCL Units 1 and 2
"FF-1"	DOE COE of MPPCL Units 3 and 4
"GG"	Write-up/Explanation on the Non-applicability of the Requirements regarding Renewable Energy Plant
"HH"	Write-up/Explanation on the Non-applicability of Water Permit from the National Water Resources Board ("NWRB")
"II"	Transmission Service Agreement ("TSA") between the National Grid Corporation of the Philippines ("NGCP") and MPPCL
"JJ"	Audited Financial Statements on 2018 - year of acquisition of MPPCL by San Miguel Global Power Holdings Corp.
"KK"	Rate Derivation (Confidential)
"KK-1"	Explanation on Non-applicability of Pre-filing Documents and Calculations
"LL"	Affidavit of Competitive Procurement Process of Fuel
"LL-1"	Summary of Coal Supply Agreements (Confidential) Relevant technical and economic characteristics of the generation capacity, installed capacity, mode of operation, and dependable capacity
"MM"	MPPCL Outage Hours from 2018-2022
"OO"	MPPCL's latest Audited Financial Statements ("AFS"), Balance Sheet, Income Statement, and Statement of Cash Flows
"PP" to "PP-2"	Certification from MPPCL Units 1-3 of the net heat rate in liters per kWh
"QQ"	Write-up/Explanation on the capacity of Units 1-3 of MPPCL to supply the minimum energy requirements of SFELAPCO

"RR"	Write-up/Explanation on the Non-applicability of Ancillary Services Procurement Agreement Requirement
"SS"	Write-up/Explanation on the Non-applicability of the Distribution Wheeling Service
"TT"	Certification from Independent Electricity Market Operator of the Philippines ("IEMOP") on the WESM Registration of MPPCL
"UU"	MPPCL Secretary's Certificate re: Entering into an EPSA with SFELAPCO
"VV"	MPPCL Secretary's Certificate re: Filing of Joint Application and Appointment of Counsels
"WW"	Write-up/Certification on the Non-applicability of the Requirements of Related Agreements

Allegations in Support of the Motion for Provisional Authority and/or Interim Relief

- SFELAPCO and MPPCL replead the foregoing allegations in support of their prayer for the immediate issuance of Provisional Authority and/or Interim Relief, based on the following grounds:
 - Considering the current limitations on the available capacity in the Luzon Grid and the expiration of SFELAPCO's EPSA on 25 June 2023, SFELAPCO must source power from MPPCL immediately to avoid power outage in its franchise area.
 - Without the supply of MPPCL, SFELAPCO will be exposed to volatile prices of electricity in the WESM.
 - In the interest of its consumers, there is a necessity for the immediate issuance of a Provisional Approval and/or Interim Relief for the implementation of the PSA, subject of the Joint Application, in order that there will be no undue disruption in the power supply to SFELAPCO or exposure to volatile prices of electricity in WESM.

- Thus, SFELAPCO and MPPCL pray for the issuance of a provisional authority or interim relief, as the case may be, prior to final decision pursuant to Section 1, Rule 14 of the ERC Revised Rules of Practice and Procedure, to wit:

Section 1. Provisional Authority or Interim Relief. - For applications or petitions covered by Section 1, Rule 6 of these Rules, the Commission may grant either a provisional authority or an interim relief, upon motion included in the application or petition and indicated in the caption thereof that such relief is requested x x x.

Allegations in Support of the Confidential Treatment of Annexes "KK" and "LL-1"

- Rule 4 of the Honorable Commission's Rules of Practice and Procedure provides that SFELAPCO and MPPCL may request that information may not be disclosed. Pursuant to this, Applicant MPPCL prays for the confidential treatment of the information contained in the following annexes:

Annex	Documents and/or Information
"KK"	Rate Derivation (Confidential)
"LL-1"	Summary of Coal Supply Agreements (Confidential)

- MPPCL prays for the confidential treatment of the information contained in the Annexes "KK" and "LL-1", and not disclosed except to the officers and staff of the Honorable Commission and its staff.
- Annexes "KK" and "LL-1" contains the details of MPPCL's power rate calculations, financial model, as well as the manner by which these were derived, and the pertinent details of coal supply contracts. These information are proprietary in nature and should be protected as trade secrets as contemplated by law and jurisprudence. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*,⁵ the Supreme Court defined a trade secret, as follows:

"A trade secret may consist of any formula, pattern, device, or compilation of information that: (1) is used in one's business; and (2) gives the employer an opportunity to obtain an advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous use in the operation of the business, for example, a machine or formula, but can be a price list or catalogue of specialized customer list. It is indubitable that trade secrets constitute proprietary rights. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information "in confidence" or through a "confidential relationship". American jurisprudence has utilized the following factors to determine if an information is a trade secret, to wit:

- the extent to which the information is known outside of the employer's business;
 - the extent to which the information is known by employees and others involved in the business;
 - the extent of measures taken by the employer to guard the secrecy of the information;
 - the value of the information to the employer and to competitors;
 - the amount of effort or money expended by the company in developing the information; and
 - the extent to which the information could be easily or readily obtained through an independent source." (citations omitted, emphasis supplied)
- The interest of the consuming public is sufficiently protected by the review and evaluation of the rates under the PSA by the Honorable Commission, without the need to disclose the contents of Annexes "KK" and "LL-1". The reasonableness and transparency of the prices of electricity is to be assured by the Honorable Commission through its own review and verification of MPPCL's operating costs and expenses;
 - More importantly, MPPCL's competitors, should they obtain the information contained in Annexes "KK" and "LL-1", will gain undue advantage thereon and have the opportunity to use the same in their operations. The negotiating power of MPPCL with parties it plans to contract with or who it is currently doing business with, will clearly be thwarted if it is compelled to disclose such information;
 - Accordingly, MPPCL submits one (1) copy of Annexes "KK" and "LL-1", in a sealed envelope, with the said envelope and each page of the documents and/or information stamped with the word "Confidential".
 - Lastly and corollary to the foregoing, MPPCL would like to implore the discerning wisdom of the Honorable Commission to include in its issuance for this purpose the "procedures for the handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period for which the information is to be treated as confidential."⁶
 - This is guided by the fact that MPPCL will seek for the return of these sought to be declared confidential annexes after its utilization as evidence in this case and/or at the close of the proceedings hereof, so as to relieve the Honorable Commission of the burden of safekeeping the trade secrets of MPPCL enclosed in the subject annexes.

⁵ G.R. No. 172835, December 13, 2007

⁶ Letter (d), Section 4, of the ERC Rules and Practice and Procedure.

PRAYER

WHEREFORE, the foregoing premises considered, applicants SFELAPCO and MPPCL respectfully pray of this Honorable Commission that:

- Upon filing of the Joint Application, an Order be ISSUED granting the Provisional Authority and/or Interim Relief for the immediate implementation of the provisions of the PSA dated 14 June 2023, including all the rates, fees, charges and tariff adjustment mechanisms set out therein at the rates provided in the PSA, and authorizing SFELAPCO to charge and collect the fees therein from its customers reckoned from the start of supply by MPPCL to SFELAPCO;
- ISSUE an Order treating Annexes "KK" and "LL-1" as confidential in perpetuity, directing their non-disclosure to persons other than the officers and staff of the Honorable Commission, perpetually protecting the said information from public disclosure by maintaining the same separate and apart from the records of the case, ensuring that these are not divulged to unauthorized persons, and that these confidential documents are returned to MPPCL after the termination of this case pursuant to Rule 4 of its Rules of Practice and Procedure; and
- A Decision be ISSUED approving the Joint Application and the PSA between SFELAPCO and MPPCL, including all the rates, fees, charges and tariff adjustment mechanisms set out therein at the rates provided in the PSA, and authorizing SFELAPCO to charge and collect the fees therein from its customers reckoned from the start of power supply by MPPCL to SFELAPCO under the PSA.

SFELAPCO and MPPCL also pray for such other reliefs just and equitable under the circumstances.

The Commission hereby sets the instant *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 2020⁷ and Resolution No. 01, Series of 2021⁸ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
28 February 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M)	MS Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
06 March 2024 (Wednesday) at two o'clock in the afternoon (2:00 P.M)		Pre-Trial Conference and Presentation of Evidence

Accordingly, SFELAPCO and MPPCL are hereby directed to host the virtual hearings at SFELAPCO's principal office located at Limjoco Street, Barangay Lourdes, San Fernando City, Pampanga, 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 initial virtual hearing, via electronic mail (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 furnishing 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. The verified Petition to Intervene 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 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 *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, 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, FLORESINDA G. BALDO-DIGAL, and MARKO ROMEO L. FUENTES, Energy Regulatory Commission, this 15th day of January 2024 in Pasig City.

Medialanta
MONALISA C. DIMALANTA
Chairperson and CEO



LS, CNR/MVM/LS

⁷ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
⁸ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.