

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Exquadra Tower, Ortigas Center,
Pasig City, Metro Manila

IN THE MATTER OF THE JOINT APPLICATION FOR APPROVAL OF POWER SUPPLY AGREEMENT BETWEEN PAMPANGA I ELECTRIC COOPERATIVE, INC. (PELCO I) AND MASINLOC POWER CO. LTD. (MPCL), WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION AND PRAYER FOR PROVISIONAL AUTHORITY OR INTERIM RELIEF,

ERC Case No. 2025-_____ RC

PAMPANGA I ELECTRIC COOPERATIVE, INC. (PELCO I) AND MASINLOC POWER CO. LTD. (MPCL),

Joint Applicants.

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JOINT APPLICATION
(with MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION AND PRAYER FOR PROVISIONAL AUTHORITY OR INTERIM RELIEF)

Joint Applicants, PAMPANGA I ELECTRIC COOPERATIVE, INC. (“PELCO I”) and MASINLOC POWER CO. LTD. (“MPCL”), through their respective undersigned counsels, respectfully state:

PARTIES

1. Applicant PELCO I is an electric cooperative duly organized, incorporated, and registered pursuant to Presidential Decree (PD) 269, as amended by PD 1645, and further amended by Republic Act (RA) 10531, with principal office at Sto. Domingo, Mexico, Pampanga 2021, Philippines. It holds an exclusive Certificate of Franchise to operate electric light and power services in the municipalities in the Province of Pampanga, namely: (1) Arayat, (2) Candaba, (3) Magalang, (4) Mexico, (5) San Luis, and (6) Sta. Ana.

2. MPCL is a limited partnership duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 40 San Miguel Avenue, Wack-Wack Greenhills, City of Mandaluyong.

3. MPCL is the owner and operator of the 1 x 344 MW (Unit 1), 1 x 344 MW (Unit 2) and 1 x 335 MW (Unit 3)¹ coal-fired power plant, comprising the Masinloc Coal-Fired Thermal Power Plant located in Barangay Bani, Masinloc, Zambales (“Plant”).

4. Joint Applicants may be served with notices, orders, and other processes of this Honorable Commission through their respective counsel at the addresses indicated herein.

NATURE OF THE APPLICATION

5. The Joint Application for approval of the Power Supply Agreement (“PSA”) between PELCO I and MPCL, is being submitted to the Honorable Commission for its review and approval pursuant to Sections 25² and 45(b)³ of Republic Act No. 9136⁴, Rule 20(B) of Honorable Commission’s Rules of Practice and Procedure, and other pertinent rules and regulations.

STATEMENT OF FACTS

6. Applicant PELCO I is in need of 10 Megawatts (“MW”) baseload supply starting on October 26, 2024. Consequently, PELCO I was part of the Luzon on-grid Electric Cooperatives Aggregation (“LECA”) group. The LECA Joint Competitive Selection Process (“CSP”) was conducted by the National Electrification Administration Special Bids and Awards Committee (“NEA-SBAC”) pursuant to the Department of Energy (“DOE”) Department Circular No. DC2023-06-0021⁵, the Energy Regulatory Commission (“ERC”) Resolution No. 16, Series of 2023⁶, and the National Electrification Administration (“NEA”) Memorandum No. 2023-57⁷.

7. Based on the evaluation and post-qualification criteria set by the NEA-SBAC and after deliberation, the NEA-SBAC recommended awarding a PSA for 5,000 kW to MPCL. Said recommendation was accepted and approved by the LECA Joint Board.

8. Subsequently, a Notice of Award dated December 27, 2024 was issued by NEA in favor of MPCL, informing the latter that MPCL’s bid proposal was compliant with the requirements of LECA and PELCO I. Thereafter, Applicants executed a PSA on February 3, 2025.

9. Hence, PELCO I and MPCL hereby submit the instant *Joint Application* for the evaluation/approval of the PSA by the Honorable Commission.

SALIENT TERMS OF THE PSA

10. The PSA between PELCO I and MPCL, a copy of which is attached as ANNEX “A”, contains the following salient features:

10.1 **Contract Capacity.** MPCL shall supply a 5,000 kW baseload to PELCO I (Schedule 2 of the PSA).

10.2 **Contract Energy and Associated Energy.** MPCL shall guarantee the supply of Contract Energy or Associated Energy, at a minimum of 65% Capacity Utilization Factor (“CUF”) for every Billing Period, as contained in Schedule 2 of the PSA, except in any event of force majeure.

10.3 **Contract Term.** This Agreement shall take effect immediately from the Effective Date, and from such date shall remain in force and effect for fifteen (15) years from Delivery Date unless sooner terminated in accordance with this Agreement and upon approval by the ERC.

10.4 **Delivery Date.** The Seller shall commence delivery of the Contract Capacity to Buyer on Delivery Date. The Delivery Date shall be the later of either:

- a. October 26, 2024; or
- b. The next immediate 26th day of the month following the ERC’s issuance of a Provisional Authority (PA) or Interim Relief (IR), as applicable, or Final Authority, if neither PA nor IR was issued by the ERC, for the implementation of this Agreement.

10.5 **Total Generation Charge (“TGC”).** The TGC is composed of Capital Recovery Fee (“CRF”), Fixed Operation and Maintenance Fee (“FOMF”), Variable Operation and Maintenance Fee (“VOMF”), Fuel Cost (“FC”), and applicable Value-Added Tax (“VAT”).

Schedule 7 of the PSA
Monthly Payment, Indexation and Adjustment

Total Generation Charge:

$$Total\ Generation\ Charge = CRF_{CUF} + FOMF_{CUF} + VOMF + FC + VAT$$

A. Capital Recovery Fee (CRF)

The CRF_{CUF} shall be calculated as the product of the Capital Recovery Rate (“ CRR_{CUF} ”), in PhP/kWh, and the actual

energy delivered from the Facility during the Billing Period or the equivalent associated energy based on the Monthly Minimum CUF, whichever is higher.

$$CRF_{CUF_t} = CRR_{CUF_t} \times \max(AED_t, AE_t)$$

$$CRR_{CUF_t} = \frac{CRR_{100\%CUF}}{CUF_t}$$

Where:

CRF_{CUF_t}	Corresponding CRF_{CUF} to calculate the Total Generation Charge, expressed in PhP																																																																										
CRR_{CUF_t}	Billing Determinant to calculate CRF_{CUF} , expressed in PhP/kWh, for a Billing Period																																																																										
$CRR_{100\%CUF}$	Corresponding CRR at 100% CUF, which is 2.0588 PhP/kWh. For reference see Table 1 for the value of CRR per 1% CUF from 65% to 100%: Table 1. Capital Recovery Rate per 1% Capacity Utilization Factor <table><tr><th>Capacity Utilization Factor</th><th>CRR PhP/kWh</th></tr><tr><td>100%</td><td>2.0588</td></tr><tr><td>99%</td><td>2.0796</td></tr><tr><td>98%</td><td>2.1008</td></tr><tr><td>97%</td><td>2.1225</td></tr><tr><td>96%</td><td>2.1446</td></tr><tr><td>95%</td><td>2.1672</td></tr><tr><td>94%</td><td>2.1902</td></tr><tr><td>93%</td><td>2.2138</td></tr><tr><td>92%</td><td>2.2378</td></tr><tr><td>91%</td><td>2.2624</td></tr><tr><td>90%</td><td>2.2876</td></tr><tr><td>89%</td><td>2.3133</td></tr><tr><td>88%</td><td>2.3395</td></tr><tr><td>87%</td><td>2.3664</td></tr><tr><td>86%</td><td>2.3940</td></tr><tr><td>85%</td><td>2.4221</td></tr><tr><td>84%</td><td>2.4510</td></tr><tr><td>83%</td><td>2.4805</td></tr><tr><td>82%</td><td>2.5107</td></tr><tr><td>81%</td><td>2.5417</td></tr><tr><td>80%</td><td>2.5735</td></tr><tr><td>79%</td><td>2.6061</td></tr><tr><td>78%</td><td>2.6395</td></tr><tr><td>77%</td><td>2.6738</td></tr><tr><td>76%</td><td>2.7089</td></tr><tr><td>75%</td><td>2.7451</td></tr><tr><td>74%</td><td>2.7822</td></tr><tr><td>73%</td><td>2.8203</td></tr><tr><td>72%</td><td>2.8594</td></tr><tr><td>71%</td><td>2.8997</td></tr><tr><td>70%</td><td>2.9411</td></tr><tr><td>69%</td><td>2.9838</td></tr><tr><td>68%</td><td>3.0276</td></tr><tr><td>67%</td><td>3.0728</td></tr><tr><td>66%</td><td>3.1194</td></tr><tr><td>65%</td><td>3.1674</td></tr></table>	Capacity Utilization Factor	CRR PhP/kWh	100%	2.0588	99%	2.0796	98%	2.1008	97%	2.1225	96%	2.1446	95%	2.1672	94%	2.1902	93%	2.2138	92%	2.2378	91%	2.2624	90%	2.2876	89%	2.3133	88%	2.3395	87%	2.3664	86%	2.3940	85%	2.4221	84%	2.4510	83%	2.4805	82%	2.5107	81%	2.5417	80%	2.5735	79%	2.6061	78%	2.6395	77%	2.6738	76%	2.7089	75%	2.7451	74%	2.7822	73%	2.8203	72%	2.8594	71%	2.8997	70%	2.9411	69%	2.9838	68%	3.0276	67%	3.0728	66%	3.1194	65%	3.1674
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AE_t	Associated Energy based on the Monthly Minimum CUF of 65% for kWh for a Billing Period																																																																										
AED_t	Actual Energy Delivered from the Facility during the Billing Period in kWh																																																																										
CUF_t	Actual CUF for a Billing Period t . The CUF shall be calculated in accordance with the formula below																																																																										
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- The CUF shall be calculated in accordance with the formula below:

$$CUF_t = \frac{Q_t}{CC_t \times (H_T - H_O - H_{FM})}$$

Where:

CUF_t	Capacity Utilization Factor
Q_t	Total Energy delivered in kWh, not exceeding the corresponding Contract Capacity, during the Billing Period, or the equivalent associated energy based on the Monthly Minimum CUF of 65%, whichever is higher
CC_t	Contract Capacity for the current Billing Period in kW as indicated in Schedule 2
H_T	Total number of hours in the Billing Period
H_O	Zero (0) for each Billing Period, as the Seller has no Outage Allowance
H_{FM}	The Equivalent Hours of Force Majeure in the current Billing Period
t	As previously defined

- The formula to calculate the H_{FM} shall be:

$$H_{FM} = \sum_{i=1}^n \left(1 - \frac{\text{Seller } BCQ \text{ day after}}{CC} \right)$$

Where:

$$n = \text{Total number of Hours in a Billing Period}$$

- Formula to calculate the Q_t :

$$Q_t = \max(AE_t, TED_t)$$

$$AE_t = 65\% \times CC_t \times (H_T - H_O - H_{FM})$$

Where:

AE_t	As previously defined
CC_t	As previously defined
H_T	As previously defined
H_O	As previously defined
H_{FM}	As previously defined
TED_t	Total Energy Delivered, which is Actual Energy Delivered from the Facility and Replacement Power energy, during the Billing Period in kWh

B. Fixed Operation and Maintenance Fee (FOMF)

The $FOMF_{CUF}$ shall be calculated as the product of the Fixed Operation and Maintenance Rate (“ $FOMR_{CUF}$ ”), in PhP/kWh, and the actual energy delivered from the Facility during the Billing Period or the equivalent Associated Energy based on the Monthly Minimum CUF, whichever is higher.

$$FOMF_{CUF_t} = FOMR_{CUF_t} \times \max(AED_t, AE_t)$$

$$FOMR_{CUF_t} = \frac{FOMR_{100\%CUF}}{CUF_t}$$

Where:

$FOMF_{CUF_t}$	Corresponding $FOMF_{CUF}$ component of the Total Generation Charge, expressed in PhP																																																																										
$FOMR_{CUF_t}$	Applicable FOMR to calculate $FOMF_{CUF}$, expressed in PhP/kWh, for a Billing Period. For reference see Table 2 for the value of FOMR per CUF																																																																										
AE_t	As previously defined																																																																										
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C. Variable Operation and Maintenance Fee (“VOMF”)

The VOMF shall be calculated as the product of the Variable Operation and Maintenance Rate (“ $VOMR$ ”), in PhP/kWh, and the actual energy delivered for the Billing Period.

$$VOMF_t = VOMR_t \times AED_t$$

Where:

$VOMF_t$	Corresponding VOMF component of the Total Generation Charge, expressed in PhP
$VOMR_t$	0.3000 PhP/kWh
AED_t	As previously defined

D. Fuel Cost (“FC”)

The FC shall be calculated as follows:

$$FP_t = (FCC_t \times FX_m) + NFCC_t + \text{Applicable Taxes}$$

$$FC = \left(\frac{FP_t \times FCR_t}{1000} \right) \times AED_t$$

Where:

FP_t	Applicable Fuel Price for a Billing Month, expressed in PhP/MT
FCC_t	Fuel Commodity Cost in USD/MT calculated using the formula below: $87.1687 \times \left[\left(83\% \times \frac{NFI_{13m\ avg}}{NFI_{1_o}} \right) + 17\% \right]$
$NFI_{13m\ avg}$	the average value for the three (3) months preceding the Billing Period for which the Invoice is being prepared of the Indonesian Coal Index 3 (5000 GAR / 4600 NAR) as published by the Argus/Coalindo for Indonesian Coal Index Report, in USD/MT
NFI_{1_o}	Value of Indonesian Coal Index 3 (5000 GAR / 4600 NAR) for the month of September 2024, which is 72.3500, in USD/MT
AED_t	As previously defined
$NFCC_t$	Weighted average of the actual Freight Cost, Marine Cargo Insurance, Letter of Credit Opening Charges, Wharfage, Disport Surveyor Fees, and Brokerage Fees, in PhP/MT Seller can only recover the NFCC items listed above and shall submit to the Buyer proof of actual costs in the form of official invoices and supporting documents. When applicable, Seller must disclose actual cost of NFCC in USD/MT and disclose the actual foreign exchange rate used to convert USD denominated costs into PhP.
FX_m	the monthly average of the PhP/USD exchange rate for the month (i.e., first until last day of the month) for which the invoice is being prepared, as published in the Bangko Sentral ng Pilipinas website
Applicable taxes	Applicable taxes relating to FC for the Billing Period, in PhP/MT

In the event that the index (a) becomes unavailable, (b) is replaced by a new benchmark rate as determined by the relevant authorized entity, its successor-in-interest, or (c) ceases to exist, the Parties shall agree to adopt a new price index.

The FP_t to be billed by Seller shall be the lower between:

- The sum of the (i) resulting value using the Fuel Commodity Cost Formula and (ii) the Non-Fuel Commodity Cost; or
- The actual fuel price as billed by the fuel supplier/s (i.e., supported by actual invoices) including the Non-Fuel Commodity Cost for the relevant Billing Period.

For this purpose, the Seller’s Invoice shall include, subject to confidentiality clause, the relevant fuel supplier’s invoice, certified by Seller, which will detail the actual fuel cost incurred to produce the delivered energy to Buyer. If any index or indices are used, the Seller must provide the Buyer with either (a) a screenshot or snapshot of the actual published price from the index provider OR (b) a certification from the publisher of the nominated index/indices certifying the actual published price. The Seller must also attach the monthly fuel inventory report submitted to the DOE.

Buyer reserves the right to refuse payment of the Fuel Cost if Seller fails to provide either the fuel supplier’s invoice or the monthly inventory report referred to above.

FCR	The computed Fuel Consumption Rate (FCR) or the actual plant FCR for the relevant Billing Period, whichever is lower, in kg/kWh. The formula to determine the computed FCR shall be: $\frac{(FCR_{CUF2} - FCR_{CUF1}) \times (CUF - CUF1)}{(CUF2 - CUF1)} + FCR_{CUF1}$ If Buyer fails to utilize the Contract Capacity at the Monthly Minimum CUF, Seller may apply the higher of its actual consumption rate or the consumption rate corresponding to the Minimum CUF for that Billing Period.
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Where:

CUF = as previously defined

$CUF2$ = CUF increment of the nearest upper value, in %

$CUF1$ = CUF increment of the nearest lower value, in %

FCR_{CUF2} = corresponding FCR for $CUF2$ set forth in the table below:

FCR_{CUF1} = corresponding FCR for $CUF1$ set forth in the table below:

Illustration: CUF 65.61%

$CUF2$	66%
$CUF1$	65%
FCR_{CUF2}	0.5929
FCR_{CUF1}	0.5952

The FCR at CUF levels 65% to 100% are as follows:

CUF	FCR, kg/kWh
100%	0.5441
99%	0.5445
98%	0.5452
97%	0.5459
96%	0.5466
95%	0.5474
94%	0.5483
93%	0.5492
92%	0.5501
91%	0.5511
90%	0.5522
89%	0.5533
88%	0.5545
87%	0.5557
86%	0.5569
85%	0.5582
84%	0.5596
83%	0.5610
82%	0.5625
81%	0.5640
80%	0.5656
79%	0.5672
78%	0.5689
77%	0.5706
76%	0.5724
75%	0.5742
74%	0.5761
73%	0.5780
72%	0.5800
71%	0.5820
70%	0.5841
69%	0.5862
68%	0.5884
67%	0.5906
66%	0.5929
65%	0.5952

Note: For avoidance of doubt, the Buyer shall bear all other applicable costs, charges and taxes pursuant to Section 12 and Section 13.2 of this Agreement.

- E. Value-added Tax (“VAT”), if any. VAT shall only be chargeable to the Buyer if prevailing laws expressly allow its passing on by the Seller.

Replacement Power Charge

If Seller provides Replacement Power, Seller shall attach to the Seller Invoice the computation showing both the actual rate of the Replacement Power and the generation rate based on the approved tariff for this Agreement.

- In computing the actual rate of the Replacement Power, Seller shall declare whether the Replacement Energy was procured from a renewable energy source/s or from sources exempt from Value-Added Taxes and shall provide the invoice issued to it by the Replacement Power plant clearly containing the actual breakdown of the rate for the delivered Replacement Power.
- The generation rate based on this Agreement shall be computed in accordance with Schedule 7, provided that the CRR_{CUF} and $FOMR_{CUF}$ shall be based on the utilization of the Contract Capacity for the relevant Billing Period. Further, the Fuel Cost shall be calculated using a fuel rate based on the average Fuel Price of Seller for the immediately preceding Billing Period and the Seller’s Fuel Consumption Rate at the CUF level associated with the CRR_{CUF} and $FOMR_{CUF}$.

Thus, the Replacement Power cost shall be:

$$RP_t = (RP_t, CP_t) \times RE_t$$
$$CP_t = [(CRR_{CUF_t} + FOMR_{CUF_t} + VOMR_t) + \left(\frac{FP_{N-1} \times FCR_{CUF_t} \times FX_m}{1000} \right)]$$

Where:

RP_t	Replacement Power cost in PhP for the Billing Period, if any
RP_t	Actual rate of the Replacement Power in PhP/kWh
CR_t	Generation Rate for the Billing Period in PhP/kWh
RE_t	Replacement Power Energy supplied by the Seller to the Buyer for the Billing Period, in kWh
CRR_{CUF}	As previously defined
$FOMR_{CUF}$	As previously defined
$VOMR_t$	As previously defined
FP_{N-1}	The Fuel Price of Seller for the immediately preceding Billing Period
FCR_t	As previously defined
FX_m	As previously defined

10.6 Rate Adjustments. CRF and FOM are subject to CUF. VOM has a fixed rate of 0.3000 PhP/kWh in the entire duration of the PSA. The Fuel Commodity Cost (“FCC”) is indexed to Indonesian Coal Index 3 (ICI-3) and Forex Exchange (FX).

10.7 Monthly Fee. The Monthly Fee (“MF”) shall be computed following Schedule 7 of the PSA (Monthly Payment, Indexation, and Adjustment).

10.8 Outages. MPCL has committed zero (0) Planned and zero (0) Unplanned Outages for each Contract Year as set forth in Schedule 6 of the PSA.

¹ Based on the Provisional Authority to Operate dated 05 January 2024.

² SEC.25. Retail Rate. – The retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that will promote efficiency as may be determined by the ERC.

³ Distribution utilities may enter into bilateral power supply contracts subject to review by the ERC xxx xxx xxx.

⁴ Electric Power Industry Reform Act of 2001 (EPIRA)

⁵ Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market” dated June 30, 2023

⁶ Implementing Guidelines for the Procurement, Execution, and Evaluation of Power Supply Agreements entered into by Distribution Utilities for the Supply of Electricity to their Captive Market” dated October 3, 2023

⁷ Adoption of the National Electrification Administration Competitive Selection Process Guidelines Implementing the Department of Energy’s Department Circular No. DC2023-06-0023 and the Energy Regulatory Commission’s Resolution No. 16, Series of 2023” or the “NEA 2023 CSP Guidelines” dated November 20, 2023