Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF THE CONTRACT FOR THE SUPPLY OF ELECTRIC ENERGY (CSEE) WITH VISAYAN ELECTRIC COMPANY (VECO), LOCATED IN THE LUZON GRID

ERC CASE NO. 2025-056 RC

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM) AND VISAYAN ELECTRIC COMPANY (VECO),
Applicants.
x-----------------------------------x

Promulgated:
April 23, 2025

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that, on 7 March 2025, Power Sector Assets and Liabilities Management Corporation (PSALM) filed an *Application*, dated 19 November 2024, seeking the Commission's approval of the Contract for the Supply of Electric Energy (CSEE) with Visayan Electric Company (VECO), located in the Luzon Grid.

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

APPLICATION

1. Pursuant to Section 67 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 ("EPIRA") and Section 5, Article III of the Energy Regulatory Commission's ("ERC") Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rate, PSALM and VECO respectfully submit this Application for the approval of the Contract for the Supply of Electric Energy ("CSEE") with Visayan Electric Company ("VECO") located in the Luzon Grid.

2. 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.

3. VECO is an Electric Cooperative, duly organized and existing under the laws of the Republic of the Philippines, with principal office address at J. Panis Street, Banilad, 6000 Cebu City, Philippines.

4. Section 67 of the EPIRA mandates the National Power Corporation ("NPC") to file before this Honorable Commission its Transition Supply Contracts ("TSCs") or CSEE duly negotiated with the Distribution Utilities ("DUs"). Notably, Section 49 of the same law created PSALM which took ownership of NPC's generation assets, liabilities, Independent Power Producer contracts, real estate and all other disposable assets.

5. Pursuant to the above-mentioned provisions, NPC sent PSALM an Assignment Letter dated 11 May 2009.

   A copy of the NPC Assignment Letter is attached hereto as **Annex "A."**

6. In view of such assignment, PSALM (the present party to the CSEE/LOAs) is filing the instant Application.

7. In order to facilitate the approval of CSEEs, the ERC issued Resolution No. 8, Series of 2005 dated 07 July 2005, which adopted a template for the CSEEs. Said template was later on amended by the ERC in its Resolution No. 15, Series of 2005 dated 09 August 2005.

8. In ERC Resolution No. 33, Series of 2006, entitled "Resolution Clarifying the Purpose of the Adoption of the Transition Supply Contract ("TSC") Template," the ERC clarified that the template should merely serve as a guide and should not be construed as the contract contemplated under Section 67 of the EPIRA.

THE CSEE SUBJECT OF THIS APPLICATION

9. PSALM and VECO are filing the instant Application for the approval of the CSEE duly executed between PSALM and VECO.

10. On 01 December 2023, VECO sent a letter expressing its intent to enter into a CSEE with PSALM to procure its 60MW power requirement for the period from 26 December 2023 to 25 December 2024.

11. On 26 March 2024, the CSEE of VECO was presented to and approved by the PSALM Board of Directors in accordance with PSALM's 2020 Revised Manual of Approvals.

12. A copy of the Secretary's Certificate attesting to the approval of the execution of the above-mentioned contract by the PSALM's Board of Directors pursuant to Board Resolution No. 2024-0326-02 is attached herein as **Annex "B".**

13. The above-mentioned CSEE was executed based on the ERC-approved template under ERC Resolution No. 08, Series of 2005, as amended by Resolution No. 15, Series of 2005 and Contract Review No. 439 series of 2024 dated 15 May 2024. Likewise, the same CSEE incorporated the 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. 2018-054 RC, 2020-030 RC and subsequent applications.

14. The notable revisions made to the above CSEE from the above-mentioned template are found in (i) Annex I of the said CSEE, which reflects the Contract Energy and the corresponding Equivalent Demand as well as the computation of the load factor; and (ii) amendment of Section 3.1 on Contract Duration.

15. The CSEE subject of this application with the appropriate contract duration from 26 June 2024 to 25 December 2025 is hereto attached and marked accordingly as **Annex "C".** While the contract duration as provided in the CSEE is from 26 June 2024 to 25 December 2025, the date of the implementation of this CSEE was only on 11 November 2024. Thus, this Application is timely filed.[1]

Salient Provisions of the PSALM-VECO CSEE

16. The subject CSEEs have the following salient provisions:

(i) CONTRACT ENERGY

4.1 Contract Energy and Equivalent Demand as indicated in Annex I may be changed by PSALM at any time during the Contract Duration due to: (a) a change in the projected available capacity of PSALM's power plants; or (b) the privatization of any of the assets of PSALM pursuant to the EPIRA.

4.1.1 CUSTOMER shall nominate: (i) its hourly month-ahead energy quantity requirements three (3) days before the start of the next billing period; and (ii) its day ahead energy requirements in a per 5- minute interval on or before 1400H. On a day-to-day transaction, the CUSTOMER shall confirm the schedule of hourly energy requirements to PSALM on the day ahead. PSALM shall declare to WESM the schedule of energy requirements delivered to customers immediately on the day after.

(ii) ASSIGNABILITY

4.8 PSALM may assign or transfer part or all of its rights and obligations in the supply of Contract Energy herein stated, to any such entity, provided that prior written notice is given to the CUSTOMER Ninety (90) days before the actual transfer. This Contract shall remain binding to Parties, their successors and assignees. PSALM warrants that any sale, assignments, transfer, or subcontracting of the Contract shall not affect or impair the CUSTOMER's rights and obligations with respect to quantity and price of electricity, Contract effectivity, incentives, discounts and other terms and conditions of this Contract. The assignee shall, by written instrument, assume the rights and obligations of PSALM to CUSTOMER. Should this Contract be assigned by PSALM to a Successor Generating Company (SGC) by virtue of the privatization of the PSALM Generating Plant pursuant to the EPIRA, the SGC has the option to renegotiate this Contract with the CUSTOMER within six (6) months from its actual transfer to the SGC. If the CUSTOMER and the SGC fail to reach an agreement, either Party shall have the right to terminate this Contract.

4.9 The CUSTOMER may assign, sell or transfer a part or all of its Contract Energy and/or Equivalent Demand either permanently or for a certain number of billing periods, subject to the written consent of PSALM under the following conditions, and which consent shall not be unreasonably withheld:

a. If applicable, the CUSTOMER has obtained a certification from NGCP that the transmission, sub-transmission, substation and other facilities can accommodate the increase in the power requirements of the assignee/transferee.

b. The buyer, assignee or transferee has no outstanding obligation to PSALM, and said buyer, assignee or transferee undertakes to assume the obligations of the CUSTOMER and to pay for the additional expenses necessary or incidental to the transfer.

c. Assignment of CUSTOMER to buyer, assignee or transferee shall comply with the forms provided in Annex IV-A and Annex IV-B of this Contract.

d. THE BUYER, ASSIGNEE OR TRANSFEREE SHALL ASSUME ALL OBLIGATIONS OF THE CUSTOMER related to Contract Energy that might arise in a pending suit with the ERC or in Arbitration proceedings.

e. Payment of corresponding assignment fee equivalent to PhP500,000.00

(iii) SECURITY DEPOSIT AMOUNT

5.1 The Security Deposit shall stand as security for the faithful and proper compliance by the CUSTOMER of its obligations under this Contract and shall be procured ang maintained by the CUSTOMER for the entire Contract Duration and any extension thereof. The Security Deposit shall be equivalent to 100% of the average monthly Contracted Energy, as may be amended, indicated in Annex I of the CSEE multiplied by the average TOU rate pursuant to Annex III of the CSEE and shall become valid and effective for the Contract Duration.

(iv) FORM AND TIME OF POSTING

5.2 The Security Deposit shall be required to be posted upon the effectivity of this Contract and it may be allocated or assigned as provided in Section 4.8 hereof if the prospective buyer, assignee, transferee or successor-in-interest so requires. It shall be in the form of cash, manager's or cashier's check, or irrevocable stand-by letter of credit. In the event the Security Deposit of the CUSTOMER becomes nil, PSALM reserves the right to refuse or discontinue supply of electric energy. Within five (5) business days from PSALM's service of the notice that it has drawn on the Security Deposit, the CUSTOMER shall replace, replenish, or provide such additional security or securities acceptable to PSALM as may be sufficient to restore the original amount of the Security Deposit. PSALM reserves the right to continue supplying electric energy to the extent of the CUSTOMER's remaining Security Deposit.

(v) RELEASE OF SECURITY DEPOSIT

5.3 The Security Deposit shall be returned to the CUSTOMER within thirty (30) days upon expiration or termination of the Contract provided that the CUSTOMER shall have no outstanding obligation with PSALM. PSALM shall return or release the Security Deposit to CUSTOMER, subject to deductions for any amounts owed by the CUSTOMER to PSALM.

(vi) BASIC ENERGY CHARGE

6.1 The Basic Energy Charge (BEC) applied to the CUSTOMER's hourly energy consumption which shall be the ERC-approved NPC/PSALM's Time of Use (TOU) generation rates, Franchise and benefits to Host Communities (FBHC), plus adjustments in the tariff including but not limited to Deferred Accounting Adjustments (DAAs) and the Incremental Currency Exchange Rate Adjustments (ICERA), Automatic Cost Recovery Mechanism (ACRM), ACRM True Up Adjustments, which is attached as Annex III, and the RA 9136 Mandatory Rate Reduction Adjustments, if applicable. The BEC to be applied to the Contract Energy shall be in accordance with Section 7.1 (Price Settlement Mechanism During the WESM Operation).

Energy consumption higher than the contracted level shall be sourced and settled by the CUSTOMER in accordance with relevant WESM Rules.

6.1.1 The BEC shall be applied to the CUSTOMER's hourly energy consumption based on the hourly nominated energy quantity mentioned in Section 4.1.1 (Contract Energy).

(vii) MINIMUM CHARGES

6.2 CUSTOMER shall pay the Minimum Charges if it has not fully taken or failed to consume the Contract Energy. The calculation for the Minimum Charges shall be the difference between the Contract Energy as indicated in Section 4.1 of this Contract and the actual energy delivered per billing period, multiplied by the BEC which is the average TOU rate for the same billing period and FBHC, subject to deductions and adjustments as expressly provided for in this Contract.

(viii) FUTURE ADJUSTMENT

6.3 CUSTOMER shall be liable to pay (or be entitled for a refund on) any applicable ERC-approved cost/true- up adjustments for the period it was drawing power from PSALM.

(ix) SERVICE INTERRUPTION ADJUSTMENT

6.4 Should the supply of electricity be interrupted or curtailed to a level below the Contract Energy due to the fault or lack of generation capacity of PSALM, even if CUSTOMER was at that time unable to take or consume electricity, the Contract Energy shall be adjusted taking into account the ratio of the number of hours that electric service was interrupted to the total number of hours in the billing period. The adjusted Contract Energy shall be used in the calculation of Minimum Charge.

(x) MAINTENANCE SERVICE ADJUSTMENT

6.7 CUSTOMER may avail of the service adjustment during the scheduled maintenance of its facilities, not to exceed two (2) billing periods in one year. The Minimum Charge on the energy consumption shall be fifty percent (50%) of the Contract Energy. To be able to avail of this adjustment, the CUSTOMER must inform PSALM in writing at least thirty (30) days prior to the commencement of the scheduled maintenance.

(xi) PROMPT PAYMENT DISCOUNT

6.11 Pursuant to the agreement between PSALM and the CUSTOMER, the PPDA shall no longer be applicable.

(xii) DISPUTED BILLS

6.12 Should there be any dispute on bills, any such dispute would be considered as waived unless the CUSTOMER questions the same in writing within sixty (60) calendar days from the CUSTOMER's receipt thereof. On a "best-efforts basis", PSALM commits to resolve such dispute within a period of sixty (60) calendar days counted from PSALM receipt of the CUSTOMER's written dispute, the disputed bills and complete supporting documents.

(xiii) OVERDUE ACCOUNT

6.16 In the event that a power bill remains unpaid within five (5) days after its due date, PSALM has the option to call on or draw against the Security Deposit as provided for under Section 5 (Security Deposit).

6.17 The CUSTOMER shall pay its unpaid current power account within thirty (30) days from receipt of notice from PSALM. Any current power bill or account of the CUSTOMER not paid on the due date shall bear a floating interest rate computed from the first day after it becomes due and payable pursuant to PSALM's Credit and Collection Policy. The floating interest rate shall be based on the highest non-prime lending rate of PSALM's depository banks for every quarter ending March, June, September and December of each year. Interest on overdue accounts shall be computed based on a 360-day year.

6.18 A restructuring agreement and/or special payment arrangement of the overdue account shall be executed by PSALM and the CUSTOMER, subject to the PSALM's Credit and Collection Policy and such other terms and conditions which may be agreed upon by the Parties.

(xiv) DEDUCTION DUE TO FORCE MAJEURE

8.5 The Duties and responsibilities of the Party affected by the Force Majeure shall be temporarily suspended while the Force Majeure subsists. Moreover, the Parties shall be excused from performing their respective obligations under this Contract and shall not be liable for damages if and only to the extent that they are unable to so perform or are prevented from performing their respective obligations under this Contract by reason of the Event Force Majeure, provided that:

a. The Party affected by the Force Majeure gives the other Party written notice describing the event, the effect thereof, the specific time it would need to recover from the Force Majeure (if known), and the actions being taken in response thereto.

b. The other Party shall have thirty (30) days to verify or deny in writing that such situation exists.

c. The Contract Energy and Equivalent Demand shall be adjusted to the actual off-take below contract level for all hours when service was suspended because of a Force Majeure.

d. No obligation of either Party, which arose before the occurrence of the event that caused the suspension of performance, shall be excused as a result of the Force Majeure.

(xv) CONTRACT TERMINATION

8.8 Either party will have the right to terminate this Contract upon failure of the other to perform its obligation herein, provided that the party at fault will have to pay all its outstanding account and reimburse the costs incurred by the other party as a result of the termination.

(xvi) EFFECTIVITY

8.17 This Contract shall be executed in counterparts and shall be effective when at least one counterpart shall have been executed by one of the parties herein, and each set of counterparts shall constitute one single and binding agreement.

PSALM'S EXEMPTION FROM JOINING THE COMPETITIVE SELECTION PROCESS ("CSP")

17. This Honorable Commission recognized that PSALM is exempted from joining the CSP in the procurement of power supply. In a letter dated 20 September 2016, the Honorable Commission said that PSALM need not participate in the CSP due to the nature of its operations.

    A copy of the Honorable Commission's letter dated 20 September 2016 is attached hereto as **Annex "D".**

18. This Honorable Commission also recognized PSALM's exemption from joining the CSP in its Decisions in ERC Case No. 2016-186 RC.[2] ERC Case No. 2018-054 RC,[3] and ERC Case No. 2019-040 RC.[4] Moreover, in its Decision in ERC Case No. 2019-040 RC, the Honorable Commission referred to Section 2 of the Department of Energy's ("DOE") Department Circular