

Republic of the Philippines  
ENERGY REGULATORY COMMISSION  
Pasig City

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

ERC Case No. 2025-055 RC

PAMPANGA I ELECTRIC  
COOPERATIVE, INC.  
(PELCO I) AND SUAL  
POWER INC. (SPD),  
Applicants.  
X-----X

Promulgated:  
April 28, 2025

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 05 March 2024, PAMPANGA I ELECTRIC COOPERATIVE, INC. (“PELCO I”) and SUAL POWER INC. (“SPI”) filed their *Joint Application (With Prayer for Confidential Treatment of Information)* dated 12 February 2025, seeking the Commission’s approval of the Power Supply Agreement (“PSA”) between PELCO I and SPI, with prayer for confidential treatment of information and prayer for provisional authority or interim relief.

The pertinent portions of the said *Joint Application* are hereunder quoted as follows:

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. SPI is a private corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5th Floor, C5 Office Building Complex, #100 E. Rodriguez Jr. Ave., C5 Road, Bo. Ugong, Pasig City 1604

3. SPI is a subsidiary of San Miguel Global Power Holdings Corp. (SMGPHC) and is the owner of the 1,294 MW Sual Coal-Fired Thermal Power Plant located in Barangay Pangascasan, Sual, Pangasinan.

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 SPI, is being submitted to the Honorable Commission for its review and approval pursuant to Sections 25<sup>1</sup> and 45(b)<sup>2</sup> of Republic Act No. 9136<sup>3</sup>, 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 30 Megawatts (“MW”) baseload supply starting on December 25, 2024. Consequently, PELCO I conducted a Competitive Selection Process (“CSP”), in compliance with the requirements of the Department of Energy (“DOE”) Department Circular No. DC2023-06-00214, the Energy Regulatory Commission (“ERC”) Resolution No. 16, Series of 2023<sup>4</sup>, and the National Electrification Administration (“NEA”) Memorandum No. 2023-57<sup>6</sup>.

7. Based on the evaluation and post-qualification criteria set by the Bids and Awards Committee (“BAC”) of PELCO I and after deliberation, the BAC recommended awarding a PSA for 15,000 kW to SPI. Said recommendation was accepted and approved by PELCO I’s Board of Directors.

8. Subsequently, a Notice of Award dated December 9, 2024 was issued by PELCO I in favor of SPI, informing the latter that SPI’s bid proposal was compliant with the requirements of PELCO I. Thereafter, Applicants executed a PSA on January 20, 2025.

9. Hence, PELCO I and SPI 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 SPI, a copy of which is attached as ANNEX “A”, contains the following salient features:

10.1. Contract Capacity. SPI shall supply a 15,000 kW baseload to PELCO I (Schedule 2 of the PSA).

10.2. Contract Energy. SPI commits to supply and PELCO I commits to take-or-pay the Contract Energy contained in Schedule 2 of the PSA.

10.3. Contract Term. The Agreement is for a duration of ten (10) years or in one-hundred twenty (120) Billing Periods from the Delivery Date.

10.4. Delivery Date. The Delivery date is the 26<sup>th</sup> day of the calendar month following the date of issuance of ERC Approval of at least Provisional Authority (PA) or Interim Relief (IR), as applicable, or Final Authority, if neither PA nor IR was issued.

10.5. Generation Rate Components (“GRC”). The GRC is composed of the Capital Recovery Fee (“CRF”), Fixed Operation and Maintenance Fee (“FOM”), Variable Operation and Maintenance Fee (“VOM”) and Fuel Fee (“FF”), all on a peso per kilowatt-hour (“PhP/kWh”) basis, and Non-Fuel Commodity Cost (“NFCC”) and Fuel Tax as pass-through cost, to wit:

Schedule 4 of the PSA  
Monthly Billing Formula  
Table 1

Generation Rate Components	PhP/kWh
Capital Recovery Fee (“CRF”)	2.0000
Fixed O&M (“FOM”)	0.3000
Variable O&M (“VOM”)	0.1000
Fuel Fee (“FF”)	2.6706
Non-Fuel Commodity Cost (“NFCC”)	Pass-through cost
Fuel Tax (“FT”)	Pass-through cost

FOM = the Fixed Operation and Maintenance Fee, in PhP/kWh, contained in Table 1 above

AE = as previously defined

MVOMP = Monthly Variable Operation and Maintenance Payment computed as follows:

MVOMP = VOM \* AE

Where:

MVOMP = the amount payable by the Buyer for VOM, in PhP, during the Billing Period

VOM = the Variable Operation and Maintenance Fee, in PhP/kWh, contained in Table 1 above

AE = as previously defined

MFFP = Monthly Fuel Fee Payment computed as follows:

MFFP = FF<sub>B</sub> ×  $\left[ \left( \frac{FCI_c}{FCI_B} \right) \times \left( \frac{FX_c}{FX_B} \right) \right] \times AE$

Where:

MFFP = the amount payable by the Buyer for Fuel Fee, in PhP, during the Billing Period

FF<sub>B</sub> = Base Fuel Fee, in PhP/kWh, contained in Table 1 above

FCI<sub>c</sub> = Fuel Cost Index based on the posted Indonesian Coal Index 2 (“ICI-2”) for the calendar month within which the start of the current Billing Period occurs.

FCI<sub>B</sub> = Base Fuel Cost Index (ICI-2) set at USD95.14/MT.

FX<sub>c</sub> = Average of the daily Foreign Exchange (“FX”) rate of the Philippine Peso to the US Dollar as posted by the Bangko Sentral ng Pilipinas for the calendar month within which the start of the current Billing Period occurs.

FX<sub>B</sub> = Base FX rate set at PhP58.70/USD.

AE = As previously defined.

The Fuel Fee shall be the lower between the computed value using the formula or actual.

MNFCCP = Monthly Non-Fuel Commodity Cost Payment

Where:

MNFCCP = the amount payable by the Buyer for Non-Fuel Commodity Cost, in PhP, based on actual NFCC incurred by SELLER during the Billing Period.

MFTP = Monthly Fuel Tax Payment

MFTP = the amount payable by the Buyer for Fuel Tax, in PhP, based on actual Fuel Tax incurred by SELLER during the Billing Period

SPI may recover the following cost items as the Non-Fuel Commodity Cost (NFCC) from PELCO I:

a. Freight

b. Marine Cargo Insurance

c. Letter of Credit

d. Wharfage

e. Brokerage

10.6. Rate Adjustments. No escalation or indexation in CRF, FOM, and VOM in the entire duration of the PSA. The FF is indexed to Indonesian Coal Index 2 (ICI-2) and Forex Exchange

10.7. Monthly Fee. The Monthly Fee (“MF”) shall be computed as follows:

MF = [ TGC (in Php/kWh) x Associated Energy (in kWh) for every Billing Period ] + all other applicable charges for the account of the PELCO I under Section 6.1.3 of the PSA.

10.8 Outages. SPI is allowed Scheduled and Unscheduled Outages not to exceed 27.9 Days and 16.8 Days, respectively for each Contract Year as set forth in Schedule 3 of the PSA.

10.9 Replacement Power (“RP”).

a. Within the Allowed Outage. During such outage, PELCO I shall source RP from other suppliers or from the WESM, at its own expense.

b. Beyond the Allowed Outage. SPI shall supply PELCO I with RP at the ERC-approved contract charge or actual cost, whichever is lower. Failure of SPI to supply RP, PELCO I shall be allowed to source the RP from the WESM at the expense of SPI. Provided further, that the rates to be charged by SPI to PELCO I for the procurement of RP shall be the lower between the ERC-approved charge for this PSA or actual price of the RP.

10.10 Line Rental (“LR”). PELCO I shall bear the cost of LR up to LR cap of PhPo.1000/kWh. Actual LR beyond LR cap shall be for the account of SPI by reimbursing the same to PELCO I.

10.11 Prompt Payment Discount (“PPD”). SPI shall extend a three percent (3%) PPD on the non-fuel fees (CRF, FOM Fee and VOM Fee) to PELCO I if payment is made within five (5) Business Days from receipt of Seller’s power bill invoice, and PELCO I is up to date with all its payment obligations under the PSA.

10.12 Performance Security (“PS”). SPI shall post and maintain a PS in an amount equivalent to One Hundred Fifty-Eight Million Eight Hundred Ninety-Eight Thousand Six Hundred Ninety-Three Pesos and 18/100 (PhP 158,898,693.18). SPI shall be allowed to submit a PS on an annual basis or in periodic increments, provided that the same is renewed at least fifteen (15) Days before its expiration.

10.13 Security Deposit (“SD”). If PELCO I fails to pay in full its current power bill invoice on Due Date, it shall be required to post a SD within fifteen (15) Days of the immediately succeeding Billing Period after the Due Date equivalent to one hundred percent (100%) of the average monthly power bill invoice for the Billing Periods from Delivery Date up to the current Billing Period.

10.14 Reduction in Contract Capacity and Contract Energy. PELCO I, at any Billing Period, shall be entitled to a reduction in the Contract Capacity and Contract Energy equivalent to the reduction in the demand owing to the implementation of the Retail Competition and Open Access (“RCOA”), Renewable Portfolio Standards (“RPS”), Green Energy Option Program (“GEOP”), and other similar government programs.

RATE IMPACT ON PELCO I’S OVERALL GENERATION RATE

11. PELCO I simulated a rate impact based on its 2025 forecast energy requirements. The simulation used the contract energy and prices of its existing and incoming power suppliers. It also includes the energy exposed in the WESM in 2025. The monthly average local marginal prices at PELCO I’s trading nodes in 2023 and 2024 were used in the simulation.

12. The simulation resulted in an estimated average effective rate of PhP 5.65/kWh, or a reduction of PhP 0.03/kWh with SPI supplying 15,000 kW in 2025.

Estimated Generation Charge (PhP/kWh) in 2025 Using the WESM Prices in 2023			
2025	Without SPI (Blended Rates of Power Suppliers) (A)	With SPI (Blended Rates of Power Suppliers) (B)	Equivalent Rate Impact (A-B)
Average	5.83	5.70	(0.13)

Estimated Generation Charge (PhP/kWh) in 2025 Using the WESM Prices in 2024			
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2025	Without SPI (Blended Rates of Power Suppliers) (A)	With SPI (Blended Rates of Power Suppliers) (B)	Equivalent Rate Impact (A-B)
Average	5.52	5.60	0.08

2-Year Average	5.68	5.65	(0.03)
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13. As can be gleaned from the above rate simulation, SPI’s entry as PELCO I’s baseload power supplier would result in a net reduction of generation cost to PELCO I, which would subsequently redound to the benefit of PELCO I consumers. It will also contribute in protecting the consumers from an increase in electricity rate from the volatile prices of electricity in the WESM

14. Likewise, the Applicants provide the following documents for the evaluation of the *Joint Application*:

Description of Document	Annex
Power Supply Agreement (PSA) between PELCO I and SPI	“A”
Executive Summary of the PSA	“A-1”
Certification on Documents Previously Submitted by PELCO I	“B”
PELCO I Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, Average Daily Load Curve	“C”
Single-line Diagram Connection	“D”
Performance Assessment of the System: 5-Year Historical Reliability Indices (SAIFI and SAIDI)	“E”
Estimated potential reduction in load supplied by PELCO I due to Retail Competition	“F”
Certified True Copy of the Wholesale Electricity Spot Market (WESM) Registration of PELCO I	“G”
PELCO I CSP Report*	“H”
Board Resolution for the BAC Composition	“I”
CSP Observers’ Letter of Intent and Sworn Statements	“J”
Invitation To Bid (“ITB”)	“K”
Certificate of Conformity issued by NEA	“L”
Newspaper Publication of the ITB	“M”
Screenshots of Posting of ITB at PELCO I Website	“N”
Screenshots of Request for Posting of ITB at NEA and DOE Websites	“O”
Instructions to Bidders (“IB”)	“P”
Terms of Reference (“TOR”)	“Q”
Minutes of the Proceeding of the Pre-Bid Conference	“R”
Supplemental Bulletins	“S”
Eligibility Requirements of SPI*	“T”
Submitted Bid Forms of Bidders*	“U”
BAC Report on the Evaluation of Bids*	“V”
BAC Resolution for the Award of PSA	“W”
Abstract of Bids*	“X”
NEA Notice to Issue Notice of Award	“Y”
Notice of Award	“Z”
NEA Notice to Execute PSA	“AA”
Posting of the Performance Bond	“BB”
Notice to Proceed	“CC”
Affidavit of the BAC on the conduct of the CSP	“DD”
PELCO I Rate Impact Simulation	“EE”
Secretary Certificate of PELCO I for the Joint Filing of the PSA to ERC	“FF”
Affidavit of Engr. Oliver S. Vergara in support of the prayer for Provisional Authority or Interim Relief	“GG”
SPI’s Transmission Service Agreement (“TSA”) with the National Grid Corporation of the Philippines (“NGCP”)	“HH”
SPI’s Generation Rate, Derivation, and Related Documents (Confidential)*	“II”
SPI’s Sample Bill to PELCO I	“JJ”
SPI’s Write-up on Capability to Serve PELCO I’s Supply Requirement	“KK”
SPI’s Data on Outages from 2018 to November 2024	“LL”
SPI’s Certification on Documents Previously Submitted (Section 22, ERC Resolution 16, series of 2023)	“MM”
SPI’s Secretary’s Certificate	“NN”
SPI’s Certificate of Email Registration	“OO”

\* Subject of the Motion for Confidential Treatment of Information

15. Under the ERC Revised Rules of Practice and Procedure, a party to any proceeding before the Honorable Commission may request that certain information not be disclosed and be treated as confidential.<sup>7</sup> Pursuant to this, Applicants PELCO I and SPI pray for the confidential treatment of the information contained in the following annexes:

Documents and/or Information	Annex
PELCO I CSP Report (Confidential)*	“H”
Eligibility Requirements of SPI (Confidential)*	“T”
Submitted Bid Forms of Bidders (Confidential)*	“U”
BAC Report on the Evaluation of Bids (Confidential)*	“V”
Abstract of Bids (Confidential)*	“X”
SPI’s Generation Rate, Derivation, and Related Documents (Confidential)*	“II”

16. Annexes “H”, “U”, “V” and “X” contain the details of the breakdown of generation costs of other power suppliers who participated and submitted bid prices during the PELCO I’s CSP.

17. Annexes “T” and “II” contain the details concerning the financial plans and power rate calculations of SPI as well as the manner by which these were derived. The subject 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.*<sup>8</sup>, 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 or 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

(1) the extent to which the information is known outside of the employer’s business;

(2) the extent to which the information is known by employees and others involved in the business;

(3) the extent of measures taken by the employer to guard the secrecy of the information;

(4) the value of the information to the employer and to competitors;

<sup>1</sup> 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.

<sup>2</sup> Distribution utilities may enter into bilateral power supply contracts subject to review by the ERC xxx xxx xxx.

<sup>3</sup> Electric Power Industry Reform Act of 2001 (EPIRA)

<sup>4</sup> 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

<sup>5</sup> 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

<sup>6</sup> 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

<sup>7</sup> Section 1, Rule 4, Revised Rules of Practice and Procedure of the ERC Resolution No. 01, series of 2021

<sup>8</sup> G.R. No. 172835, December 13, 2007