



**DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE, INC.**  
DORELCO/LEYECO I  
Since 1970

Item No.: **11**

Date: **24 2023 OCT**

SANGGUNIANG PANLALAWIGAN



September 29, 2023

**HON. LEONARDO M. JAVIER JR.**  
Vice Governor, Province of Leyte  
Provincial Capitol,  
Palo, Leyte

**Subject: CERTIFICATE OF RECEIPT AND POSTING**

Dear Hon. Vice Governor Javier,

In compliance with the directives of the Energy Regulatory Commission (ERC) in connection with the application entitled, "In the Matter of the *Joint Application for Approval of the Emergency Power Supply Agreement (EPSA) Between Don Orestes Romualdez Electric Cooperative (DORELCO) and KEPCO SPC Power Corporation (KSPC), with Prayer for Confidential Treatment of Information*" pursuant to ERC Resolution No. 38, Series of 2006 as amended by Resolution No. 01, Series of 2021, we are furnishing this Honorable Office the following:

- Joint Application for Approval of the Emergency Power Supply Agreement (EPSA) Between Don Orestes Romualdez Electric Cooperative (DORELCO) and KEPCO SPC Power Corporation (KSPC), with Prayer for Confidential Treatment of Information
- All annexes excluding those subject of a motion for confidential treatment of information

Likewise, in compliance with the requirements of the ERC, may we request that said application with all annexes be posted at the Bulletin Board of the Municipal Building and thereafter, a Certification bearing the dry seal of your office as proof of receipt and posting.

Thank you.

Truly yours,

  
**ALLAN L. LANIBA, MM, MPA, OFS**  
General Manager

**Sangguniang Bayan/Panlalawigan logo**

**CERTIFICATE OF RECEIPT AND POSTING**

This is to certify that the Office of the \_\_\_\_\_ received a copy of the Joint application entitled “In the Matter of the Joint Application for Approval of the Emergency Power Supply Agreement (EPSA) between \_\_\_\_\_ and KEPCO SPC Power Corporation (KSPC), with annexes, excluding those subject to a motion for confidential treatment of information.

This Certification is issued upon the request of the \_\_\_\_\_ Electric Cooperative to comply with the application requirements according to ERC Resolution No.38, Series of 2006, as amended by Resolution No. 01, Series of 2021.

This certification is printed and signed this \_\_\_ day of \_\_\_\_ 2023 at the Office of \_\_\_\_\_, \_\_\_\_\_, Philippines.

NAME  
POSITION

Republic of the Philippines  
ENERGY REGULATORY COMMISSION  
Pasig City

IN THE MATTER OF THE  
JOINT APPLICATION FOR  
APPROVAL FOR THE  
EMERGENCY POWER  
SUPPLY AGREEMENT  
BETWEEN DON ORESTES  
ROMUALDEZ ELECTRIC  
COOPERATIVE, INC. AND  
KEPCO SPC POWER  
CORPORATION, WITH  
PRAYER FOR  
CONFIDENTIAL  
TREATMENT OF  
INFORMATION,

ERC CASE NO.

DON ORESTES  
ROMUALDEZ ELECTRIC  
COOPERATIVE, INC.  
(DORELCO) AND KEPCO  
SPC POWER  
CORPORATION (KSPC),  
*Applicants,*

x-----x

**JOINT APPLICATION**

Applicants DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE ("DORELCO") and KEPCO SPC POWER CORPORATION ("KSPC"), through their respective undersigned counsel, respectfully state:

1. Applicant DORELCO is a non-stock, non-profit electric cooperative organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at San Roque, Tolosa, Leyte, Philippines. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.
2. DORELCO is a duly franchised Distribution Utility engaged in the distribution of electricity with its franchise areas in Leyte, Philippines.

3. Applicant KSPC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at the 7<sup>th</sup> Floor, Cebu Holdings Center, Cebu Business Park, Cebu City, Philippines. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.
4. KSPC owns and maintains a 2x103 MW Circulating Fluidized Bed Combustion (CFBC) Boiler Coal- Fired base load power plant in the City of Naga, Cebu, which became operational in 2011.

#### STATEMENT OF FACTS

5. DORELCO experienced unexpected delays in the Competitive Selection Process ("CSP") activities schedule as a result of the COVID-19 outbreak and government restrictions imposed. With only a few months until DORELCO's Power Supply Agreement ("PSA") with Power Sector Assets and Management (PSALM), covering five (5) MW of DORELCO's baseload power supply, expires on July 25, 2022, they were forced to turn to several potential remedies.
6. Through a Letter dated 27 June 2022 DORELCO wrote to the Department of Energy ("DOE") requesting for an exemption from the Competitive Selection Process ("CSP") requirement of the DOE. The Letter expressed DORELCO's urgent need for supply of electricity due to circumstances beyond control of DORELCO.

6.1. The Letter sought exemption from the CSP pursuant to Section 2.2.1.2 of Department of Energy Department Circular No. DC 2021-09-0030 ("DOE Amended CSP Circular"), which states that:

#### 2.2. Exemption from the CSP

2.2.1. The following instances shall warrant a Certificate of Exemption from the conduct of Competitive Selection Process (COE- CSP) from the DOE:

XXX

2.2.1.2. Negotiated procurement of emergency power supply wherein the cooperation period of the corresponding Emergency Power Supply

Agreement (EPSA) shall not exceed one (1) year, and such EPSA shall be filed immediately before the Energy Regulatory Commission (ERC) upon issuance and within the effectivity of the COE-CSP; Provided, that the DU shall prove and certify that it has performed all the necessary and required due diligence, and solicited proposal from at least one (1) power supplier for EPSA to address the emergency situation and to avert and/or mitigate its consequences, and the offer/s from available Power Supplier/s shall be attached in the request for COE-ESP; Provided also, that the procurement of emergency power supply shall not be entitled to any form of subsidy; Provided finally, that the rate shall be equivalent to or lower than the ERC- approved generation tariff for same or similar technology in comparable areas.

7. Without an immediate procurement of three (3) MW baseload power supply to DORELCO brought about by PSALM's power supply contract expiration, DORELCO will be exposed to inadequate of power supply, and even high electricity rates coming from volatile price offered at Wholesale Electricity Market (WESM).
8. DORELCO deems that this is an emergency that requires a prompt procurement of sufficient capacity of baseload energy from a reliable generator to ensure stability of power supply at a reasonable minimum cost for the paramount interest of its member-consumers in the coming months.
9. On 31 August 2022, the DOE favorably issued a Certificate of Exemption (COE-CSP-2022- 08- 039) exempting DORELCO from the conduct of CSP for the negotiated procurement of emergency power of 3 MW Baseload for a period of 1 year from 26 August 2022 to 25 August 2023.
10. Consequently, DORELCO and KSPC executed an Emergency Power Supply Agreement ("EPSA"), subject of this Joint Application.
11. Thus, this instant Joint Application for the approval of the EPSA between DORELCO and KSPC.

#### SALIENT FEATURES OF THE EPSA

## 12. Salient Features of the EPSA.

12.1. Contract Capacity. KSPC capacity cap means 3000 kW.

### 12.2. Contract Quantity.

12.2.1. Upon terms and subject to the conditions set out herein, commencing on the Effective Date and until the Scheduled Termination Date, the Seller shall deliver or cause the delivery to the Buyer, in each Contract Year, a minimum number in kWh of energy ("Contract Quantity") as set forth in Annex "B".

A copy of the Contract Quantity Table is included in the Emergency Power Supply Agreement attached as Annex "A".

12.2.2. The Contract Quantity may be reduced by force majeure.

12.2.3. The Contract Quantity shall be reduced by actual undelivered energy in the event of Forced Outage or Planned Outage.

12.3. Contract Period. The PSA shall be effective for a term of Twelve (12) months, which shall commence on the Effective Date and end on the Scheduled Termination Date on the following day of the last day of the 12-month period.

12.3.1. Effective Date. The Contract shall become effective (The Effective Date) upon full satisfaction and compliance with the following condition (the Condition Precedent) of the issuance of Certificate of Exemption from the Competitive Selection Process (COE-CSP) by the Department of Energy.

### 12.4. Computation of Generation Fee and Contract Price.

A copy of the Computation of Generation Fee and Contract Prize is included in Annex D of the Emergency Power Supply Agreement attached as Annex "A".

12.5. Allowed Forced Outage. In respect of each Unit 1 and Unit 2, a total of 28 days (equivalent to 1, 008, 000 kWh) of Forced Outage to which the Seller shall be entitled in any Contract Year.

12.6. Planned Outage. In respect of Unit 1 and Unit 2, a total of 80 days (equivalent to 2, 880, 000 kWh) for every Contract Year allowed to the Seller to undertake the normal inspection, maintenance, repair, and overhaul of the Cebu power Plant; *provided*, that only one Unit shall be under Planned Outage at any one time.

13. Estimated Rate Impact Analysis was conducted by DORELCO and resulted to a reduction of -0.5864/kWhr. A copy of the Rate Impact Analysis is attached as Annex "AA".

14. Environmental Compliance Certificate (ECC). On 10 September 2007, the Department of Environment and Natural Resources (DENR) has issued ECC Transfer of Ownership in favor of KSPC with ECC No. 0511- 013- 206.

15. Board of Investments (BOI) Certificate. On 8 May 2008, KSPC's plants located in Naga City, Cebu were registered with BOI with Certificate of Registration No. 2008-088.

16. Certificate of Compliance. The Honorable Commission has issued the Provisional Authority to Operate dated 03 February 2021, for KSPC's power plants for a period of 19 February 2021 to 20 February 2022. Likewise, the Honorable Commission issued the extension of the Provisional Authority to Operate dated 11 March 2022, for a period of one year from 20 February 2022 to 19 February 2023. On February 9, 2023, ERC issued a Certification that the said Provisional Authority to Operate is currently being evaluated.

17. Certificate of Endorsement. The DOE has issued a Certificate of Endorsement with No. 2022- 04-160 dated 19 April 2022 for KSPC's plant in barangay Colon, Naga City, Cebu, certifying that the Plant is consistent with the Power Development Plan of the Government.

18. As further support to the instant Joint Application, the Applicants most respectfully submit to the Honorable Commission the following documents in accordance with the Pre-filing Checklist in Resolution No. 38, Series of 2006<sup>1</sup>, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
A	EMERGENCY POWER SUPPLY AGREEMENT
B, and B-1	DORELCO Articles of Incorporation and By-Laws

<sup>1</sup> Resolution No. 38, Series of 2006 – A Resolution Promulgating the Energy Regulatory Commission's Rules of Practice and Procedure.

C	DORELCO Verified Certification showing list of Board of Directors
D, and D-1	KSPC Articles of Incorporation and By-laws
E	Shareholder's Agreement
F	KSPC General Information Sheet
G	KSPC Verified Certification showing list of Board of Directors
H	KSPC Certification of Registration issued by BOI
I	ECC issued by the DENR to KSPC
J, and J-1	Provisional Authority to Operate KSPC and Extension for the Provisional Authority to Operate
K	Certificate of Endorsement to KSPC
L	DORELCO Certification for Non- Applicability of Demand Side Management
M	DORELCO Supply Demand Scenario
N	DORELCO SAIFI and SAIDI
O	DORELCO Letter to DOE
P	DOE Certificate of Exemption
Q	DORELCO Transmission Service Agreement with NGCP
R	KSPC Transmission Service Agreement with NGCP
S	Executive Summary of the DORELCO and KSPC EPSA
T*	KSPC's Financial Model
U*	Sworn Statement on Fuel Procurement
V*	Relevant technical and economic characteristics of generation capacity
W*	KSPC's 2021 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
X	KSPC's WESM Registration Approval Form
Y	WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (DORELCO): <ul style="list-style-type: none"> <li>• CSP DOCUMENTS</li> </ul>
Z	WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC): <ul style="list-style-type: none"> <li>• Renewable Energy Service Contract</li> <li>• Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE</li> <li>• Water Permit from NWRB</li> <li>• Equivalent PHP/kWh with assumptions for foreign denominated rates</li> <li>• Computation Levelized Cost</li> <li>• BIR Receipts</li> <li>• Seller's Receipts</li> <li>• Purchase Orders with Annotation of Acceptance or Transfers</li> </ul>



	<ul style="list-style-type: none"> <li>● Deeds of Sale and other Other Forms of Conveyance of Ownership</li> <li>● Cost Analysis Related to the generation in support of the Proposed Pricing</li> <li>● Computation Levelized Cost</li> <li>● Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid.</li> <li>● Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs.</li> <li>● Distribution Wheeling Service Agreement</li> </ul>
AA	Estimated Rate Impact
BB	DORELCO DDP
CC	Single Line Diagram
DD	Estimation of potential load
EE	Verified certification
FF	Excel for ERC App and OM
GG	Certification of the Net Heat Rate
HH	MEOT Allocation to the generating units
II	Explanation to no. 39 and 40
JJ	Write up on non-applicability of TSC
KK	DORELCO Registration

\*Subject to the Motion For Confidential Treatment of Information

#### ALLEGATIONS IN SUPPORT OF THE MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

19. Section 1, Rule 4, of the ERC Revised Rules of Practice and Procedure provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.

20. Pursuant thereto, KSPC prays that the information contained in the documents attached as Annexes "T", "U", "V", and "W", be treated as confidential and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission. In particular, these are the documents for which confidential treatment is sought as they contain trade secrets and/or commercially-sensitive data about KSPC's plant operations and pricing strategies:

ANNEX	DOCUMENT
T	Financial Model

U	Sworn Statement on Fuel Procurement
V	Relevant Technical and Economic Characteristics of Generation Company
W	KSPC's 2021 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows

21. The competitors of KSPC will gain undue advantage and use the information in their own operation, if they obtain the information provided in the documents requested to be confidential.

#### PRAYER

WHEREFORE, the foregoing premises considered, it is respectfully prayed that this Honorable Commission:

1. Give due course to the instant application.
2. Issue an Order:
  - a. Treating the Confidential Documents and the information contained therein as confidential
  - b. Directing their non-disclosure pursuant to Rule 4 of the ERC Rules, and
  - c. Prescribing guidelines for the protection of the said documents.
3. After trial on the merits, issue a Decision approving the EPSA, thereby confirming the compliance by DORELCO and KSPC to the rules governing emergency power supply, and further confirming the effective rate charged, collected, and paid in connection with this EPSA.
4. To authorizing KSPC to charge and collect from DORELCO the electricity fees based on the final rates approved by this Honorable Commission, and authorizing DORELCO to pass the full amount thereof to its customers.


Other relief and remedies consistent with law, justice, and equity are likewise prayed for.


Cebu City and Tacloban City, 28<sup>th</sup> day of June 2023

COUNSEL FOR KSPC

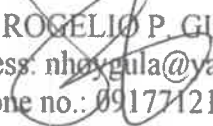
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By:

  
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Roll of Attorney No. 40923  
IBP OR No. 308676/ 02-02-23/ Cebu  
PTR No. 2283369/ 12-16-22/ Cebu  
MCLE Compliance No. VI- 0000040- 5/4/15  
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IBP No. 304414/ 1-23-2023/ Cebu  
PTR No. 2291912/ 1-06-2023/ Cebu  
Roll of Attorneys No. 76561  
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COUNSEL FOR DORELCO

  
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Roll No. 48025; Lifetime IBP No. 07688; PTR No. 8318729 dtd. 1/4/23  
MCLE Compliance No. VII- 0004938 valid until 4/14/2025

**VERIFICATION/CERTIFICATION OF NON-FORUM SHOPPING**

I, **JUDE FRANCIS ALPHAEUS RENDON**, of legal age, Filipino, Marketing Assistant Manager of **KEPCO SPC POWER CORPORATION**, with principal office at Brgy. Colon, City of Naga, Cebu, Philippines, after being duly sworn to in accordance with law, hereby deposes and says: THAT

--

1. I am the authorized representative of **KEPCO SPC POWER CORPORATION** in the above-entitled case, by virtue of a Secretary's Certificate;
2. As such, I have caused the preparation of the Joint Application with Motion for Confidential Treatment of Information, have read and understood its contents which is true and correct of my own personal knowledge and belief and based on authentic records in my possession;
3. The said Joint Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
4. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
5. **KEPCO SPC POWER CORPORATION** hereby certify that we have not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of our knowledge, no such other action or claim is pending therein; if I should thereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact within five (5) calendar days therefrom to the Honorable Commission wherein my aforesaid Petition or initiatory pleading has been filed.

**IN WITNESS WHEREOF**, I have hereunto affixed my signature this 29 day of June 2023, at City of Naga, Cebu, Philippines.




**JUDE FRANCIS ALPHAEUS RENDON**  
Affiant

**JUN 29 2023**

**SUBSCRIBED AND SWORN TO** before me this \_\_\_\_ day of June 2023 in Cebu, Philippines, by affiant who exhibited to me his Passport ID with No. P8221336B issued by the Department of Foreign Affairs as his competent evidence of identity.

Doc. No. 116 ;  
Page No. 77 ;  
Book No. 1 ;  
Series of 2023



**ATTY. GIOVANNI D. SUSUSCO**  
NOTARY PUBLIC  
NOTARIAL COMMISSION NO. 2023-18-EJ  
UNTIL DECEMBER 31, 2024  
BP NO. 317908 / 05-15-2023 / CEBU  
PTR NO. 4441762 / 05-02-2023 / TALISAY  
TALISAY CITY, CEBU  
ROLL NO. 53097

**VERIFICATION/CERTIFICATION OF NON-FORUM SHOPPING**

I, ALLAN L. LANIBA, of legal age, Filipino, married and with office address at Barangay San Roque Tolosa, Leyte after having been duly sworn to in accordance with law, hereby deposes and states: THAT -

1. I am the GENERAL MANAGER of Don Orestes Romualdez Electric Cooperative ("DORELCO") and I caused the preparation of the foregoing Application for submission and approval of the Honorable Commission;
2. The allegations therein are true and correct based on my personal knowledge, or based on authentic documents;
3. The foregoing Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
4. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.
5. I hereby certify that I have not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of our knowledge, no such other action or claim is pending therein; if I should thereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact within five (5) calendar days therefrom to the court wherein my aforesaid Petition or initiatory pleading has been filed.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 17th July 2023 at Tacloban City, Philippines.

ALLAN L. LANIBA  
AFFIANT

SUBSCRIBED AND SWORN TO before me this 17 July 2023 at Tacloban City, by affiant who exhibited to me his Professional Driver's License as his competent evidence of identity.

Name	Competent Evidence of Identity	Number	Date of Issuance & Expiry	Place of Issuance
ALLAN L. LANIBA	LTO/PDL	L06-96-044766	2032-02-14	

Doc. No. 88;  
Page No. 16;  
Book No. YV;  
Series of 2023.

**ATTY. ROGERIO BABY PUBLIC**  
NOTARY PUBLIC  
NC No. 2023-01708  
UNTIL DECEMBER 31, 2024  
PTR No. 8318729  
ATTORNEY'S ROLL #: 48025  
IBP LIFETIME MEMBER #: 07688