



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

Item No.: 35
Date: 05 2024 JAN

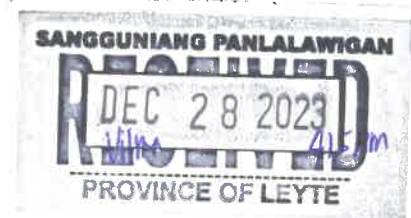
December 20, 2023

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

Office of the Vice Governor

Received

By: REBECCA
Date: 12/28/23
Time: 12:01 PM



Subject: ORDER & NOTICE OF VIRTUAL HEARING

Dear 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:

- Order, Promulgated on December 04, 2023
- Notice of Virtual Hearing

Likewise, in compliance with the requirements of the ERC, may we request that said Order and Notice of Virtual Hearing 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,


CHRISTOPHER A. GARCIA
Acting General Manager

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. 2023-127 RC

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

Applicants.

X-----X

Promulgated:
December 04, 2023

ORDER

On 20 November 2023, the Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application* dated 28 June 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

The pertinent allegations in the *Joint Application* are hereunder quoted, as follows:

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 7th 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 Certification 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 2006¹, Rule 20 B Section 2 of the ERC Rules of Practice and Procedure:

ANNEX	DOCUMENTS/INFORMATION
A	EMERGENCY POWER SUPPLY AGREEMENT
B, and B-1	DORELCO Articles of Incorporation and By-Laws
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) • CSP DOCUMENTS
Z	WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC)

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

ANNEX	DOCUMENTS/INFORMATION
	<ul style="list-style-type: none"> • Renewable Energy Service Contract • Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE • Water Permit from the NWRB • Equivalent PHP/kWh with assumptions for foreign denominated rates • Computation Levelized Cost • BIR Receipts • Seller's Receipts • Purchase Orders with Annotation of Acceptance or Transfers • Deeds of Sale and other Other Forms of Conveyance of Ownership • Cost Analysis Related to the generation in support of the Proposed Pricing • Computation Levelized Cost • Potential Cost (absolute amounts and PHP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid. • Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs. • Distribution Wheeling Service Agreement
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.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same 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 2020² and Resolution No. 01, Series of 2021³ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
06 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
13 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M)		Pre-Trial Conference and presentation of evidence

Accordingly, DORELCO and KSPC are hereby directed to host the virtual hearings at **DORELCO's Principal Office at San Roque, Tolosa, Leyte**, 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, DORELCO and KSPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, DORELCO and KSPC are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Offices of the Provincial Governor, the Mayors, and the Local Government Unit (LGU) legislative bodies within DORELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 3) Inform the consumers within DORELCO's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, the reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearings; and
- 5) Furnish with copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the initial hearing, DORELCO and KSPC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance with the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editor or Business Manager of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by DORELCO and KSPC to inform the consumers within DORELCO's franchise area of the filing of the *Joint Application*, their reasons therefor, and of the scheduled hearings thereon;

- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, DORELCO and KSPC are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

Joint Applicants DORELCO and KSPC, and all interested parties are also required to submit via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-Trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-Trial Brief.

Joint Applicants DORELCO and KSPC must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled initial virtual hearing and Pre-trial Conference, pursuant to the preceding paragraph.

Failure of DORELCO and KSPC to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from the said date of cancellation.

Joint Applicants DORELCO and KSPC must also be prepared to make an expository presentation of the instant *Joint Application*, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *Joint Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Joint Application* must be cited in support thereof.

Joint Applicants DORELCO and KSPC are hereby directed to file a copy of their expository presentation via e-mail at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. DORELCO and KSPC shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.

Joint Applicants DORELCO and KSPC are further directed to submit, either through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their jurisdictional compliance, expository presentation, Pre-Trial Brief, and Judicial Affidavits of witnesses, **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.

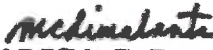
(This space is intentionally left blank.)

Finally, DORELCO and KSPC, including their authorized representatives and witnesses, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 04 December 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: ADGS/ARG/MCCG

ERC
Office of the Chairperson and CEO

MCD 2023-011622

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ORDER/ 04 DECEMBER 2023
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Copy Furnished:

1. Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO)
Applicant
National Highway, San Roque
Tolosa, Leyte
2. Atty. Rogelio P. Gula
Counsel for Applicant DORELCO
Door 7, Cabigon Bldg. Del Pilar St.
Tacloban, Leyte
nhoygula@yahoo.com
3. KEPCO SPC Power Corporation (KSPC)
Applicant
7th Floor, Cebu Holdings Center
Cebu Business Park, Cebu City
4. Attys. Ramsey M. Quijano and Samantha Dawn F. Baluma
Garcia, Quijano and Associates Law Office
Counsel for Applicant KSPC
Suite #703, 7th Floor Apple One Equicom Tower
Mindanao Ave. cor. Biliran Rd.
Cebu Business Park, Cebu City
gu.kepco@gmail.com; irmquijano@gmail.com; samantha_baluma@yahoo.com
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
committee.energy@house.gov.ph
9. Office of the Mayor
Abuyog, Leyte
10. Office of the Local Government Unit (LGU) Legislative Body
Abuyog, Leyte
11. Office of the Mayor
Buraen, Leyte
12. Office of the Local Government Unit (LGU) Legislative Body
Buraen, Leyte
13. Office of the Mayor
Dagami, Leyte
14. Office of the Local Government Unit (LGU) Legislative Body
Dagami, Leyte
15. Office of the Mayor
Dulag, Leyte
16. Office of the Local Government Unit (LGU) Legislative Body
Dulag, Leyte
17. Office of the Mayor
Javier, Leyte
18. Office of the Local Government Unit (LGU) Legislative Body
Javier, Leyte
19. Office of the Mayor
Julita, Leyte
20. Office of the Local Government Unit (LGU) Legislative Body

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ORDER/ 04 DECEMBER 2023
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Julita, Leyte

21. *Office of the Mayor
La Paz, Leyte*
22. *Office of the Local Government Unit (LGU) Legislative Body
La Paz, Leyte*
23. *Office of the Mayor
Macarthur, Leyte*
24. *Office of the Local Government Unit (LGU) Legislative Body
Macarthur, Leyte*
25. *Office of the Mayor
Mahaplag, Leyte*
26. *Office of the Local Government Unit (LGU) Legislative Body
Mahaplag, Leyte*
27. *Office of the Mayor
Mayorga, Leyte*
28. *Office of the Local Government Unit (LGU) Legislative Body
Mayorga, Leyte*
29. *Office of the Mayor
Tabontabon, Leyte*
30. *Office of the Local Government Unit (LGU) Legislative Body
Tabontabon, Leyte*
31. *Office of the Mayor
Tanauan, Leyte*
32. *Office of the Local Government Unit (LGU) Legislative Body
Tanauan, Leyte*
33. *Office of the Mayor
Tolosa, Leyte*
34. *Office of the Local Government Unit (LGU) Legislative Body
Tolosa, Leyte*
35. *Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive,
San Antonio, Ortigas Center, Pasig City
ros@erc.ph*

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
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ERC CASE NO. 2023-127 RC

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x-----x

Promulgated:
December 04, 2023

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 November 2023, the Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application* dated 28 June 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

The pertinent allegations in the *Joint Application* are hereunder quoted, as follows:

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 7th 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.
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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 Certification 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

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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 2006¹, Rule 20 B Section 2 of the ERC Rules of Practice and Procedure:

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

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

ANNEX	DOCUMENTS/INFORMATION
Z	<p>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC)</p> <ul style="list-style-type: none"> • Renewable Energy Service Contract • Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE • Water Permit from the NWRB • Equivalent PHP/kWh with assumptions for foreign denominated rates • Computation Levelized Cost • BIR Receipts • Seller's Receipts • Purchase Orders with Annotation of Acceptance or Transfers • Deeds of Sale and other Other Forms of Conveyance of Ownership • Cost Analysis Related to the generation in support of the Proposed Pricing • Computation Levelized Cost • Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid. • Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs. • Distribution Wheeling Service Agreement
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

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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.

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 2020² and Resolution No. 01, Series of 2021³ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
06 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
13 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M)		Pre-Trial Conference and presentation of evidence

DORELCO and KSPC are directed to host the virtual hearings at **DORELCO's Principal Office at San Roque, Tolosa, Leyte**, 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. DORELCO and KSPC 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, any person who has 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:

- ² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
- ³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) 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:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) 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.

(This space is intentionally left blank.)

Finally, all interested persons may be allowed to join the scheduled 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 4th day of December 2023 in Pasig City.

mdimalanta
MONALISA C. DIMALANTA
Chairperson and CEO

ERC

Office of the Chairperson and CEO



MCD 2023-011622

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LS: ADGS/ARG/MCCG

Sangguniang Bayan/Panlalawigan logo

CERTIFICATE OF RECEIPT AND POSTING

This is to certify that the Office of the _____ received a copy of the Energy Regulatory Commission (ERC) Order Promulgated on December 4, 2023 and Notice of Virtual Hearing of the Joint application entitled “In the Matter of the Joint Application for Approval of the Emergency Power Supply Agreement (EPSA) between DORELCO and KEPCO SPC Power Corporation (KSPC).

This Certification is issued upon the request of the Don Orestes Romualdez 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

/dry seal