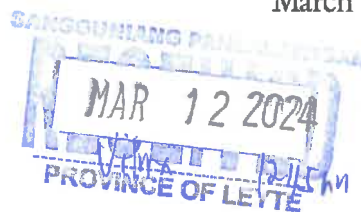


March 12, 2024

HON. LEONARDO JAVIER, JR.
Provincial Vice Governor / Presiding Officer
SANGGUNIANG PANLALAWIGAN
4th Floor, Leyte Provincial Government Complex,
West-By-Pass Road, Brgy. Guindapunan,
Palo, Province of Leyte



Re: IN THE MATTER OF THE APPLICATION FOR APPROVAL THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND SAMAR I ELECTRIC COOPERATIVE INC., WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION - ENERGY DEVELOPMENT CORPORATION (EDC) AND SAMAR I ELECTRIC COOPERATIVE, INC. (SAMELCO I) ERC CASE NO. 2024-017 RC

Gentlemen:

In compliance with the Revised Rules of Practice and Procedure of the Energy Regulatory Commission (“ERC”) and the Order dated 5 March 2024 of the ERC, we are furnishing this Honorable Office with the said Order and Notice of Virtual Hearing both dated 5 March 2024.

In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the **Office of Sangguniang Panlalawigan of Leyte’s** bulletin board of this Honorable Office, in compliance with the said Order and the Revised Rules of Practice and Procedure of the ERC.

Consequently, we are also requesting for a Certification of Posting from this Honorable Office stating that a copy of the Order and Notice of Virtual Hearing both dated 5 March 2024 of the above-captioned case was served to, duly received and duly posted by this Honorable Office.

Very truly yours,


4 **ANDY T. DUROG**
Energy Development Corporation
Head, Unified Leyte Geothermal Power
Plant



Republic of the Philippines
**ENERGY
REGULATORY
COMMISSION**

OGCS-N-02/0295-2024

NOTICE

Sirs/Mesdames:

Please take notice that on **05 March 2024**, the Commission issued an **Order** and a **Notice of Virtual Hearing** in the following case, the original documents were received by this Office on 06 March 2024:

ERC CASE NO. 2024-017 RC, IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND SAMAR I ELECTRIC COOPERATIVE, INC. WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION – ENERGY DEVELOPMENT CORPORATION (EDC) AND SAMAR I ELECTRIC COOPERATIVE, INC. (SAMELCO I), Applicants.

Attached are electronic copies.

Please be reminded of the Commission's existing rules on electronic service of orders and decisions provided under **Rule VI of Resolution No. 9, Series of 2020¹**, which became effective on 17 November 2020.

Thank you.

Very truly yours,

MARIA LUCILA M. GIRON
Administrative Officer V
OGCS-Central Records Division

/jdc

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER
SUPPLY AGREEMENT
BETWEEN ENERGY
DEVELOPMENT
CORPORATION AND SAMAR I
ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL TREATMENT
OF INFORMATION**

ERC CASE NO. 2024-017 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
SAMAR I ELECTRIC
COOPERATIVE, INC.
(SAMELCO I),**

Applicants.

X-----X

Promulgated:
March 05, 2024

ORDER

On 12 February 2024, Energy Development Corporation (EDC) and Samar I Electric Cooperative, Inc. (SAMELCO I) filed their *Joint Application (With Motion for Confidential Treatment of Information)* dated 19 July 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 said *Joint Application* are hereunder quoted, as follows:

1. Applicant SAMELCO I is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay Carayman, Calbayog City, Samar, Philippines, where it may be served with summons and other legal processes. SAMELCO I is represented here by its President, Engr. Arcadio C. Olaje, who has been authorized by its Board of Directors to file the Joint

Application as evidenced by the Secretary's Certificate dated February 22, 2023, attached hereto as Annex "B-1".

2. Applicant EDC is a generation company duly organized, incorporated and registered under and by virtue of the laws of the Philippines, with principal office at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Vice President, Marvin Kenneth S. Bailon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated October 13, 2022, attached hereto as Annex "D-1".

- 2.1 EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA").

- 2.2 Pursuant to the Honorable Commission's Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.

- 2.3 While EDC is a co-applicant, it manifests that this Joint Application shall neither modify, diminish, nor constitute as a waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

3. Applicant SAMELCO I is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City of Calbayog and Municipalities of Gandara, Matuguinao, San Jorge, Sta. Margarita, Tarangnan, Pagsanghan, Sto. Nino, Almagro, Tagapul-an, all in the Province of Samar.
4. Applicant EDC owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte ("Plant").
5. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their respective undersigned counsels at the addresses indicated herein.

NATURE OF THE APPLICATION

6. This is a Joint Application for approval of the Emergency Power Supply Agreement ("EPSA") entered into by and between SAMELCO I and EDC dated November 7, 2022, being submitted to the Honorable Commission for its review and approval).

STATEMENT OF FACTS

7. SAMELCO I is in immediate need of 1MW contracted capacity for around one (1) month and 2 MW contracted capacity for the
-

succeeding eleven (11) months¹. To maintain an uninterrupted and reliable power supply due to a high level of supply deficit of at least 1MW for one month and 2MW for the succeeding 11 months, SAMELCO I decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure to the volatile Wholesale Electricity Spot Market ("WESM") prices.

8. Pursuant to Department of Energy ("DOE") Department Circular 2018-02-003, as amended by DC 2021-09-0030, SAMELCO I is allowed to enter into a negotiated procurement of emergency electric power supply agreements with a generation company for a period not exceeding one (1) year, subject to such terms and conditions provided under Section 2.2.1.2 of DC 2021-09-0030.
9. SAMELCO I wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of initially 1 MW and then eventual 2MW emergency power supply from EDC. The Letter expressed SAMELCO I's urgent need for supply of electricity due to circumstances beyond the control of SAMELCO I, and the limited time to conduct the said Competitive Selection Process ("CSP").
10. On 9 September 2022, DOE issued Certificate of Exemption No. COE-CSP-2022-08-042 in response to SAMELCO I's letter-request exempting it from the conduct of CSP for the procurement of emergency electric power supply.
11. In view of SAMELCO I's supply deficit of at least 1MW for the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, SAMELCO I solicited for emergency power supply for one (1) year.
12. In response to SAMELCO I's demand, EDC has offered to supply a portion of the emergency electric power supply requirements of SAMELCO I at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas and SAMELCO I accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement ("EPSA") for the supply of 1MW for one month and 2 MW for the succeeding 11 months emergency power supply to SAMELCO I.

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND
RELATED INFORMATION**

13. Under the EPSA, EDC shall supply power to SAMELCO I for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 1MW for the

¹ Under the EPSA, the term shall end on the last day of the Cooperation Period, which shall not be later than the date prescribed by the DOE in the Certificate of Exemption; both the EPSA and the Certificate of Exemption provide for 1MW the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023.

period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023.²

- 13.1 Supply of Electricity – EDC shall make available to SAMELCO I the Contracted Capacity from the Power Plant and/or Other Sources throughout the duration of the Cooperation Period, subject to Section 2.2.1 of the EPSA. The Parties agree that EDC shall have no obligation to supply more than the Contracted Capacity to SAMELCO I. SAMELCO I shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. SAMELCO I shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – SAMELCO I is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 13.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by SAMELCO I shall start no later than Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent under Section 11 of the EPSA.
- 13.4 Electricity Fees – Electricity fees shall refer to 5.8798 Php/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by SAMELCO I.

RATE IMPACT ANALYSIS

14. SAMELCO I simulated a rate impact analysis which resulted in a Php 1.6894/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

	Weighted Average Rate (Php/kW)
SAMELCO I: WITHOUT EDC EPSA	12.2834

² Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

SAMELCO I: WITH EDC EPSA	10.5939
Generation Impact: Increase /(Decrease)	(1.6894)

OTHER RELATED DOCUMENTS

15. To substantiate the instant application, Applicants must respectfully submit to the Honorable Commission the following documents.

ANNEX	DOCUMENTS
A	Articles of Incorporation and By-laws of SAMELCO I
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of SAMELCO I
B-1	Secretary's Certificate of SAMELCO I
B-2	Board Resolution of SAMELCO II
C	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws
C-1	Latest Amended Articles of Incorporation of EDC
C-2	Latest Amended By-laws of EDC
D	General Information Sheet of EDC
D-1	Secretary's Certificate of EDC
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificate of Compliance and/or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement
I*	Renewable Energy Service Contracts
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line Diagram Connection
M	Emergency Power Supply Agreement between SAMELCO I and EDC
N	DOE Certificate of Exemption
N-1	Letters to or from SAMELCO I
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreements
P-1	Transmission Service Agreement between NGCP and SAMELCO I
Q	NGCP Certificate of Adequate Capacity
Q-1	Write up on TSC
R	Executive Summary of EPSA
S*	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T*	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U*	Bank Certifications

V*	Sworn statement on fuel procurement
W*	Relevant technical and economic characteristics of generation capacity
X	Supply Demand Scenario
Y	Estimation of Potential for Reduction in Load
Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	SAMELCO I Write-up on Demand Side Management
CC-2	EDC sample OR
DD	Water Permits from NWRB
EE	SAMELCO I's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

16. In compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the Office of the Mayor and Governor and the legislative bodies of the municipality and province wherein the principal place of business of SAMELCO I is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service to or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Calbayog City, Samar and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Samar, or from their duly authorized representatives, attesting to the fact of service of the Application are attached hereto as Annexes "GG" to "GG-3", respectively.
17. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC's principal place of business is located and to Ormoc City, Kananga, and Province of Leyte as EDC's place of operation. Copies of the certification of receipt from and/or affidavits of service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, and the place of operation in Ormoc City and Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-7".
18. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of SAMELCO I. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as Annexes "II" and "JJ", respectively.

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

19. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

ANNEX	DOCUMENTS
I	Renewable Energy Service Contract
S	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U	Bank Certifications
V	Sworn statement on fuel procurement
W	Relevant technical and economic characteristics of generation capacity

20. Applicants treat the above-mentioned documents, such as related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

21. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and a determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

22. Pursuant to the ERC Rules of Practice and Procedure, the Honorable Commission may exercise its discretion by granting a provisional authority or an Interim Relief prior to a final decision. It is understood that the provisional authority or Interim Relief sought by the Joint Applicants shall be subject to adjustments and other conditions that the Honorable Commission may impose.

PRAYER

WHEREFORE, premises considered, Applicants EDC and SAMELCO I respectfully pray of this Honorable Commission the following:

- a. After due hearing, render a decision approving with finality the EPSA subject of the instant Joint Application, thereby confirming the rates in the EPSA as implemented by the Applicants; and
- b. Issue an Order declaring the documents, and the information therein, duly marked as Annexes "I", "S", "T", "U", "V" and "W" as confidential information, within the purview of Rule 4 of the ERC Rules, thereby

directing the same to be treated with confidentiality and be protected from public disclosure.

Other reliefs, just and equitable under the premises, 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 platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020³ and Resolution No. 01, Series of 2021⁴ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
16 April 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams Application	Determination of compliance with the jurisdictional requirements and Expository Presentation
23 April 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M)		Pre-Trial Conference and Presentation of Evidence

Accordingly, EDC and SAMELCO I are hereby directed to host the virtual hearings at **SAMELCO I's Principal Office located at Barangay Carayman, Calbayog City, Samar, Philippines**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, EDC and SAMELCO I shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, EDC and SAMELCO I 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

³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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 virtual hearing;

- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Mayors, the Local Government Unit (LGU) legislative bodies, within SAMELCO I's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within SAMELCO I's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, their 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 virtual hearing, EDC and SAMELCO I 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 Editors or Business Managers 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 EDC and SAMELCO I to inform the consumers within SAMELCO I'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, by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, EDC and SAMELCO I are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Provincial Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

Applicants EDC and SAMELCO I 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; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Applicants EDC and SAMELCO I 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 EDC and SAMELCO I to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing.

Applicants EDC and SAMELCO I 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* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

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

Applicants EDC and SAMELCO I 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 its 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.

Finally, Applicants EDC and SAMELCO I, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, with 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, 05 March 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:



CATHERINE P. MACEDA
Commissioner

*and Officer-in-Charge of the Office of
the Chairperson and CEO*

LS: JPM/LSP

ERC

Office of the Chairperson and CEO



CPM2024-015156

ERC CASE NO. 2024-017 RC
ORDER/ 05 March 2024
PAGE 13 OF 14

Copy Furnished:

1. Energy Development Corporation, Inc. (EDC)
Applicant
9th Floor, Rockwell Business Center Tower 3
Ortigas Avenue, Pasig City
Email addresses: energy.com.ph
2. SAMAR I Electric Cooperative, Inc. (SAMELCO I)
Applicant
Barangay Carayman, Calbayog City, Samar
Email address: samelco_1@yahoo.com
3. QUIASON MAKALINTAL BAROT TORRES IBARRA SISON & DAMASO
Counsel for Applicant EDC
21st Floor, Robinsons-Equitable Tower
4 ADB Avenue corner Poveda Street
1605 Ortigas Center, Pasig City
Email address: gmbti@gmbti.com; mmathay@gmbti.com; gcomsti@gmbti.com;
jreyes@gmbti.com; rserrano@gmbti.com; bbayudan@gmbti.com
4. Attys. Edson G. Piczon, Tyron Jan G. Albao, and Peter Joven Y. De Oño
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Email address: attypiczon@gmail.com; attyteejalbao@gmail.com;
power8lawyers@gmail.com
5. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
Email address: docket@osg.gov.ph
6. Commission on Audit
Commonwealth Avenue, Quezon City
Email: citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Email: senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
Email: committee.energy@house.gov.ph
9. Office of the Governor
Province of Samar
10. Office of the Sangguniang Panlalawigan
Province of Samar
11. Office of the City Mayor
Ormoc City
12. Office of the Sangguniang Panlungsod
Ormoc City
13. Office of the Mayor
Kananga, Leyte
14. Office of the Sangguniang Bayan
Kananga, Leyte
15. Office of the City Mayor
Calbayog City
16. Office of the Sangguniang Panlungsod
Calbayog City

17. Office of the Mayor
Gandara, Samar
18. Office of the Sangguniang Bayan
Gandara, Samar
19. Office of the Mayor
Matuguinao, Samar
20. Office of the Sangguniang Bayan
Matuguinao, Samar
21. Office of the Mayor
San Jorge, Samar
22. Office of the Sangguniang Bayan
San Jorge, Samar
23. Office of the Mayor
Sta. Margarita, Samar
24. Office of the Sangguniang Bayan
Sta. Margarita, Samar
25. Office of the Mayor
Tarangnan, Samar
26. Office of the Sangguniang Bayan
Tarangnan, Samar
27. Office of the Mayor
Pagsanghan, Samar
28. Office of the Sangguniang Bayan
Pagsanghan, Samar
29. Office of the Mayor
Sto. Nino, Samar
30. Office of the Sangguniang Bayan
Sto. Nino, Samar
31. Office of the Mayor
Almagro, Samar
32. Office of the Sangguniang Bayan
Almagro, Samar
33. Office of the Mayor
Tagapul-an, Samar
34. Office of the Sangguniang Bayan
Tagapul-an, Samar
35. Regulatory and Operations Service (ROS)
Energy Regulatory Commission
14th Floor, Exquadra Tower, 1 Jade Drive
Ortigas Center, Pasig City

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER SUPPLY
AGREEMENT BETWEEN
ENERGY DEVELOPMENT
CORPORATION AND SAMAR I
ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL TREATMENT
OF INFORMATION**

ERC CASE NO. 2024-017 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
SAMAR I ELECTRIC
COOPERATIVE, INC.
(SAMELCO I),**

Applicants.

x-----x

Promulgated:

March 05, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 12 February 2024, Energy Development Corporation (EDC) and Samar I Electric Cooperative, Inc. (SAMELCO I) filed their *Joint Application (With Motion for Confidential Treatment of Information)* dated 19 July 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 said *Joint Application* are hereunder quoted, as follows:

1. Applicant SAMELCO I is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay Carayman, Calbayog City, Samar, Philippines, where it may be

served with summons and other legal processes. SAMELCO I is represented here by its President, Engr. Arcadio C. Olaje, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated February 22, 2023, attached hereto as Annex "B-1".

2. Applicant EDC is a generation company duly organized, incorporated and registered under and by virtue of the laws of the Philippines, with principal office at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Vice President, Marvin Kenneth S. Bailon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated October 13, 2022, attached hereto as Annex "D-1".

2.1 EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA").

2.2 Pursuant to the Honorable Commission's Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.

2.3 While EDC is a co-applicant, it manifests that this Joint Application shall neither modify, diminish, nor constitute as a waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

3. Applicant SAMELCO I is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City of Calbayog and Municipalities of Gandara, Matuguinao, San Jorge, Sta. Margarita, Tarangnan, Pagsanghan, Sto. Nino, Almagro, Tagapul-an, all in the Province of Samar.

4. Applicant EDC owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte ("Plant").

5. The Joint Applicants may be served with the orders, notices, and other processes of the Honorable Commission through their respective undersigned counsels at the addresses indicated herein.

NATURE OF THE APPLICATION

6. This is a Joint Application for approval of the Emergency Power Supply Agreement ("EPSA") entered into by and between SAMELCO I and EDC dated November 7, 2022, being submitted to the Honorable Commission for its review and approval).

STATEMENT OF FACTS

7. SAMELCO I is in immediate need of 1MW contracted capacity for around one (1) month and 2 MW contracted capacity for the succeeding eleven (11) months¹. To maintain an uninterrupted and reliable power supply due to a high level of supply deficit of at least 1MW for one month and 2MW for the succeeding 11 months, SAMELCO I decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure to the volatile Wholesale Electricity Spot Market (“WESM”) prices.
8. Pursuant to Department of Energy (“DOE”) Department Circular 2018-02-003, as amended by DC 2021-09-0030, SAMELCO I is allowed to enter into a negotiated procurement of emergency electric power supply agreements with a generation company for a period not exceeding one (1) year, subject to such terms and conditions provided under Section 2.2.1.2 of DC 2021-09-0030.
9. SAMELCO I wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of initially 1 MW and then eventual 2MW emergency power supply from EDC. The Letter expressed SAMELCO I’s urgent need for supply of electricity due to circumstances beyond the control of SAMELCO I, and the limited time to conduct the said Competitive Selection Process (“CSP”).
10. On 9 September 2022, DOE issued Certificate of Exemption No. COE-CSP-2022-08-042 in response to SAMELCO I’s letter-request exempting it from the conduct of CSP for the procurement of emergency electric power supply.
11. In view of SAMELCO I’s supply deficit of at least 1MW for the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, SAMELCO I solicited for emergency power supply for one (1) year.
12. In response to SAMELCO I’s demand, EDC has offered to supply a portion of the emergency electric power supply requirements of SAMELCO I at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas and SAMELCO I accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement (“EPSA”) for the supply of 1MW for one month and 2 MW for the succeeding 11 months emergency power supply to SAMELCO I.

¹ Under the EPSA, the term shall end on the last day of the Cooperation Period, which shall not be later than the date prescribed by the DOE in the Certificate of Exemption; both the EPSA and the Certificate of Exemption provide for 1MW the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023.

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND
RELATED INFORMATION**

13. Under the EPSA, EDC shall supply power to SAMELCO I for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 1MW for the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023.²
- 13.1 Supply of Electricity – EDC shall make available to SAMELCO I the Contracted Capacity from the Power Plant and/or Other Sources throughout the duration of the Cooperation Period, subject to Section 2.2.1 of the EPSA. The Parties agree that EDC shall have no obligation to supply more than the Contracted Capacity to SAMELCO I. SAMELCO I shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. SAMELCO I shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – SAMELCO I is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 13.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by SAMELCO I shall start no later than Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent under Section 11 of the EPSA.
- 13.4 Electricity Fees – Electricity fees shall refer to 5.8798 Php/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by SAMELCO I.

RATE IMPACT ANALYSIS

14. SAMELCO I simulated a rate impact analysis which resulted in a Php 1.6894/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

² Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

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	Weighted Average Rate (Php/kW)
SAMELCO I: WITHOUT EDC EPSA	12.2834
SAMELCO I: WITH EDC EPSA	10.5939
Generation Impact: Increase /(Decrease)	(1.6894)

OTHER RELATED DOCUMENTS

15. To substantiate the instant application, Applicants most respectfully submit to the Honorable Commission the following documents.

ANNEX	DOCUMENTS
A	Articles of Incorporation and By-laws of SAMELCO I
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of SAMELCO I
B-1	Secretary's Certificate of SAMELCO I
B-2	Board Resolution of SAMELCO II
C	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws
C-1	Latest Amended Articles of Incorporation of EDC
C-2	Latest Amended By-laws of EDC
D	General Information Sheet of EDC
D-1	Secretary's Certificate of EDC
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificate of Compliance and/or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement
I*	Renewable Energy Service Contracts
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line Diagram Connection
M	Emergency Power Supply Agreement between SAMELCO I and EDC
N	DOE Certificate of Exemption
N-1	Letters to or from SAMELCO I
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreements
P-1	Transmission Service Agreement between NGCP and SAMELCO I
Q	NGCP Certificate of Adequate Capacity
Q-1	Write up on TSC
R	Executive Summary of EPSA

S*	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T*	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U*	Bank Certifications
V*	Sworn statement on fuel procurement
W*	Relevant technical and economic characteristics of generation capacity
X	Supply Demand Scenario
Y	Estimation of Potential for Reduction in Load
Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	SAMELCO I Write-up on Demand Side Management
CC-2	EDC sample OR
DD	Water Permits from NWRB
EE	SAMELCO I's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

16. In compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the Office of the Mayor and Governor and the legislative bodies of the municipality and province wherein the principal place of business of SAMELCO I is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service to or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Calbayog City, Samar and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Samar, or from their duly authorized representatives, attesting to the fact of service of the Application are attached hereto as Annexes "GG" to "GG-3", respectively.
17. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC's principal place of business is located and to Ormoc City, Kananga, and Province of Leyte as EDC's place of operation. Copies of the certification of receipt from and/or affidavits of service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, and the place of operation in Ormoc City and Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-7".
18. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of SAMELCO I. Copies of the corresponding duly

notarized Affidavit of Publication and the newspaper publication are attached hereto as Annexes "II" and "JJ", respectively.

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

19. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

ANNEX	DOCUMENTS
I	Renewable Energy Service Contract
S	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U	Bank Certifications
V	Sworn statement on fuel procurement
W	Relevant technical and economic characteristics of generation capacity

20. Applicants treat the above-mentioned documents, such as related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

21. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and a determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

22. Pursuant to the ERC Rules of Practice and Procedure, the Honorable Commission may exercise its discretion by granting a provisional authority or an Interim Relief prior to a final decision. It is understood that the provisional authority or Interim Relief sought by the Joint Applicants shall be subject to adjustments and other conditions that the Honorable Commission may impose.

PRAYER

WHEREFORE, premises considered, Applicants EDC and SAMELCO I respectfully pray of this Honorable Commission the following:

- a. After due hearing, render a decision approving with finality the EPSA subject of the instant Joint

Application, thereby confirming the rates in the EPSA as implemented by the Applicants; and

- b. Issue an Order declaring the documents, and the information therein, duly marked as Annexes "I", "S", "T", "U", "V" and "W" as confidential information, within the purview of Rule 4 of the ERC Rules, thereby directing the same to be treated with confidentiality and be protected from public disclosure.

Other reliefs, just and equitable under the premises, 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 platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020³ and Resolution No. 01, Series of 2021⁴ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
16 April 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams Application	Determination of compliance with the jurisdictional requirements and Expository Presentation
23 April 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M)		Pre-Trial Conference and Presentation of Evidence

Accordingly, EDC and SAMELCO I are hereby directed to host the virtual hearings at **SAMELCO I's Principal Office located at Barangay Carayman, Calbayog City, Samar, Philippines**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, EDC and SAMELCO I 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

³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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, all persons who have 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:

- 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.

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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.

Finally, all interested persons may be allowed to join the scheduled initial 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, FLORESINDA G. BALDO-DIGAL, and MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 5th day of March 2024 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:



CATHERINE P. MACEDA

Commissioner

*and Officer-in-Charge of the
Office of the Chairperson and CEO*

LS:JPM/LSP

ERC

Office of the Chairperson and CEO



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