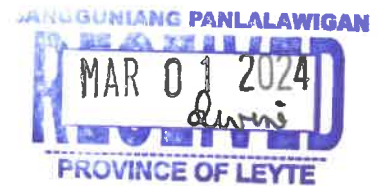


20

February 23, 2024

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



Re: IN THE MATTER OF THE APPLICATION FOR APPROVAL THE EMERGENCY POWER SUPPLY AGREEMENT BETWEEN ENERGY DEVELOPMENT CORPORATION AND DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE INC., WITH MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION - ENERGY DEVELOPMENT CORPORATION (EDC) AND DON ORESTES ROMUALDEZ ELECTRIC COOPERATIVE, INC. (DORELCO)

ERC CASE NO. 2024-008 RC

Dear Vice Governor Javier,

In compliance with the Revised Rules of Practice and Procedure of the Energy Regulatory Commission (“ERC”) and the Order dated 14 February 2024 of the ERC, we are furnishing this Honorable Office with the said Order and Notice of Virtual Hearing both dated 14 February 2024.

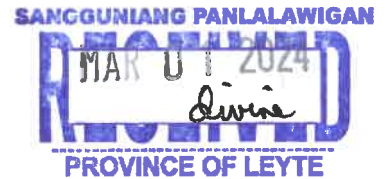
In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the provincial bulletin board of this Honorable Office, in compliance with the said Order and the Revised Rules of Practice and Procedure of the ERC.

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 14 February 2024 of the above-captioned case was served to, duly received and duly posted by this Honorable Office.

Very truly yours,


CHRISTOPHER A. GARCIA
Acting General Manager

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 DON
ORESTES ROMUALDEZ
ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2024-008 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
DON ORESTES ROMUALDEZ
ELECTRIC COOPERATIVE,
INC. (DORELCO),**

Applicants.

X-----X

**Promulgated:
February 14, 2024**

ORDER

On 15 January 2024, Energy Development Corporation (EDC) and Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO) filed a *Joint Application* dated 07 August 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

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

1. Applicant DORELCO 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 San Roque, Tolosa, Leyte, Philippines, where it may be served with summons and other legal processes. DORELCO is represented here by its General Manager, Allan L. Laniba, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Board Resolution dated February 10, 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 DORELCO is the exclusive franchise holder to own and operate a system for the distribution of electricity in the Municipalities of Tolosa, Tanauan, Dagami, Tabon-Tabon, Burauen, Julita, Lapaz, Dulag, Mayorga, Macarthur, Javier, Abuyog, Mahaplag, all in the Province of Leyte.
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 address indicated herein.

NATURE OF THE APPLICATION

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

(This space is intentionally left blank.)

STATEMENT OF FACTS

7. DORELCO is in immediate need of a 2MW contracted capacity for around one (1) year¹. To maintain an uninterruptible and reliable power supply due to a high level of supply deficit of at least 2 MW, DORELCO decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customers to 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, DORELCO 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. DORELCO wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of 2MW emergency power supply from EDC. The Letter expressed DORELCO’s urgent need for supply of electricity due to circumstances beyond the control of DORELCO, and the limited time to conduct the said Competitive Selection Process (“CSP”).
10. On 31 August 2022, DOE, in response to DORELCO’s letter-request, issued Certificate of Exemption No. COE-CSP-2022-08-038, exempting it from the conduct of the CSP for the procurement of emergency electric power supply.
11. In view of DORELCO’s supply deficit of at least 2MW for the period of 26 August 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, DORELCO solicited for emergency power supply for one (1) year.
12. In response to DORELCO’s demand, EDC has offered to supply a portion of the emergency electric power supply requirements of DORELCO at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and DORELCO has accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement (“EPSA”) for the supply of 2 MW emergency power supply to DORELCO².

(This space is intentionally left blank.)

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 the period of 26 August 2022 to 25 August 2023.

² DORELCO and EDC executed a letter confirming that the Contracted Capacity for supply under DOE Certificate of Exemption No. COE-CSP-2022-08-038 is 2MW.

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

13. Under the EPSA, EDC shall supply power to DORELCO for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 2 MW.³
- 13.1 Supply of Electricity – EDC shall make available to DORELCO 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 DORELCO. DORELCO shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. DORELCO shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – DORELCO 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 DORELCO 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 be 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 DORELCO.

RATE IMPACT ANALYSIS

14. DORELCO simulated a rate impact analysis which resulted in a Php 0.9046/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

³ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

	Average Blended Rate (Php/kW)
DORELCO Blended rate: WITHOUT EDC EPSA	9.7244
DORELCO Blended rate: WITH EDC EPSA	8.8198
Generation Impact: Increase /(Decrease)	(0.9046)

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 DORELCO
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of DORELCO
B-1	Board Resolution on Authorized Representative of DORELCO
B-2	Board Resolution on Counsel of DORELCO
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
E	Board of Investments Certificate of Registration

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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 Contract
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line diagram Connection
M	Emergency Power Supply Agreement between DORELCO and EDC
M-1	Letter of DORELCO and EDC clarifying items in the Emergency Power Supply Agreement
N	DOE Certificate of Exemption
N-1	Letters to or from DORELCO
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 DORELCO
Q	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	Estimated Load of Qualified Contestable Customers under RCOA
Z	Latest Audited Financial Statements
AA	Certification of net heat rate

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BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	DORELCO Write-up on Demand Side Management
CC-2	EDC OR
DD	Water Permits from NWRB
EE	DORELCO'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 DORELCO is located, a copy of the present Joint Application with all its annexes and accompanying documents. Affidavits of Service to or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Tolosa and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Leyte, 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 Affidavit of Service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, Ormoc City, and Kananga, and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of 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 DORELCO. 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:

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PAGE 8 OF 15**

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.

PRAYER

WHEREFORE, premises considered, Applicants EDC AND DORELCO 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, including the approval of 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 2020⁴ and Resolution No. 01, Series of 2021⁵ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
14 March 2024 (Thursday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
21 March 2024 (Thursday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

Accordingly, DORELCO and EDC are hereby directed to host the virtual hearings at **Barangay 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 EDC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, DORELCO and EDC 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;

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 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;
- 3) Inform the consumers within DORELCO'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, Applicants DORELCO and EDC 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 Applicants DORELCO and EDC to inform the consumers within DORELCO's franchise area of the filing of the *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 proofs of compliance with the requirements of the Commission.

Moreover, Applicants DORELCO and EDC are hereby required to post on their respective 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 DORELCO and EDC 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 DORELCO and EDC 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 virtual hearing and Pre-trial Conference, pursuant to the preceding paragraph.

Failure of Applicants DORELCO and EDC 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.

Applicants DORELCO and EDC 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 DORELCO and EDC 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. DORELCO and EDC 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 DORELCO and EDC 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.

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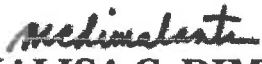
**ERC CASE NO. 2024-008 RC
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Finally, Applicants DORELCO and EDC, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, with their respective e-mail addresses upon 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, 14 February 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: BBB/MCC/LSP

ERC
Office of the Chairperson and CEO

MCD2024-014675

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Copy Furnished:

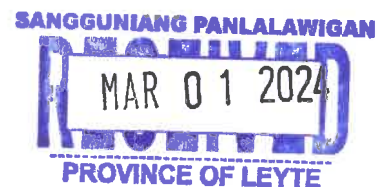
1. Don Oretes Romualdez Electric Cooperative, Inc. (DORELCO)
Applicant
Barangay San Roque, Tolosa, Leyte, Philippines
Email: billing.dorelco@gmail.com
acctg.dorelco@gmail.com
2. Atty. Rogelio P. Gula
Counsel for DORELCO
Gula Law & Notarial Office,
Door 7, Cabigon Bldg., Del Pilar Street
Email: nhoygula@yahoo.com
3. Energy Development Corporation (EDC)
Applicant
Rockwell Business Center Tower 3,
Ortigas Avenue, Pasig City
Email: basman.bct@energy.com.ph
so.rdm@energy.com.ph
4. Quiason Makalintal Barot Torres Ibarra Sison & Damaso
Counsel for EDC
21st Floor, Robinsons-Equitable Tower,
4 ADB Avenue corner Poveda Street,
1605 Ortigas Center, Pasig City
Email: gmbti@gmbti.com
5. Office of the Governor
Province of Leyte
6. Office of the LGU Legislative Body
Province of Leyte
7. Office of the Municipal Mayor
Municipality of Tolosa
8. Office of the LGU Legislative Body
Municipality of Tolosa
9. Office of the Municipal Mayor
Municipality of Tanauan
10. Office of the LGU Legislative Body
Municipality of Tanauan
11. Office of the Municipal Mayor
Municipality of Dagami
12. Office of the LGU Legislative Body
Municipality of Dagami
13. Office of the Municipal Mayor
Municipality of Tabon-Tabon
14. Office of the LGU Legislative Body
Municipality of Tabon-Tabon
15. Office of the Municipal Mayor
Municipality of Burauen
16. Office of the LGU Legislative Body
Municipality of Burauen
17. Office of the Municipal Mayor
Municipality of Julita
18. Office of the LGU Legislative Body
Municipality of Julita

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19. Office of the Municipal Mayor
Municipality of Lapaz
20. Office of the LGU Legislative Body
Municipality of Lapaz
21. Office of the Municipal Mayor
Municipality of Dulag
22. Office of the LGU Legislative Body
Municipality of Dulag
23. Office of the Municipal Mayor
Municipality of Mayorga
24. Office of the LGU Legislative Body
Municipality of Mayorga
25. Office of the Municipal Mayor
Municipality of Macarthur
26. Office of the LGU Legislative Body
Municipality of Macarthur
27. Office of the Municipal Mayor
Municipality of Javier
28. Office of the LGU Legislative Body
Municipality of Javier
29. Office of the Municipal Mayor
Municipality of Abuyog
30. Office of the LGU Legislative Body
Municipality of Abuyog
31. Office of the Municipal Mayor
Municipality of Mahaplag
32. Office of the LGU Legislative Body
Municipality of Mahaplag
33. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
Email: doCKET@OSG.gov.ph
34. Commission on Audit
Commonwealth Avenue, Quezon City 1121
Email: cITIZENSdesk@COA.gov.ph
35. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City 1307
Email: senateenergycommittee@gmail.com
36. House of Representatives Committee on Energy
Batasan Hills, Quezon City 1126
Email: committee.energy@house.gov.ph
37. Regulatory Operations Service
Energy Regulatory Commission
14F Exquadra Tower, Jade 1 Drive, Pasig City
Email: ros@erc.ph

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 DON
ORESTES ROMUALDEZ
ELECTRIC COOPERATIVE,
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CONFIDENTIAL
TREATMENT OF
INFORMATION**



ERC CASE NO. 2024-008 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
DON ORESTES ROMUALDEZ
ELECTRIC COOPERATIVE,
INC. (DORELCO),**

Applicants.

X-----X

Promulgated:
February 14, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 15 January 2024, Energy Development Corporation (EDC) and Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO) filed a *Joint Application* dated 07 August 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

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

1. Applicant DORELCO 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 San Roque, Tolosa, Leyte, Philippines, where it may be served

ERC CASE NO. 2024-008 RC
NOTICE OF VIRTUAL HEARING/14 FEBRUARY 2024
PAGE 2 OF 11

with summons and other legal processes. DORELCO is represented here by its General Manager, Allan L. Laniba, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Board Resolution dated February 10, 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 DORELCO is the exclusive franchise holder to own and operate a system for the distribution of electricity in the Municipalities of Tolosa, Tanauan, Dagami, Tabon-Tabon, Burauen, Julita, Lapaz, Dulag, Mayorga, Macarthur, Javier, Abuyog, Mahaplag, all in the Province of Leyte.
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 address indicated herein.

NATURE OF THE APPLICATION

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

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STATEMENT OF FACTS

7. DORELCO is in immediate need of a 2MW contracted capacity for around one (1) year¹. To maintain an uninterruptible and reliable power supply due to a high level of supply deficit of at least 2 MW, DORELCO decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure of its customers to 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, DORELCO 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. DORELCO wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of 2MW emergency power supply from EDC. The Letter expressed DORELCO's urgent need for supply of electricity due to circumstances beyond the control of DORELCO, and the limited time to conduct the said Competitive Selection Process ("CSP").
10. On 31 August 2022, DOE, in response to DORELCO's letter-request, issued Certificate of Exemption No. COE-CSP-2022-08-038, exempting it from the conduct of the CSP for the procurement of emergency electric power supply.
11. In view of DORELCO's supply deficit of at least 2MW for the period of 26 August 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, DORELCO solicited for emergency power supply for one (1) year.
12. In response to DORELCO's demand, EDC has offered to supply a portion of the emergency electric power supply requirements of DORELCO at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas, and DORELCO has accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement ("EPSA") for the supply of 2 MW emergency power supply to DORELCO².

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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 the period of 26 August 2022 to 25 August 2023.

² DORELCO and EDC executed a letter confirming that the Contracted Capacity for supply under DOE Certificate of Exemption No. COE-CSP-2022-08-038 is 2MW.

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

13. Under the EPSA, EDC shall supply power to DORELCO for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 2 MW.³
- 13.1 Supply of Electricity – EDC shall make available to DORELCO 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 DORELCO. DORELCO shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. DORELCO shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – DORELCO 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 DORELCO 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 be 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 DORELCO.

RATE IMPACT ANALYSIS

14. DORELCO simulated a rate impact analysis which resulted in a Php 0.9046/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

³ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

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	Average Blended Rate (Php/kW)
DORELCO Blended rate: WITHOUT EDC EPSA	9.7244
DORELCO Blended rate: WITH EDC EPSA	8.8198
Generation Impact: Increase /(Decrease)	(0.9046)

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 DORELCO
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of DORELCO
B-1	Board Resolution on Authorized Representative of DORELCO
B-2	Board Resolution on Counsel of DORELCO
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
E	Board of Investments Certificate of Registration

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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 Contract
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line diagram Connection
M	Emergency Power Supply Agreement between DORELCO and EDC
M-1	Letter of DORELCO and EDC clarifying items in the Emergency Power Supply Agreement
N	DOE Certificate of Exemption
N-1	Letters to or from DORELCO
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 DORELCO
Q	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	Estimated Load of Qualified Contestable Customers under RCOA
Z	Latest Audited Financial Statements
AA	Certification of net heat rate

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BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	DORELCO Write-up on Demand Side Management
CC-2	EDC OR
DD	Water Permits from NWRB
EE	DORELCO'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 DORELCO is located, a copy of the present Joint Application with all its annexes and accompanying documents. Affidavits of Service to or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Tolosa and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Leyte, 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 Affidavit of Service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, Ormoc City, and Kananga, and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of 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 DORELCO. 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:

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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.

PRAYER

WHEREFORE, premises considered, Applicants EDC AND DORELCO 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, including the approval of 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.

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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 2020⁴ and Resolution No. 01, Series of 2021⁵ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
<p align="center">14 March 2024 (Thursday) at nine o'clock in the morning (9:00 A.M.)</p>	<p align="center">Microsoft Teams Application</p>	<p align="center">Determination of compliance with jurisdictional requirements and Expository Presentation</p>
<p align="center">21 March 2024 (Thursday) at nine o'clock in the morning (9:00 A.M.)</p>		<p align="center">Pre-trial Conference and Presentation of Evidence</p>

Accordingly, DORELCO and EDC are hereby directed to host the virtual hearings at **Barangay 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 EDC 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, 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)**

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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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.

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

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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 14th February 2024 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO


LS: BBB/MCC/LSP

