



LEYTE V ELECTRIC COOPERATIVE, INC.

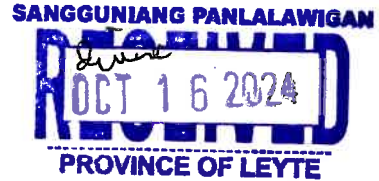
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Item No.: **19**
 Date: **22 2024 OCT**

Reference No. 2024-10-724

October 14, 2024

HON. LEONARDO M. JAVIER
Provincial Vice Governor of Leyte
Leyte Provincial Government Complex
West Bypass Road, Brgy. Guindapunan
6501 Palo, Leyte, Philippines



Subject : **ERC CASE NO. 2024-094 RC, LEYTE V ELECTRIC COOPERATIVE, INC. (LEYECO V) AND KEPCO SPC POWER CORPORATION (KSPC), APPLICATION FOR APPROVAL OF THE POWER SUPPLY AGREEMENT (PSA) BETWEEN LEYTE V ELECTRIC COOPERATIVE, INC. (LEYECO V) AND KEPCO SPC POWER CORPORATION (KSPC), WITH PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION AND MOTION FOR PROVISIONAL AUTHORITY.**

Dear Honorable Vice-Governor Javier:

Greetings from LEYECO V!

In compliance with the directives of the Energy Regulatory Commission (ERC) in connection with the above application, we are furnishing this Honorable Office the following:

1. ERC Order dated August 28, 2024
2. ERC Notice of Virtual Hearing dated August 28, 2024

In line with this, we are requesting that the said Order and Notice of Virtual Hearing be posted on the **Bulletin Board of the Sangguniang Panlalawigan** and thereafter, a **Certification** (Please see attached suggested format) bearing the official **Dry Seal** of your Office be issued as proof of posting.

Thank you very much.

Very truly yours,

ATTY. JANNIE ANN J. DAYANDAYAN, CPA
General Manager

ap / nvc / mrg

Executive Secretary: 206 InfoTech & Comm. Services: 216-218, 509 Institutional Services Dept.: 401 Public Relations: 214 Clinic: 209 Membership Division Chief: 403 Membership: 404 Housewiring: 407 Customer Welfare Desk: 200-205 Motorpool: 406 ODM: 409 Human Resources: 402, 210 GSD Chief: 408 Warehouse: 405 Corporate Planning & Energy Trading Dept.: 219, 221, 223	Technical Services Dept.: 801,802 Engineering: 803 Line Construction: 804 Internal Audit Dept.: 701 Auditors: 702 Finance Services Dept.: 501 Cashiering: 502 Collection: 503-504 Accounting: 505 Consumer Accts: 506 Meter Reading & Billing: 507, 508 & 510
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Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL OF THE POWER
SUPPLY AGREEMENT (PSA)
BETWEEN LEYTE V
ELECTRIC COOPERATIVE
(LEYECO V) AND KEPCO SPC
POWER CORPORATION
(KSPC), WITH PRAYER FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
MOTION FOR PROVISIONAL
AUTHORITY**



ERC CASE NO. 2024-094 RC

**LEYTE V ELECTRIC
COOPERATIVE (LEYECO V)
AND KEPCO SPC POWER
CORPORATION (KSPC),
Applicants.**

**Promulgated:
August 28, 2024**

X-----X

ORDER

On 22 July 2024, Leyte V Electric Cooperative (LEYECO V) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application* dated 02 May 2024, seeking the Commission's approval of their Power Supply Agreement (PSA), with prayer for confidential treatment of information and motion for provisional authority.

On 01 August 2024, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both of even date, setting the instant case for hearing on the following dates: (1) 04 September 2024 for the determination of compliance with jurisdictional requirements and expository presentation; and (2) 11 September 2024 for Pre-trial Conference and presentation of evidence.

On 22 August 2024, LEYECO V and KSPC filed a *Motion to Reset Virtual Hearing* of even date, wherein they alleged that given the proximity of the scheduled hearing dates, Applicants will not be able to

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comply with the prescribed periods for the publication requirement pursuant to the *Order* dated 01 August 2024. In view thereof, LEYECO V and KSPC prayed for the resetting of the scheduled hearings in the instant case.

The Commissions finds the *Motion to Reset Virtual Hearing* filed by LEYECO V and KSPC in order. Hence, the same is hereby **GRANTED**. In view thereof, the hearings set on 04 September 2024 and 11 September 2024, pursuant to the *Order* dated 01 August 2024, are cancelled.

ACCORDINGLY, the Commission sets anew the hearings for the instant *Joint Application* for the determination of compliance with jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021² (ERC Revised Rules of Practice and Procedure):

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

Furthermore, LEYECO V and KSPC are hereby directed to host the virtual hearings at **LEYECO V's principal office located at Brgy. San Pablo, Ormoc City, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO V and KSPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, LEYECO V and KSPC are hereby directed to:

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- ¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
 - ² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 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 virtual hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Mayors, and their respective Local Government Unit (LGU) legislative bodies within LEYECO V's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within LEYECO V's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, its 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 at 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, LEYECO V and KSPC must submit to the Commission. via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance to the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- ASG
- 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 body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by LEYECO V and KSPC to inform the consumers within LEYECO V's franchise area of the filing of the *Joint Application*, their reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, if any, by all those making requests therefor; and
- 6) Such other proofs of compliance with the requirements of the Commission.

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

Joint Applicants LEYECO V and KSPC, and all interested parties, are also required to submit to the Commission 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 initial virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;

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

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

Failure of LEYECO V and KSPC to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings.

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

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

Joint Applicants LEYECO V and KSPC are further directed to submit, either through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-Trial Brief, and Judicial Affidavits of witnesses **within five (5) working days** from the date that the same were electronically

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submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

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

SO ORDERED.

Pasig City, 28 August 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:

Medimalanta
MONALISA C. DIMALANTA ^{ASG}
Chairperson and CEO

LS
LS: VMA/LSP/KTB

ERC
Office of the Chairperson and CEO



MCD2024-019444

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Copy Furnished:

1. **Leyte V Electric Cooperative (LEYECO V)**
Applicant
Brgy. San Pablo, Ormoc City, Leyte
analoupastor@gmail.com;
info@leyeco-v.com.ph
2. **Atty. Tyron Jan G. Albao**
Counsel for Applicant LEYECO V
Unit 2, 2nd Floor, Tacloban Convention Center,
Real St., Tacloban City 6500
attyteejalbao@gmail.com
3. **KEPCO SPC Power Corporation (KSPC)**
Applicant
7th Floor, Cebu Holdings Center,
Cebu Business Park, Cebu City
legal_marketing@kepcospc.com
4. **Garcia Quijano and Associates Law Office**
Atty. Samantha Dawn F. Baluma
Counsel for Applicant KSPC
Suite #703, 7th Floor Apple One Equicom Tower,
Mindanao Ave., cor. Biliran Road,
Cebu Business Park, Cebu City, 6000
gq.kepco@gmail.com;
samantha_baluma@yahoo.com
5. **Office of the Solicitor General (OSG)**
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
6. **Commission on Audit (COA)**
Commonwealth Avenue, Quezon City
citizensdesk@coa.gov.ph
7. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
8. **House Committee on Energy**
Batasan Hills, Quezon City
committee.energy@house.gov.ph
9. **Office of the Governor**
Province of Leyte
10. **Office of the Local Government Unit (LGU) Legislative Body**
Province of Leyte
11. **Office of the City Mayor**
Ormoc City, Leyte
12. **Office of the Local Government Unit (LGU) Legislative Body**
Ormoc City, Leyte
13. **Office of the Mayor**
Albuera, Leyte
14. **Office of the Local Government Unit (LGU) Legislative Body**
Albuera, Leyte
15. **Office of the Mayor**
Calubian, Leyte

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16. Office of the Local Government Unit (LGU) Legislative Body
Calubian, Leyte
17. Office of the Mayor
Isabel, Leyte
18. Office of the Local Government Unit (LGU) Legislative Body
Isabel, Leyte
19. Office of the Mayor
Kananga, Leyte
20. Office of the Local Government Unit (LGU) Legislative Body
Kananga, Leyte
21. Office of the Mayor
Leyte, Leyte
22. Office of the Local Government Unit (LGU) Legislative Body
Leyte, Leyte
23. Office of the Mayor
Matag-ob, Leyte
24. Office of the Local Government Unit (LGU) Legislative Body
Matag-ob, Leyte
25. Office of the Mayor
Merida, Leyte
26. Office of the Local Government Unit (LGU) Legislative Body
Merida, Leyte
27. Office of the Mayor
Palompon, Leyte
28. Office of the Local Government Unit (LGU) Legislative Body
Palompon, Leyte
29. Office of the Mayor
San Isidro, Leyte
30. Office of the Local Government Unit (LGU) Legislative Body
San Isidro, Leyte
31. Office of the Mayor
Tabango, Leyte
32. Office of the Local Government Unit (LGU) Legislative Body
Tabango, Leyte
33. Office of the Mayor
Villaba, Leyte
34. Office of the Local Government Unit (LGU) Legislative Body
Villaba, Leyte
35. Regulatory Operations Service
Energy Regulatory Commission
14th Floor, Exquadra Tower, 1 Jade Drive,
San Antonio, Ortigas Center, Pasig City
ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL OF THE POWER
SUPPLY AGREEMENT (PSA)
BETWEEN LEYTE V
ELECTRIC COOPERATIVE
(LEYECO V) AND KEPCO SPC
POWER CORPORATION
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CONFIDENTIAL
TREATMENT OF
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MOTION FOR PROVISIONAL
AUTHORITY**



ERC CASE NO. 2024-094 RC

**LEYTE V ELECTRIC
COOPERATIVE (LEYECO V)
AND KEPCO SPC POWER
CORPORATION (KSPC),
Applicants.**

**Promulgated:
August 28, 2024**

X-----X

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES

Notice is hereby given that on 22 July 2024, Leyte V Electric Cooperative (LEYECO V) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application* dated 02 May 2024, seeking the Commission's approval of their Power Supply Agreement (PSA), with prayer for confidential treatment of information and motion for provisional authority.

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

THE APPLICANTS

1. Applicant [Leyte] V Electric Cooperative ("LEYECO V") is an electric cooperative duly organized and existing under and by

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virtue of Presidential Decree No. 269 (PD 269), as amended, and other laws of the Republic of the Philippines, with principal office at LEYECO V Main Office, Brgy. San Pablo, Ormoc City, Leyte, herein represented by Dir. Emmanuel S. Arpon, in his capacity as Board President of [LEYECO V], and/or Atty. Jannie Ann J. Dayandayan, in her capacity as General Manager, evidenced by Board Resolution No. 30, Series of 2024. A copy of which is hereto attached as *Annex "A-31 and A-32"*.

2. Applicant KEPCO SPC Power Corporation ("KSPC") is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal address at the 7th Floor, Cebu Holdings Center, Cebu Business Park, Cebu City, Philippines, herein represented by its Marketing Assistant Manager, Jude Francis Alphaeus Rendon, and its Market Analysis Assistant Manager, Rovel Tangkay, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated February 9, 2023, attached hereto as *Annex "E"*.
3. Applicant KSPC owns and operates a 2x103 MW Circulating Fluidized Bed Combustor (CFBC) Boiler Coal-Fired base load power plant in the City of Naga, Cebu, which became operational in 2011.
4. Applicants may be served notices, orders, and other processes of the Honorable Commission through their respective counsels at their addresses indicated below.

NATURE OF THE APPLICATION

5. This is an application for the approval of the Power Sales Agreement ("PSA") between LEYECO V and KSPC executed on April 17, 2024. A copy of the PSA is attached hereto as *Annex "A"*

STATEMENT OF FACTS

6. LEYECO V is a duly franchised Distribution Utility engaged in the distribution of electricity with its franchise areas in the city of Ormoc and municipalities of Albuera, Calubian, Isabel, Kananga, Leyte-Leyte, Matag-ob, Merida, Palompon, San Isidro, Tabango, and Villaba, all in Leyte.
7. The subject Energy and Capacity of the PSA is needed by LEYECO V to meet the demand of the captive market in a least cost manner. A copy of its Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, and the Average Daily Load Curve are attached as *Annex "Q and series"*.
8. In addition, LEYECO V Single Line Diagram is attached as *Annex "R"*, Performance Assessment is attached as *Annex "S"*,

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and the Estimated Load Qualified Contestable Customer Under RCOA is attached as *Annex "LL"*.

9. Pursuant to DOE Circular No. DC2018-02-0003 as amended by DOLE (*sic*) Department Circular No. DC2021-09-0030 ESAMELCO entered into a Joint Competitive Selection Process ("CSP") with other FRECOR 8 DUs. A copy of the Memorandum of Agreement between FRECOR 8 Electric Cooperatives is attached as *Annex "RR"*.
10. FRECOR 8 sent a letter dated March 22, 2022 including the proposed "Captive Customer Representative for the Third Party Bids and Awards Committee (TPBAC) Selection Process", copies of the same are hereto attached as *Annex "SS and SS-1"*, respectively, to the Energy Virtual One-Stop Shop ("EVOSS") portal of the Department of Energy ("DOE").
11. The DOE issued a letter dated April 25, 2022 addressed to Mr. Joey L. Talon, President of FRECOR 8, approving the proposed selection process, a copy of which is attached as *Annex "SS-2"*.
12. After approval of the proposed selection process, FRECOR 8 then started accepting applications for the captive customer representatives who will constitute the two (2) other members of the Joint TPBAC of which Mr. Vida O. Ureña and Atty. Kenneth B. Fabila, a member of the Philippine Institute of Certified Public Accountants (PICPA) Tacloban City Chapter, were recommended. Copies of their submitted resume are hereto attached as *Annex "TT and series"*.
13. FRECOR 8 thereafter duly constituted its JTPBAC, the composition of which was approved by the Board of Directors of FRECOR 8 in Resolution Nos. 2021-06-001, 2022-01-003, 2022-03-002, and 2022-08-001, copies of which are also attached as *Annex "TT and series"*.
14. FRECOR 8 JTPBAC then prepared and submitted for approval to the Department of Energy (DOE) through the National Electrification Administration (NEA) the Power Supply Procurement Plan¹ (PSPP), Distribution Development Plan² (DDP) and Bid Documents which include the Terms of Reference (TOR), Invitation to Bid (ITB) and Instructions to Bidders.
15. Finding the TOR for the procurement of power supply in accordance with the comments and recommendations of the DOE and NEA, NEA then issued a Notice to Proceed dated July 19, 2023 including the approved TOR, and Certificate of Posting issued by the DOE dated July 11, 2023, hereto attached as *Annex "UU and series"*.

¹ Annex "NN" of the *Joint Application*.

² Annex "MM" of the *Joint Application*.

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16. Copies of the issued bidding documents are attached as *Annex "VV and Series"*.
17. With the said Notice to Proceed, the JTPBAC then proceeded with the publication of the ITB in the Philippine Daily Inquirer on July 24, 2023 and July 31, 2023. Likewise, the ITB was posted on the CSP e-based Portal of the DOE website and NEA website on July 24, 2023, as well as in LEYECO V's website and office premises on August 14, 2023. Copies of the pertinent pages of the Philippine Daily Inquirer with the ITB and Affidavit of Publication, as well as the Certificate of Posting issued by LEYECO V including photos of actual posting on the CSP e-based Portals of DOE, NEA, and LEYECO V websites and office premises are hereto attached as *Annex "WW and series" and "XX and series"*, respectively.
18. Within 14 days from publication and posting, the JTPBAC conducted its Pre-Bid Conference on August 4, 2023 at the Summit Hotel, Tacloban City together with potential bidders and CSP Observers, copies of the attendance sheets are hereto attached as *Annex "YY to YY-3"*. Thereafter, several bid and supplemental bid bulletins were issued in the course of the CSP to clarify all queries and concerns raised during the Pre-Bid Conference, copies of the said bid bulletins as well as the Minutes of the Pre-Bid Conference are hereto attached as *Annex "ZZ and series"*.
19. Thereafter, the submission and opening of bids were then held on August 31, 2023 with CSP observers. Attached as *Annex "YY-4 to YY-11"* are the Invitation to Observers, print-out of emails confirming receipt of the invitation, and copies of the attendance sheets. Attached as *Annex "ZZ-1-a"* is the portion of the Minutes showing that representatives from NEA virtually attended the activity.
20. A total of three participants - GNPowder Kauswagan Ltd. Co., KEPCO SPC Power Corp., and Sual Power Inc. - purchased bid documents and submitted complete proposals. Copies of their respective Eligibility Requirements and Submission of Bids are hereto attached as *Annex "AAA and series"* and *Annex "BBB and series"*, respectively.
21. After careful evaluation, KSPC was found to have submitted the lowest computed bid proposal and was subjected to the next stage of evaluation, which is Post Qualification and Detailed Evaluation of Technical Proposal, wherein it was found to be compliant and responsive to all the specified requirements and conditions. Copies of the Evaluation of Bids are hereto attached as *Annex "CCC and series"*, likewise copies of the JTPBAC Evaluators Report, Evaluators Post-Qualification Report and the Abstract of Bids are hereto attached as *Annex "DDD to DDD-2"*.
22. FRECOR 8 then issued a Notice of Award to KSPC which was received by the latter on September 19, 2023, a copy of which is attached as *Annex "DDD-3"*, likewise a copy of the

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Resolution of the JTPBAC recommending the awards is hereto attached as *Annex "DDD-4"*. Attached as *Annex "EEE"* is a timeline of the activities conducted leading to the issuance of a Notice of Award, including the pre-bidding conferences conducted on August 4, 2023.

23. Joint Affidavits of the members of FRECOR 8 on the conduct of the CSP are likewise hereto attached as *Annex "FFF and series"*.
24. Consequently, LEYECO V and KSPC executed a Power Supply Agreement ("PSA"), subject of this Joint Application.
25. Thus, this instant Joint Application for the approval of the PSA between LEYECO V and KSPC.

SALIENT FEATURES OF THE PSA

26. Salient Features of the PSA.
 - a. Contracted Capacity shall mean a capacity of 5 MW (2024), 4MW (2025), and 3MW (2026) reserved by the seller for LEYECO V for the duration of the contract period.
 - b. Contract Period and Effectivity. The Agreement shall take effect immediately from execution date and shall remain in force and effect until December 25, 2026 (the "Contract Period")
 - c. The obligation of the Seller to supply and deliver the Contracted Capacity shall commence on the date specified on the Initial "Day Ahead Nomination" issued by the Buyer and duly received by the Seller, subject to the provisions of Item 2 of the PSA.
 - d. Effective Date means the date of the execution of the agreement.
 - e. Outages and Replacement Power. The Seller shall guarantee supply and provide the Buyer with the Replacement power sourced from other generating facilities or third parties, including WESM, during Outages of the plant or facility.
 - f. A copy of the Computation of Generation Fee and Contract Price is included in the Power Supply Agreement attached as Annex "A".
23. Estimated Rate Impact. A Rate Impact Analysis based on the latest available rates would show that there would be a decrease in the rates amounting to P0.0534/kWh (a decrease from a blended rate of P6.2397/kWh to a blended rate of P6.1863/kWh). A copy of the Rate Impact Simulation is hereto attached as *Annex "V"*.

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24. Environmental Compliance Certificate (ECC). On 10 September 2007, the Department of Environment and Natural Resources (DENR) issued ECC Transfer of Ownership in favor of KSPC with ECC No. 0511- 013- 206. A copy of the ECC is hereto attached as *Annex "I"*.
25. Board of Investments (BOI) Certificate. On 8 May 2008, KSPC's plants located in Naga City, Cebu were registered with BOI with Certificate of Registration No. 2008-088. A copy of the BOI [Certificate] is hereto attached as *Annex "H"*.
26. Certificate of Compliance. The Honorable Commission has issued the Certificate of Compliance ("COC") with COC no. 24-03-M-00068V dated 26 March 2024, for KSPC's power plants. A copy of the COC is attached as *Annex "J"*.
27. Certificate of Endorsement. The DOE has issued a Certificate of Endorsement with No. 2022- 04-160 dated 19 April 2022 for KSPC's plant in barangay Colon, Naga City, Cebu, certifying that the Plant is consistent with the Power Development Plan of the Government. A copy of the Certificate of endorsement is hereto attached as *Annex "K"*.
28. As further support to the instant Joint Application, the Applicants most respectfully submit to the Honorable Commission the following documents in accordance with the Pre-filing Checklist in Resolution No. 38, Series of 2006³, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
A	Power Sales Agreement ("PSA") between LEYECO V and KSPC executed on April 17, 2024
B and series	LEYECO V Articles of Incorporation and By-Laws, Certificate of Registration, Certificate of Franchise
C and series	Verified Certification of List of Board of Directors of LEYECO V; Board Resolution No. 30, Series of 2024; Secretary's Certificate dated 27 Mar 2024
D and series	KSPC Certificate of Registration issued by SEC, Articles of Incorporation and By-Laws; Latest General Information Sheet
E	KSPC Secretary's Certificate dated February 9, 2023
F	KSPC Shareholder's Agreement
G	KSPC Verified Certification of List of Board of Directors
H	KSPC Certificate of Registration issued by the BOI
I	KSPC Environmental Compliance Certificate issued by the DENR
J	KSPC Certificate of Compliance (COC)
K	KSPC Certificate of Endorsement issued by the DOE regarding PDP

³ Resolution No. 38, Series of 2006 – A Resolution Promulgating the Energy Regulatory Commission's Rules of Practice and Procedure.

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L	<p>KSPC Write-up of Non-availability of documents</p> <ul style="list-style-type: none"> ● Renewable Energy Service Contract ● Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE ● BIR Receipts ● Seller's Receipts ● Purchase Orders with Annotation of Acceptance or Transfers ● Deeds of Sale and other Other (sic) Forms of Conveyance of Ownership ● Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid. ● Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs. ● Distribution Wheeling Service Agreement
M	KSPC Water Permit from the National Water Resources Board (NWRB)
N	Executive Summary LEYECO V KSPC
O	LEYECO V (Write-up on Non-applicability of) Demand Side Management
P	LEYECO V Write-up on Non-availability of Certification by NPC of Transition Supply Contract
Q and series	LEYECO V Supply and Demand Scenario, Details of Existing Suppliers, Contract Utilization, Average Daily Load Curve, and Excel File
R	LEYECO V Single-line Diagram Connection
S	LEYECO V Performance Assessment (SAIFI and SAIDI)
T	LEYECO V Estimation of Potential Reduction of Load
U	LEYECO V (Write-up on the Non-availability of the) Transmission Service Agreement
V	LEYECO V Rate Impact
W	LEYECO V WESM Membership
X	KSPC WESM
Y	KSPC Transmission Service Agreement
Z*	KSPC Financial Model
AA*	Sworn Statement on Fuel Procurement
BB*	Relevant technical and economic characteristics of generation capacity
CC*	KSPC's 2022 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
DD*	KSPC Invoices for VOM
EE*	KSPC Narrative on Sources of Funds, Generation Rates, Cash Flow
FF*	KSPC Sources of Funds (Certification from Banks and Bank Certification)
GG*	KSPC Sources of Funds (Project Cost, ROI, WACC, Life of Asset vs Term of Loan)

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HH*, and HH-1*	KSPC Fuel Contract, and Amended Fuel Contract
II*	KSPC Derivation of Rates (Excel File)
JJ	MEOT Allocation to the generating units
KK	Certifications of Net Heat Rate
LL	LEYECO V Estimated Load Qualified Contestable Customer Under RCOA
MM	LEYECO V DDP
NN	LEYECO V PSPP
OO	Power Bill
PP	LEYECO V Transmission Service Agreement
QQ	LEYECO V Metering Service Agreement

*Subject to the Motion For Confidential Treatment of Information

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

29. Section 1, Rule 4, of the ERC Revised Rules of Practice and Procedure provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.
30. KSPC prays that the information contained in the documents attached as Annexes "Z", "AA", "BB", "CC", "DD", "EE", "FF", "GG", "HH" and "II" be treated as confidential and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission. In particular, these are the documents for which confidential treatment is sought as they contain trade secrets and/or commercially-sensitive data about KSPC's plant operations and pricing strategies:

ANNEX	DOCUMENT
Z	KSPC's Financial Model
AA	Sworn Statement on Fuel Procurement
BB	Relevant technical and economic characteristics of generation capacity
CC	KSPC's 2022 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
DD	KSPC Invoices for VOM
EE	Narrative on Sources of Funds, Generation Rates, Cash Flow
FF	Sources of Funds (Certification from Banks and Bank Certification)
GG	Sources of Funds (Project Cost, ROI, WACC, Life of Asset vs Term of Loan)
HH	Fuel Contracts
II	Derivation of Rates (Excel File)

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

**ALLEGATIONS IN SUPPORT OF THE MOTION FOR
PROVISIONAL AUTHORITY**

32. LEYECO V and KSPC replead, by reference, all the foregoing allegations.
33. LEYECO V and KSPC pray for the issuance of a provisional authority prior to final decision pursuant to *Section 1, Rule 14* of the *ERC Revised Rules of Practice and Procedure*, which provides:

Section 1. Provisional Authority or Interim Relief. –
For applications or petitions covered by Section 1, Rule 6 of these Rules, the Commission may grant either a provisional authority or an interim relief, upon motion included in the application or petition and indicated in the caption thereof that such relief is requested x x x.

34. In view of the foregoing, there is a need for the issuance of a Provisional Authority in the meantime that this Joint Application is still pending evaluation and resolution of Honorable Commission, for the immediate implementation of this PSA for the benefit of LEYECO II's member consumers.

PRAYER

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

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

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5. To authorizing (*sic*) KSPC to charge and collect from LEYECO V the electricity fees based on the final rates approved by this Honorable Commission, and authorizing LEYECO V to pass the full amount thereof to its customers.

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

The Commission hereby sets the instant *Joint Application* for hearing for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates, via online platform, 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
12 November 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
19 November 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and Presentation of Evidence

Accordingly, LEYECO V and KSPC are hereby directed to host the virtual hearings at **LEYECO V's principal office located at Brgy. San Pablo, Ormoc City, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, LEYECO V and KSPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day prior** to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filing 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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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.

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.

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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**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 28th day of August 2024 in Pasig City.

Mcdimalanta
MONALISA C. DIMALANTA ^{ASg}
Chairperson and CEO

LS: VMA/LSP/KTB

ERC
Office of the Chairperson and CEO



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