



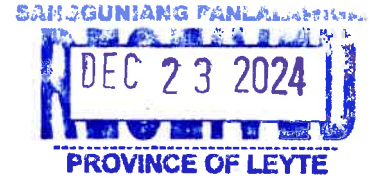
**LEYECO III**  
LEYTE III ELECTRIC COOPERATIVE, INC.  
Brgy. San Roque, Tunga, Leyte  
Hotline Nos.: (Globe) 0917-3049794, (Smart) 0998-5487784  
E-mail Address: [leyteiii@yahoo.com](mailto:leyteiii@yahoo.com)



Doc No.: **12**  
Date: **7 2025 JAN**

December 19, 2024

**HON. LEONARDO M. JAVIER JR.**  
Vice Governor and Presiding Officer  
*Sangguniang Panlalawigan*  
Province of Leyte



**Subject: Request for a Certificate of Posting of the attached Order and Notice of Virtual Hearing for ERC CASE NO. 2024-148 RC: "IN THE MATTER OF THE JOINT APPLICATION FOR APPROVAL OF THE POWER SUPPLY AGREEMENT (PSA) BETWEEN LEYTE III ELECTRIC COOPERATIVE (LEYECO III) AND KEPCO SPC POWER CORPORATION (KSPC), WITH PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION AND MOTION FOR PROVISIONAL AUTHORITY"**

Dear Vice Gov. Javier,

This refers to the above-entitled *Joint Application* filed by Leyte III Electric Cooperative, Inc. and FDC Misamis Power Corporation before the Energy Regulatory Commission ("ERC") docketed as ERC Case No. 2024-148 RC.

The ERC promulgated an *Order* and a Notice of Virtual Hearing (the "*Notice*"), both dated 20 June 2024, setting the hearings for the *Joint Application* on **05 February 2025** and **12 February 2025**.

In compliance with the Order, we are furnishing the *Sangguniang Panlalawigan* with copies of the Order and Notice of Virtual Hearing for posting on your bulletin board for public information. Accordingly, we respectfully **request three (3) original copies of the Certificate of Posting** signed by you or your duly designated representative, bearing the dry seal and logo of your office, certifying the receipt, and posting on your bulletin boards of the said ERC Order and Notice. Attached is a blank certification, which your office may opt to use for this purpose.

If you have no dry seal and logo, kindly make a small note on the lower left side of the certification (i.e., not using a dry seal and logo), so that we can manifest the same to the ERC.

As the Certificate of Posting is required to be submitted before the date of the initial hearing as part of the compliance with the jurisdictional requirements of the above-mentioned case, we would highly appreciate receiving the Certificate of Posting on or before **27 December 2024 (Friday)**. This timeframe allows us to consolidate and prepare the jurisdictional requirements for submission to the ERC.

Kindly send an advance electronic copy of the Certificate to [leyteiii@yahoo.com](mailto:leyteiii@yahoo.com) and [info@ojlawoffices.com](mailto:info@ojlawoffices.com).

Thank you very much for your usual cooperation.

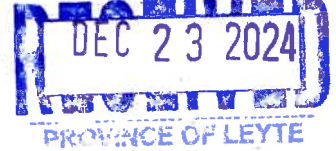
Very truly yours,

  
**DR. ALLAN L. LANIBA, OFS.**  
General Manager

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 III  
ELECTRIC COOPERATIVE  
(LEYECO III) AND KEPCO SPC  
POWER CORPORATION  
(KSPC), WITH PRAYER FOR  
CONFIDENTIAL TREATMENT  
OF INFORMATION AND  
MOTION FOR PROVISIONAL  
AUTHORITY**

SANGGUNIANG PANLALAWIGAN



**ERC CASE NO. 2024-148 RC**

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

**Promulgated:**  
November 14, 2024

X-----X

**NOTICE OF VIRTUAL HEARING**

Notice is hereby given that on 30 October 2024, Leyte III Electric Cooperative (LEYECO III) and KEPCO SPC Power Corporation (KSPC) filed their *Joint Application* dated 09 July 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 in the *Joint Application* are hereunder quoted, as follows:

**THE APPLICANTS**

1. Applicant LEYTE III Electric Cooperative ("LEYECO III") is an electric cooperative duly organized and existing under and by virtue of Presidential Decree No. 269 (PD 269), as amended, and other laws of the Republic of the Philippines, with principal office at National Highway, Brgy. San Roque, Tunga, Leyte herein represented by its Board President, Santiago F. Hamtig, Jr. and

General Manager, Allan Laniba, MPA, MM, OFS as evidenced by Board Resolution 2024-04-058. A copy of which is attached in the Power Supply Agreement attached as *Annex "A"* and its sub markings.

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 7<sup>th</sup> 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 "B."*

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. Pursuant to the function of Distribution Utilities to supply electricity in the least cost manner to its captive market, as spelled-out in Section 23, (parag.3), of R.A. No. 9136, herein applicants LEYECO III and KSPC had entered into a Power Sales Agreement ("PSA") executed on April 17, 2024. A copy of the PSA is attached hereto as *Annex "A"*, and submitted the same through this application for approval of the Honorable Commission.

#### STATEMENT OF FACTS

6. LEYECO III is a duly franchised Distribution Utility engaged in the distribution of electricity with its franchise areas in the municipalities of Capoocan, Carigara, Barugo, San Miguel, Tunga, Jaro, AlangAlang, Santa Fe, and Pastrana, all in Leyte.

7. The subject Energy and Capacity of the PSA is needed by LEYECO III 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 is attached as *Annex "C"*, and the Average Daily Load Curve is attached as *Annex "D"*.

8. In addition, LEYECO III Single Line Diagram is attached as *Annex "E"*, Performance Assessment is attached as *Annex "F"*.

9. Pursuant to DOE Circular No. DC2018-02-0003 as amended by DOLE Department Circular No. DC2021-09-0030 LEYECO III entered into a Joint Competitive Selection Process ("CSP") with other FRECOR 8 DUs. A copy of the Memorandum of

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Agreement between FRECOR 8 Electric Cooperatives is attached as *Annex "G"*.

10. FRECOR 8 sent a letter dated 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 "H and H-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 "H-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 "H-3 and H-4"*.

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 "I 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 Plan<sup>1</sup> (PSP), Distribution Development Plan<sup>2</sup> (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 "J and series"*.

16. Copies of the issued bidding documents are attached as *Annex "K 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 as well as the NEA website. Copies of the pertinent pages of the Philippine Daily Inquirer with the ITB and Affidavit of Publication issued by the Philippine Daily Inquirer as well as the Certificate of Posting issued

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<sup>1</sup> Annex III

<sup>2</sup> Annex HHH

by LEYECO III including photos of the actual posting on the CSP e-based Portals of DOE and NEA websites are hereto attached as *Annex "L and series" and "M 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 "N to N-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 "O and series"*.

19. Thereafter, the submission and opening of bids were then held on August 31, 2023 with CSP observers. Attached as *Annex "N-4 to N-11"* are the Invitation to Observers, print-out of emails confirming receipt of the invitation, and copies of the attendance sheets. Attached as *Annex "O-1-a"* is the portion of the Minutes showing that representatives from NEA virtually attended the activity.

20. A total of three participants - GNPower 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 "P and series"* and *Annex "Q and series"*, respectively.

21. After careful evaluation, KSPC was found to have submitted the lowest computed bid proposal of Php5.9382/kWh 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 "R and series"*, likewise copies of the JTPBAC Evaluators Report, Evaluators Post-Qualification Report and the Abstract of Bids are hereto attached as *Annex "S to S-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 "S-3"*, likewise a copy of the Resolution of the JTPBAC recommending the awards is hereto attached as *Annex "S-4"*. Attached as *Annex "T"* 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 and Notice to Proceed dated February 26, 2024 issued by NEA as well as a write-up on the posting of a Performance Bond are likewise hereto attached as *Annex "U and series"*.

24. Consequently, LEYECO III 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 III and KSPC.

**SALIENT FEATURES OF THE PSA**

**26. Salient Features of the PSA.**

- a. Contracted Capacity shall mean a capacity of 1 MW reserved by the seller for LEYECO III 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. Capacity Fees and Energy Fees. Beginning on the Supply Effective date and subject to the terms and conditions of this Agreement, the Buyer shall pay the Capacity Fees and Energy Fees as provided for in Annex D.
- f. 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.
- g. The proposed rate is Php5.9382/kWh subject to adjustments, exclusive of VAT, other applicable taxes, fees, and other charges.
- h.  $K =$  Seller's Generation charge for the billing month  $m$ ; in Peso,

*(This space is intentionally left blank.)*

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Computation of "K"

$$K = HCQ_m \times CP_{CUR\%}$$

Where:

$$HCQ_m = \sum_{i=1}^{25} \sum_{j=1}^{24} (HCQ_{ij} - FMQ_{ij})$$

$HCQ_m$  = Total Final HCQ for the billing month  $m$ , kWh.

$HCQ_{ij}$  = Final HCQ for the relevant day  $i$  and relevant hour  $j$  of the billing month  $m$ , kWh

$FMQ_{ij}$  = Quantity of energy not deliverable due to Force Majeure for the relevant day  $i$  and relevant hour  $j$  of the billing month  $m$ , kWh.

Contract Price ( $CP_{CUR\%}$ ) = billing price for the billing period  $n$ .  
 PhP/ kWh

$$= \text{Capacity Fee } CUR\% + \text{Energy Fee}$$

$$\begin{aligned} \text{Capacity Fee } 100\% &= \text{Capital Recovery Fee} + \text{Fixed O\&M} \\ &= \text{Php } 0.7397/\text{kWh} + \text{Php } 1.0055/\text{kWh} \\ &= \text{Php } 1.7452/\text{kWh} \text{ (Fixed Fee)} \end{aligned}$$

$$\begin{aligned} \text{Energy Fee} &= \text{VOM} + \text{Fuel Fee} \\ &= \text{Energy Fee for the billing month } n \end{aligned}$$

$$\text{VOM} = \text{VOMbase} \times (\text{PH CPIc} / \text{PH CPIb})$$

Where:

VOM- is the Variable O&M Fee for the billing month  $n$ . PhP / kWh

VOMbase- is the Base VOM Fee. PhP 0.1328 / kWh

PH CPIc- Philippine Consumer Price Index (CPI) for all items for the current month as published by the Philippine Statistics Authority

PH CPIb- Philippine Consumer Price Index (CPI) of 119.4 as of December 2022 as published by the Philippines Statistics Authority

$$\text{Fuel Fee} = \text{Fuel Fee}_{\text{Base Rate}} \times \left[ \frac{\text{CUR}}{\text{BASE}} \right] \times [\text{FXn}]$$

- i. copy of the Computation of Generation Fee and Contract Price is included in the Power Supply Agreement attached as Annex "A".

**RATE IMPACT COMPUTATION**

**LEYECO III RATE IMPACT ANALYSIS**

with  
KSPC

	Forecasted Quantity (kWh)	Amount (Php)	Percent Share (%)	Resulting Capacity Utilization Factor (%)	2025 Average Rate (Php/kWh)	Weighted Average Rate (Php/kWh)
GCGI	21,900,000.00	144,776,459.85	27.21%	100%	6.6108	6.2497
KSPC	53,791,949.14	319,427,352.40	66.84%	87.72%	5.9382	
WESM	4,786,077.26	38,762,161.49	5.95%		8.0989	
TOTAL	80,478,026.40	502,965,973.74	100.0%			

without  
KSPC

	Forecasted July 2023 Average Quantity (kWh)	Amount (Php)	Percent Share (%)	Resulting Capacity Utilization Factor (%)	2025 Average Rate (Php/kWh)	Weighted Average Rate (Php/kWh)
GCGI	21,900,000.00	144,776,459.85	27.21%	100%	6.6108	6.9913
KSPC	0.00	0.00	0.00%	0%	0.0000	
WESM	58,578,026.40	417,869,758.80	72.79%		7.1336	
TOTAL	80,478,026.40	562,646,218.65	100%			

**GENERATION RATE IMPACT (Php/kWh) (0.7416)**

27. Detailed computation of Rate Impact with load graph is herein appended as *Annex "V"*.
28. 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 "W"*.
29. 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. But on a letter from BOI dated 16 January 2024, the Board of Investments Certification was canceled. A copy of the cancellation is attached as *Annex "X"*.
30. 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 "Y"*.
31. 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



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copy of the Certificate of endorsement is hereto attached as *Annex "Z"*.

32. As further support to the instant Joint Application, the Applicants most respectfully submit to the Honorable Commission the following documents in accordance with the Pre-filing Checklist in Resolution No. 38, Series of 2006<sup>3</sup>, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
AA	LEYECO III Articles of Incorporation
BB	LEYECO III By-Laws
CC	LEYECO III Certificate of Franchise
DD	LEYECO III Certificate of Registration
EE	LEYECO III Verified Certification showing list of Board of Directors
FF	LEYECO III Write Up NPC Certification
GG	LEYECO III DSM Certification
HH	LEYECO III Transmission Supply Agreement
II	LEYECO III WESM Membership
JJ	KSPC Articles of Incorporation
KK	KSPC By- Laws
LL	KSPC Verified Certification showing list of Board of Directors
MM	Shareholder's Agreement
NN	KSPC General Information Sheet
OO	KSPC Transmission Service Agreement with NGCP
PP	Executive Summary of the LEYECO III and KSPC PSA
QQ*	KSPC's Financial Model
RR*	Sworn Statement on Fuel Procurement
SS*	Relevant technical and economic characteristics of generation capacity

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

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TT*	KSPC's 2022- 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
UU	KSPC WESM
VV*	Narrative on Sources of Funds, Generation Rates, Cash Flow
WW*	Breakdown of FOM and VOM
XX*	Sources of Funds (Certification from Banks and Bank Certification)
YY*	Sources of Funds (Project Cost, ROI, WACC, Life of Asset vs Term of Loan)
ZZ* and ZZ-1*	Fuel Contract, and Amended Fuel Contract
AAA*	Derivation of Rates (Excel File)
BBB	MEOT Allocation to the generating units
CCC	Certifications of Net Heat Rate
DDD	NWRB Water Permit
EEE	<p>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC):</p> <ul style="list-style-type: none"> <li>• Renewable Energy Service Contract</li> <li>• Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE</li> <li>• Requirements under emergency procurement</li> <li>• BIR Receipts</li> <li>• Seller's Receipts</li> <li>• Purchase Orders with Annotation of Acceptance or Transfers</li> <li>• Deeds of Sale and other Other Forms of Conveyance of Ownership</li> <li>• Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid.</li> <li>• Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs.</li> </ul>

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	• Distribution Wheeling Service Agreement
FFF	LEYECO III Certificate of Email Registration
GGG	KSPC Certificate of Email Registration
HHH	LEYECO III DSP
III	LEYECO III PSPP
JJJ	LEYECO III RCOA Estimated Load
KKK	Sample Power Bill
LLL*	EPC Contract (Confidential)

\*Subject to the Motion For Confidential Treatment of Information

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

33. 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.
34. KSPC prays that the information contained in the documents attached as Confidential Documents 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
QQ	KSPC's Financial Model
RR	Sworn Statement on Fuel Procurement
SS	Relevant technical and economic characteristics of generation capacity
TT	KSPC's 2022-2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
VV	Narrative on Sources of Funds, Generation Rates, Cash Flow
WW	Breakdown of FOM and VOM
XX	Sources of Funds (Certification from Banks and Bank Certification)
YY	Sources of Funds (Project Cost, ROI, WACC, Life of Asset vs Term of Loan)
ZZ and ZZ-1	Fuel Contracts

AAA	Derivation of Rates (Excel File)
LLL	EPC Contract

35. 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**

36. LEYECO III and KSPC replead, by reference, all the foregoing allegations.
37. LEYECO III 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.

38. 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.

**COMPLIANCE WITH PRE-FILING REQUIREMENTS**

39. LEYECO III and KSPC have duly complied with the pre-filing requirements mandated under Rule 6, Section 2 (a) & (b) of the ERC Rules of Practice and Procedure, by furnishing copies of the Application/petition including all of its annexes and accompanying documents to the Office of the Municipal Mayor and the Sangguniang Bayan (legislative body) of Municipality of Tunga, Leyte where LEYECO III principally operates. The same copy of the Application including all its annexes were furnished to the Office of the Provincial Governor and the Sangguniang Panlalawigan (legislative body) of Leyte Province. The application with its annexes was also furnished to the Office of the City Mayor and the Sangguniang Panlungsod of Cebu City. It likewise published the Application in its entirety in a newspaper of general circulation in the Province of Leyte, where the franchise area of Applicant LEYECO III is located. Proofs of such pre-filing compliance are hereto attached in compliance with Section 3 of the ERC Rules of Practice and Procedure, to wit:

ANNEX "MMM and series" – Certification issued by the Office of the Municipal Mayor of Tunga attesting that their office was served a copy of the Application and its annexes;

ANNEX “NNN and series” – Certification issued by the Office of the Sangguniang Bayan of Tunga attesting that their office was served a copy of the Application and its annexes;

ANNEX “OOO and series” – Certification issued by the Office of the Provincial Governor of the Province of Leyte attesting that their office was served a copy of the Application and its annexes;

ANNEX “PPP and series” – Certification issued by the Office of the Sangguniang Panlalawigan of the Province of Leyte attesting that their office was served a copy of the Application and its annexes;

ANNEX “QQQ and series” – Certification issued by the Office of the City Mayor of Cebu attesting that their office was served a copy of the Application and its annexes;

ANNEX “RRR and series” – Certification issued by the Office of the Sangguniang Panlungsod of Cebu attesting that their office was served a copy of the Application and its annexes;

ANNEX “SSS” Notarized Affidavit of Publication by local newspaper publishing company;

ANNEX “TTT” Copy of the newspaper issue where the Application as published appeared;

#### **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 III and KSPC, thereby authorizing KSPC to charge and collect from LEYECO III electricity fees based on rates that this Honorable Commission may provisionally approve, and authorizing LEYECO III to pass the full amount thereof to its customers; and.

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4. After trial on the merits, issue a Decision approving the PSA, thereby confirming the compliance by LEYECO III and KSPC to the rules governing power supply, and further confirming the effective rate charged, collected, and paid in connection with this PSA.
5. To authorizing KSPC to charge and collect from LEYECO III the electricity fees based on the final rates approved by this Honorable Commission, and authorizing LEYECO III 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 sets the instant *Joint Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>4</sup> and Resolution No. 01, Series of 2021<sup>5</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>05 February 2025</b> (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams Application</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>12 February 2025</b> (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and presentation of evidence

Accordingly, LEYECO III and KSPC are hereby directed to host the virtual hearings at **LEYECO III's principal office located at National Highway, Brgy. San Roque, Tunga, Leyte**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, the Applicants 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 e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the

<sup>4</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.  
<sup>5</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Legal Service through [legal@erc.ph](mailto:legal@erc.ph). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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

**ERC CASE NO. 2024-148 RC**  
**NOTICE OF VIRTUAL HEARING/14 NOVEMBER 2024**  
**PAGE 15 OF 15**

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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](http://www.erc.gov.ph).

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through [legal.virtualhearings@erc.ph](mailto: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 Chairperson and CEO **MONALISA C. DIMALANTA** and the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 14<sup>th</sup> day of November 2024 in Pasig City.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ATTY. KRISHA MARIE T. BUELA**  
*Director III, Legal Service*

  
LS: ADGS/ARG



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 III  
ELECTRIC COOPERATIVE  
(LEYECO III) AND KEPCO  
SPC POWER CORPORATION  
(KSPC), WITH PRAYER FOR  
CONFIDENTIAL TREATMENT  
OF INFORMATION AND  
MOTION FOR PROVISIONAL  
AUTHORITY**

**ERC CASE NO. 2024-148 RC**

**LEYTE III ELECTRIC  
COOPERATIVE (LEYECO III)  
AND KEPCO SPC POWER  
CORPORATION (KSPC),**

*Applicants.*

X-----X

**Promulgated:**  
November 14, 2024

**ORDER**

On 30 October 2024, Leyte III Electric Cooperative (LEYECO III) and KEPCO SPC Power Corporation (KSPC) filed their *Joint Application* dated 09 July 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 in the said *Application* are hereunder quoted, as follows:

**THE APPLICANTS**

1. Applicant LEYTE III Electric Cooperative ("LEYECO III") is an electric cooperative duly organized and existing under and by virtue of Presidential Decree No. 269 (PD 269), as amended, and other laws of the Republic of the Philippines, with principal office at National Highway, Brgy. San Roque, Tunga, Leyte herein represented by its Board President, Santiago F. Hamtig, Jr. and General Manager, Allan Laniba, MPA, MM, OFS as evidenced by Board Resolution 2024-04-058. A copy of which is attached in the

Power Supply Agreement attached as *Annex "A"* and its sub markings.

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 7<sup>th</sup> 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 "B."*

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. Pursuant to the function of Distribution Utilities to supply electricity in the least cost manner to its captive market, as spelled-out in Section 23, (parag.3), of R.A. No. 9136, herein applicants LEYECO III and KSPC had entered into a Power Sales Agreement ("PSA") executed on April 17, 2024. A copy of the PSA is attached hereto as *Annex "A"*, and submitted the same through this application for approval of the Honorable Commission.

#### STATEMENT OF FACTS

6. LEYECO III is a duly franchised Distribution Utility engaged in the distribution of electricity with its franchise areas in the municipalities of Capoocan, Carigara, Barugo, San Miguel, Tunga, Jaro, AlangAlang, Santa Fe, and Pastrana, all in Leyte.

7. The subject Energy and Capacity of the PSA is needed by LEYECO III 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 is attached as *Annex "C"*, and the Average Daily Load Curve is attached as *Annex "D"*.

8. In addition, LEYECO III Single Line Diagram is attached as *Annex "E"*, Performance Assessment is attached as *Annex "F"*.

9. Pursuant to DOE Circular No. DC2018-02-0003 as amended by DOLE Department Circular No. DC2021-09-0030 LEYECO III 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 "G"*.

10. FRECOR 8 sent a letter dated 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 "H and H-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 "H-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 "H-3 and H-4"*.

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 "I 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 Plan<sup>1</sup> (PSP), Distribution Development Plan<sup>2</sup> (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 "J and series"*.

16. Copies of the issued bidding documents are attached as *Annex "K 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 as well as the NEA website. Copies of the pertinent pages of the Philippine Daily Inquirer with the ITB and Affidavit of Publication issued by the Philippine Daily Inquirer as well as the Certificate of Posting issued by LEYECO III including photos of the actual posting on the CSP e-based Portals of DOE and NEA websites are hereto attached as *Annex "L and series" and "M and series"*, respectively.

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<sup>1</sup> Annex III

<sup>2</sup> Annex HHH

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 "N to N-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 "O and series"*.

19. Thereafter, the submission and opening of bids were then held on August 31, 2023 with CSP observers. Attached as *Annex "N-4 to N-11"* are the Invitation to Observers, print-out of emails confirming receipt of the invitation, and copies of the attendance sheets. Attached as *Annex "O-1-a"* is the portion of the Minutes showing that representatives from NEA virtually attended the activity.

20. A total of three participants - GNPower 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 "P and series"* and *Annex "Q and series"*, respectively.

21. After careful evaluation, KSPC was found to have submitted the lowest computed bid proposal of Php5.9382/kWh 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 "R and series"*, likewise copies of the JTPBAC Evaluators Report, Evaluators Post-Qualification Report and the Abstract of Bids are hereto attached as *Annex "S to S-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 "S-3"*, likewise a copy of the Resolution of the JTPBAC recommending the awards is hereto attached as *Annex "S-4"*. Attached as *Annex "T"* 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 and Notice to Proceed dated February 26, 2024 issued by NEA as well as a write-up on the posting of a Performance Bond are likewise hereto attached as *Annex "U and series"*.

24. Consequently, LEYECO III 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 III and KSPC.

**SALIENT FEATURES OF THE PSA**

**26. Salient Features of the PSA.**

- a. Contracted Capacity shall mean a capacity of 1 MW reserved by the seller for LEYECO III 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. Capacity Fees and Energy Fees. Beginning on the Supply Effective date and subject to the terms and conditions of this Agreement, the Buyer shall pay the Capacity Fees and Energy Fees as provided for in Annex D.
- f. 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.
- g. The proposed rate is Php5.9382/kWh subject to adjustments, exclusive of VAT, other applicable taxes, fees, and other charges.
- h.  $K =$  Seller's Generation charge for the billing month  $m$ ; in Peso,

*(This space is intentionally left blank.)*

Computation of "K"

$$K = HCQ_m \times CP_{CUP\%}$$

Where:

$$HCQ_m = \sum_{i=25}^{25} \sum_{j=1}^{24} (HCQ_{ij} - FMQ_{ij})$$

$HCQ_m$  = Total Final HCQ for the billing month  $m$ , kWh

$HCQ_{ij}$  = Final HCQ for the relevant day  $i$  and relevant hour  $j$  of the billing month  $m$ , kWh

$FMQ_{ij}$  = Quantity of energy not deliverable due to Force Majeure for the relevant day  $i$  and relevant hour  $j$  of the billing month  $m$ , kWh.

Contract Price ( $CP_{CUP\%}$ ) = billing price for the billing period  $n$ , PhP/ kWh

$$= \text{Capacity Fee}_{CUP\%} + \text{Energy Fee}$$

$$\begin{aligned} \text{Capacity Fee}_{100\%} &= \text{Capital Recovery Fee} + \text{Fixed O\&M} \\ &= \text{Php } 0.7397/\text{kWh} + \text{Php } 1.0055/\text{kWh} \\ &= \text{Php } 1.7452/\text{kWh} \text{ (Fixed Fee)} \end{aligned}$$

$$\begin{aligned} \text{Energy Fee} &= \text{VOM} + \text{Fuel Fee} \\ &= \text{Energy Fee for the billing month } n \end{aligned}$$

$$\text{VOM} = \text{VOM}_{\text{base}} \times (\text{PH CPI}_c / \text{PH CPI}_b)$$

Where,

$\text{VOM}$ - is the Variable O&M Fee for the billing month  $n$ , PhP / kWh

$\text{VOM}_{\text{base}}$ - is the Base VOM Fee, PhP 0.1328 / kWh

$\text{PH CPI}_c$ - Philippine Consumer Price Index (CPI) for all items for the current month as published by the Philippine Statistics Authority

$\text{PH CPI}_b$ - Philippine Consumer Price Index (CPI) of 119.4 as of December 2022 as published by the Philippines Statistics Authority

$$\text{Fuel Fee} = \text{Fuel Fee}_{\text{Base Rate}} \times \left[ \frac{\text{---}}{\text{---}} \right] \times [\text{FX}_n]$$

- i. A copy of the Computation of Generation Fee and Contract Price is included in the Power Supply Agreement attached as Annex "A".

**RATE IMPACT COMPUTATION**

**LEYECO III RATE IMPACT ANALYSIS**

with  
KSPC

	Forecasted Quantity (kWh)	Amount (PhP)	Percent Share (%)	Resulting Capacity Utilization Factor (%)	2025 Average Rate (PhP/kWh)	Weighted Average Rate (PhP/kWh)
GCGI	21,900,000.00	144,776,459.85	27.21%	100%	6.6108	6.2497
KSPC	53,791,949.14	319,427,352.40	66.84%	87.72%	5.9382	
WESM	4,786,077.26	38,762,161.49	5.95%		8.0989	
TOTAL	80,478,026.40	502,965,973.74	100.0%			

without  
KSPC

	Forecasted July 2023 Average Quantity (kWh)	Amount (PhP)	Percent Share (%)	Resulting Capacity Utilization Factor (%)	2025 Average Rate (PhP/kWh)	Weighted Average Rate (PhP/kWh)
GCGI	21,900,000.00	144,776,459.85	27.21%	100%	6.6108	6.9913
KSPC	0.00	0.00	0.00%	0%	0.0000	
WESM	58,578,026.40	417,869,758.80	72.79%		7.1336	
TOTAL	80,478,026.40	562,646,218.65	100%			

**GENERATION RATE IMPACT (Php/kWh) (0.7416)**

27. Detailed computation of Rate Impact with load graph is herein appended as *Annex "V"*.
28. 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 "W"*.
29. 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. But on a letter from BOI dated 16 January 2024, the Board of Investments Certification was canceled. A copy of the cancellation is attached as *Annex "X"*.
30. 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 "Y"*.
31. 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 "Z"*.

32. As further support to the instant Joint Application, the Applicants most respectfully submit to the Honorable Commission the following documents in accordance with the Pre-filing Checklist in Resolution No. 38, Series of 2006<sup>3</sup>, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
AA	LEYECO III Articles of Incorporation
BB	LEYECO III By-Laws
CC	LEYECO III Certificate of Franchise
DD	LEYECO III Certificate of Registration
EE	LEYECO III Verified Certification showing list of Board of Directors
FF	LEYECO III Write Up NPC Certification
GG	LEYECO III DSM Certification
HH	LEYECO III Transmission Supply Agreement
II	LEYECO III WESM Membership
JJ	KSPC Articles of Incorporation
KK	KSPC By- Laws
LL	KSPC Verified Certification showing list of Board of Directors
MM	Shareholder's Agreement
NN	KSPC General Information Sheet
OO	KSPC Transmission Service Agreement with NGCP
PP	Executive Summary of the LEYECO III and KSPC PSA
QQ*	KSPC's Financial Model
RR*	Sworn Statement on Fuel Procurement
SS*	Relevant technical and economic characteristics of generation capacity

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



TT*	KSPC's 2022- 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
UU	KSPC WESM
VV*	Narrative on Sources of Funds, Generation Rates, Cash Flow
WW*	Breakdown of FOM and VOM
XX*	Sources of Funds (Certification from Banks and Bank Certification)
YY*	Sources of Funds (Project Cost, ROI, WACC, Life of Asset vs Term of Loan)
ZZ*, and ZZ-1*	Fuel Contract, and Amended Fuel Contract
AAA*	Derivation of Rates (Excel File)
BBB	MEOT Allocation to the generating units
CCC	Certifications of Net Heat Rate
DDD	NWRB Water Permit
EEE	<p><b>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC):</b></p> <ul style="list-style-type: none"> <li>• Renewable Energy Service Contract</li> <li>• Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE</li> <li>• Requirements under emergency procurement</li> <li>• BIR Receipts</li> <li>• Seller's Receipts</li> <li>• Purchase Orders with Annotation of Acceptance or Transfers</li> <li>• Deeds of Sale and other Other Forms of Conveyance of Ownership</li> <li>• Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid.</li> <li>• Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs.</li> <li>• Distribution Wheeling Service Agreement</li> </ul>

FFF	LEYECO III Certificate of Email Registration
GGG	KSPC Certificate of Email Registration
HHH	LEYECO III DSP
III	LEYECO III PSPP
JJJ	LEYECO III RCOA Estimated Load
KKK	Sample Power Bill
LLL*	EPC Contract (Confidential)

\*Subject to the Motion For Confidential Treatment of Information

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

33. 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.
34. KSPC prays that the information contained in the documents attached as Confidential Documents 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
QQ	KSPC's Financial Model
RR	Sworn Statement on Fuel Procurement
SS	Relevant technical and economic characteristics of generation capacity
TT	KSPC's 2022-2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
VV	Narrative on Sources of Funds, Generation Rates, Cash Flow
WW	Breakdown of FOM and VOM
XX	Sources of Funds (Certification from Banks and Bank Certification)
YY	Sources of Funds (Project Cost, ROI, WACC, Life of Asset vs Term of Loan)
ZZ and ZZ-1	Fuel Contracts

AAA	Derivation of Rates (Excel File)
LLL	EPC Contract

35. 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**

36. LEYECO III and KSPC replead, by reference, all the foregoing allegations.
37. LEYECO III 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.

38. 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.

**COMPLIANCE WITH PRE-FILING REQUIREMENTS**

39. LEYECO III and KSPC have duly complied with the pre-filing requirements mandated under Rule 6, Section 2 (a) & (b) of the ERC Rules of Practice and Procedure, by furnishing copies of the Application/petition including all of its annexes and accompanying documents to the Office of the Municipal Mayor and the Sangguniang Bayan (legislative body) of Municipality of Tunga, Leyte where LEYECO III principally operates. The same copy of the Application including all its annexes were furnished to the Office of the Provincial Governor and the Sangguniang Panlalawigan (legislative body) of Leyte Province. The application with its annexes was also furnished to the Office of the City Mayor and the Sangguniang Panlungsod of Cebu City. It likewise published the Application in its entirety in a newspaper of general circulation in the Province of Leyte, where the franchise area of Applicant LEYECO III is located. Proofs of such pre-filing compliance are hereto attached in compliance with Section 3 of the ERC Rules of Practice and Procedure, to wit:

ANNEX "MMM and series" – Certification issued by the Office of the Municipal Mayor of Tunga attesting that their office was served a copy of the Application and its annexes;

ANNEX "NNN and series" – Certification issued by the Office of the Sangguniang Bayan of Tunga attesting that their office was served a copy of the Application and its annexes;

ANNEX "OOO and series" – Certification issued by the Office of the Provincial Governor of the Province of Leyte attesting that their office was served a copy of the Application and its annexes;

ANNEX "PPP and series" – Certification issued by the Office of the Sangguniang Panlalawigan of the Province of Leyte attesting that their office was served a copy of the Application and its annexes;

ANNEX "QQQ and series" – Certification issued by the Office of the City Mayor of Cebu attesting that their office was served a copy of the Application and its annexes;

ANNEX "RRR and series" – Certification issued by the Office of the Sangguniang Panlungsod of Cebu attesting that their office was served a copy of the Application and its annexes;

ANNEX "SSS" Notarized Affidavit of Publication by local newspaper publishing company;

ANNEX "TTT" Copy of the newspaper issue where the Application as published appeared;

#### **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 III and KSPC, thereby authorizing KSPC to charge and collect from LEYECO III electricity fees based on rates that this Honorable Commission may provisionally approve, and authorizing LEYECO III 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 III and KSPC to the rules governing power supply, and further confirming the effective rate charged, collected, and paid in connection with this PSA.
5. To authorizing KSPC to charge and collect from LEYECO III the electricity fees based on the final rates approved by this Honorable Commission, and authorizing LEYECO III to pass the full amount thereof to its customers.

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

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>4</sup> and Resolution No. 01, Series of 2021<sup>5</sup> (ERC Revised Rules of Practice and Procedure):

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>05 February 2025</b> (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams Application</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>12 February 2025</b> (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-Trial Conference and presentation of evidence

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

<sup>4</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.  
<sup>5</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

**RELATIVE THERETO, LEYECO III and KSPC are hereby directed to:**

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial 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 the Local Government Unit (LGU) legislative bodies within LEYECO III's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within LEYECO III's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, the reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearings; and
- 5) Furnish with copies of the *Joint Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, if any, subject to reimbursement of reasonable photocopying costs.

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

- 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 LEYECO III and KSPC to inform the consumers within LEYECO III's franchise area of the filing of the *Joint Application*, the 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, LEYECO III 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 concerned Offices of the Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

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

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;

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

LEYECO III 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 virtual hearing and Pre-Trial Conference, pursuant to the preceding paragraph.

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

LEYECO III 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.

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

LEYECO III and KSPC are further directed to submit, either through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their jurisdictional compliance, Expository Presentation, Pre-Trial Brief, and Judicial Affidavits of witnesses, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.



Finally, LEYECO III and KSPC, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through [legal.virtualhearings@erc.ph](mailto: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, 14 November 2024.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**KRISHA MARIE T. BUELA**  
*Director III, Legal Service*

  
LS: ADGS/ARG

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**Copy Furnished:**

1. Leyte III Electric Cooperative, Inc. (LEYECO III)  
*Applicant*  
National Highway, Brgy. San Roque  
Tunga, Leyte
2. Atty. Rogelio P. Gula  
*Counsel for Applicant LEYECO III*  
Gula Law & Notarial Office, Door 7, Cabigon Building  
M.H. Del Pilar St., Barangay 8  
Tacloban, Leyte  
[nhoygula@yahoo.com](mailto:nhoygula@yahoo.com)
3. KEPCO SPC Power Corporation (KSPC)  
*Applicant*  
7th Floor, Cebu Holdings Center, Cebu Business Park  
Cebu City
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 Rd., Cebu Business Park  
Cebu City  
[gq.kepco@gmail.com](mailto:gq.kepco@gmail.com); [samantha\\_baluma@yahoo.com](mailto:samantha_baluma@yahoo.com)
5. Office of the Solicitor General (OSG)  
134 Amorsolo Street, Legaspi Village, Makati City  
[docket@osg.gov.ph](mailto:docket@osg.gov.ph)
6. Commission on Audit (COA)  
Commonwealth Avenue, Quezon City  
[citizensdesk@coa.gov.ph](mailto:citizensdesk@coa.gov.ph)
7. Senate Committee on Energy  
GSIS Building, Roxas Boulevard, Pasay City  
[senateenergycommittee@gmail.com](mailto:senateenergycommittee@gmail.com)
8. House Committee on Energy  
Batasan Hills, Quezon City  
[committee.energy@house.gov.ph](mailto: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 the Mayor  
Alang Alang, Leyte
12. Office of the LGU Legislative Body  
Alang Alang, Leyte
13. Office of the Mayor  
Barugo, Leyte
14. Office of the LGU Legislative Body  
Barugo, Leyte
15. Office of the Mayor  
Capoocan, Leyte
16. Office of the LGU Legislative Body  
Capoocan, Leyte
17. Office of the Mayor  
Carigara, Leyte
18. Office of the LGU Legislative Body  
Carigara, Leyte
19. Office of the Mayor  
Jaro, Leyte
20. Office of the LGU Legislative Body  
Jaro, Leyte
21. Office of the Mayor  
Pastrana, Leyte

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22. Office of the LGU Legislative Body  
Pastrana, Leyte
23. Office of the Mayor  
San Miguel, Leyte
24. Office of the LGU Legislative Body  
San Miguel, Leyte
25. Office of the Mayor  
Santa Fe, Leyte
26. Office of the LGU Legislative Body  
Santa Fe, Leyte
27. Office of the Mayor  
Tunga, Leyte
28. Office of the LGU Legislative Body  
Tunga, Leyte
29. Regulatory Operations Service  
14<sup>th</sup> Floor, Exquadra Tower  
Ortigas Center, Pasig City  
[ros@erc.ph](mailto:ros@erc.ph)