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LEYECO III

LEYTE III ELECTRIC COOPERATIVE, INC.
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Item No.: **29**

3 2025 JUN

May 05, 2025

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. 2025-032 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 KEPCO SPC Power Corporation (KSPC) before the Energy Regulatory Commission ("ERC") docketed as ERC Case No. 2025-032 RC.

The ERC promulgated an Order and a Notice of Virtual Hearing (the "Notice"), both dated 04 April 2025, setting the hearings for the Joint Application on **21 May 2025 and 28 May 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 09 May (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 and 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
INC. (LEYECO III) AND
KEPCO SPC POWER
CORPORATION (KSPC),
WITH PRAYER FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
MOTION FOR
PROVISIONAL AUTHORITY**



ERC CASE NO. 2025-032 RC

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

Applicants.

X-----X

Promulgated:

April 04, 2025

ORDER

On 03 February 2025, Leyte III Electric Cooperative, Inc. (LEYECO III) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application*, dated 16 December 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 *Joint Application* are hereunder quoted as follows:

THE JOINT APPLICANTS

1. Applicant **LEYTE III ELECTRIC COOPERATIVE, INC. (“LEYECO III”)** is a non-stock, non-profit 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 Real National Highway, Barangay San Roque, Tunga, Leyte, herein represented by its Board President, Santiago Hamtig, Jr , and General Manager, Allan Laniba, evidenced by Board Resolution no. 08-012, Series of 2024 dated September 02, 2024. A copy of which is attached hereto as **Annex “MM”**.
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, Luz, Cebu City, 6000 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 28, 2024, attached hereto as **Annex “NN.”**
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 III and KSPC executed on 13 September 2024. A copy of the PSA is attached hereto as **Annex “A”**.

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, Alangalang, Sta. Fe, Jaro, and Pastrana, all in the Province of Leyte. A copy of applicant LEYECO III Articles of Incorporation, By-Laws, Certificate of Franchise, and Certificate of Registration are hereto attached as **Annex “B, B-1, C, and C-1”**, respectively.
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. As evidence thereto, a copy of LEYECO III’s Supply and Demand Scenario is attached as **Annex “G”**.

8. In addition, LEYECO III's Single Line Diagram is attached as **Annex "E"**, the Reliability Report of its Performance Assessment is attached as **Annex "H"**, and the Estimated Potential Reduction in Load Supply is attached as **Annex "F"**.

**BRIEF DISCUSSION OF THE COMPETITIVE
SELECTION PROCESS**

9. Through a Memorandum of Agreement (MOA), ten (10) Electric Cooperatives (EC) of Region 8, including LEYECO III, agreed to conduct a joint procurement for their baseload requirement for the period of 2024 to 2033. The joint procurement was referred to as the Region 8 Joint Competitive Power Supply Procurement (R8 JCPSP). A copy of the Memorandum of Agreement dated November 10, 2023 is hereto attached as **Annex "PP"**.
10. Under the MOA, the Federation of Rural Electric Cooperatives in Region 8 Association, Inc. (FRECOR 8) was tasked to supervise and facilitate the transaction process, documentary requirements, and operational coordination among the member ECs of the R8 JCPSP.
11. A Joint Board of Directors (JBOD) was also created composed of General Managers and Board Presidents of the member ECs, which acts as the governing and policy-making body of the R8 JCPSP.
12. The JBOD passed Board Resolution No. 2023-11-002, Series of 2023 constituting the R8 Joint Bids and Awards Committee (JBAC) for the R8 JCPSP. A Joint Technical Working Group (JTWG) and a Joint Secretariat was also created. A copy of R8 JCPSP JBOD Board Resolution No. 2023-11-002, Series of 2023 dated 10 November 2023 is hereto attached as **Annex "PP"**.
13. The R8 JCPSP was for the procurement of an aggregate power supply of 190 MW, divided into two (2) lots: Lot 1 for 162 MW, which commences in 2024, and Lot 2 for 28 MW, which commences in 2027. The R8 JCPSP followed the policy and rules prescribed under Department of Energy (DOE) Department Circular No. DC2023-06-0021,¹ and Energy Regulatory Commission (ERC) Resolution No. 16, Series of 2023.²
14. On 15 December 2023, R8 JCPSP Bidding Documents, were submitted to NEA. NEA then issued a Certificate of Conformity No. NEA-RAO-COC-2024-02 dated 22 March 2024 when it found the R8 JCPSP's Bidding Documents to be

¹ Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market.

² Implementing Guidelines for the Procurement, Execution, and Evaluation of Power Supply Agreements Entered Into By Distribution Utilities for the Supply of Electricity to their Captive Market ("2023 CSP Guidelines").

consistent with the latest posted 2023-2032 Power Supply Procurement Plan of the member ECs of the R8 JCPSP. NEA likewise allowed the member ECs of the R8 JCPSP to proceed with the CSP.

Copies of the submitted Bidding Documents and the NEA Certificate of Conformity are hereto attached as ***Annex “QQ” and “RR”, respectively.***

15. Thereafter on 6 and 13 April 2024, the Invitation to Bid and Terms of Reference were published in the Manila Bulletin newspaper. A copy of the Affidavit of Publication is hereto attached as ***Annex “SS”***. Likewise, a complete copy of Manila Bulletin issues dated 6 and 13 April 2024 are hereto attached as ***Annex “TT and series” and “UU and series”***.
16. There was likewise a local publication under the Leyte Samar Daily Express and the EV Mail. A copy of the Affidavit of Publication issued by EV Mail is hereto attached as ***Annex “VV”***. Likewise, a complete copy of EV Mail issues dated 6 and 13 April 2024 are hereto attached as ***Annex “WW and series” and “XX and series”***. Moreover, a copy of the Affidavit of Publication issued by Leyte Samar Daily Express is hereto attached as ***Annex “YY”***. Likewise, a complete copy of LSDE issues dated 6 th April hereto attached as ***Annex “ZZ and series”***.
17. Invitations to power suppliers were also sent through electronic mail and postings were made in the DOE CSP Portal and respective EC websites. The R8 JBOD JCPSP Proof of Posting of the Invitation to Bid are hereto attached as ***Annex “BBB and series”***.
18. On 12 April 2024, Invitations to CSP Observers were sent to attend the Pre-Bid Conference, including NEA, DOE, ERC, consumer representatives, community representatives, interested civil society organizations and consumers, and regional development council for Eastern Visayas.
19. On 23 April 2024, the JBAC conducted its Pre-bid Conference 1. During the Pre-bid Conference 1, the comments and questions submitted by the bidders were reviewed and discussed.
20. On 18 May 2024, Supplemental Bid Bulletin Nos. 03 to 05 were issued and were posted on the DOE CSP Portal. They referred to amendments to the Terms of Reference, amendments to instruction to bidders, and amendments to the draft power supply agreement based on the comments and clarifications from the bidders of Pre-Bid Conference 1.
21. On 22 May 2024, the JBAC conducted the Pre-Bid Conference 2 to provide another opportunity for the bidders to seek clarification on the Bidding Documents and revisions made therein. CSP Observers were invited again.

- 22. On 08 June 2024, the JBAC issued the Final Instructions to Bidders, Final Terms of Reference, Supplemental Bid Bulletin Nos. 06 and 07 and other documents as requested by bidders in preparation for the submission and opening of bids. Invitations to CSP Observers were sent to attend the submission and opening of bids on 25 to 26 June 2024.
- 23. On 25 June 2024, bidders submitted their respective bids for Lot 1 and Lot 2. The bids were opened on 25 June 2024 for Lot 1, and on 26 June 2024 for Lot 2 in the presence of JBAC, participating bidders, CSP Observers and an Independent Auditor.
- 24. On 1 to 3 July 2024, the JBAC conducted a post-qualification evaluation of the lowest calculated bids for Lot 1 and Lot 2.
- 25. On 3 July 2024, the JBAC issued Resolution No. 02, Series of 2024, recommending to the JBOD to award the power supply agreements to the following bidders for Lot 1 for the period of supply of 2024-2033:

Bidder	Capacity (Lot 1)
Therma Luzon Inc.	81 MW
Sual Power, Inc.	50 MW
KEPCO SPC Power Corp	31 MW

- 26. Further, the JBAC issued Resolution No. 03, Series of 2024, recommending to the JBOD to award the capacity of 28 MW for Lot 2 for the period of supply of 2027-2033 to TLI as the bidder having the lowest calculated responsive bid.
- 27. Consequently, on 3 July 2024, JBOD approved JBAC's Recommendation to award the Power Supply Agreements to the bidders with the lowest calculated responsive bids for Lot 1 and Lot 2 through JBOD Resolution No. 2024-07-001 and 2024-007-002, respectively.
- 28. After its receipt of NEA's Notice to Issue Award dated 13 August 2024 last 14 August 2024, on 19 August 2024, the JBAC issued a Notice of Award to KSPC for the 31 MW baseload demand under Lot 1 of the R8 JCPSP, which was acknowledged by KSPC on 20 August 2024.
- 29. On 29 August 2024, FRECOR 8 timely submitted to NEA the finalized draft PSA together with the Board Resolution and the justifications to the changes made in the PSA, for the issuance of the Notice to Execute Agreement. However, it was only on 13 September 2024 when FRECOR 8 received NEA's Notice to Execute Agreement dated 12 September 2024.
- 30. Thus, on 13 September 2024, LEYECO III and KSPC executed the Power Supply Agreement (PSA), commencing on the later of the two dates: (i) September 26, 2024 or (ii) immediately

after the issuance by the ERC of a Provisional Authority, or Interim Relief, or Final Authority, until 25 December 2033 with a contract capacity of 2 MW.

31. Hence, this instant *Joint Application* for the approval of the PSA between LEYECO III and KSPC.

SALIENT FEATURES OF THE PSA

32. The PSA between LEYECO III and KSPC contains the following salient features:

- a. **Contract Term.** This Agreement shall take effect immediately from Effective Date, and from such date, shall remain in force and effect until December 25, 2033, unless sooner terminated in accordance with this Agreement and upon approval by the ERC.
- b. **Delivery Date.** KSPC shall commence delivery of Contract Capacity to LEYECO III on September 26, 2024 or the date of the receipt of the Seller of the ERC Provisional Authority, as may be applicable, provided, the Buyer has given its day-ahead nomination, duly received by the Seller.
- c. **Contract Capacity.** It shall mean a capacity of 2 MW reserved by KSPC for LEYECO III for the duration of the contract period. For the avoidance of doubt, this refers to the estimated capacity of electricity to be made available for Delivery to each LEYECO III Facility. The Buyer shall be allowed to nominate at least 50% of the Contract Capacity per interval divided by twelve (12) on all 5-minute Trading Intervals, but at the end of the relevant billing period, the Buyer shall be obligated to pay for the product at 65% monthly minimum CUF or actual energy nominated, whichever is higher, and the Total Generation Charge. The Buyer will be billed based on Minimum Monthly CUF if, at the end of the billing period and after reconciliation, the nomination falls below the Minimum Monthly CUF for reasons other than FM. The maximum contract energy shall be proportionately adjusted to account for the undelivered energy (kWh) due to Force Majeure.
- d. **Capacity Utilization Factor.** The ratio of the amount of energy taken by LEYECO III from KSPC during any Billing Period to the actual capacity made available by KSPC. LEYECO III shall purchase the Contracted Capacity and pay for the Contracted Capacity from sixty-five (65%) to one hundred percent (100%) Capacity Utilization Factor (CUF), computed per Billing Period, in accordance with Schedule 3³ below.

³ Power Supply Agreement, page 30.

Capacity Utilization Factor (CUF) Price

CAPACITY FEE	LOCAL (PHP/kWh)	
	Capital Recovery	Fixed O&M
100%	0.9895	1.0305
99%	0.9995	1.0409
98%	1.0097	1.0515
97%	1.0201	1.0624
96%	1.0307	1.0734
95%	1.0416	1.0847
94%	1.0527	1.0963
93%	1.0640	1.1081
92%	1.0755	1.1201
91%	1.0874	1.1324
90%	1.0994	1.1450
89%	1.1118	1.1579
88%	1.1244	1.1710
87%	1.1374	1.1845
86%	1.1506	1.1983
85%	1.1641	1.2124
84%	1.1780	1.2268
83%	1.1922	1.2416
82%	1.2067	1.2567
81%	1.2216	1.2722
80%	1.2369	1.2881
79%	1.2525	1.3044
78%	1.2686	1.3212
77%	1.2851	1.3383
76%	1.3020	1.3559
75%	1.3193	1.3740
74%	1.3372	1.3926
73%	1.3555	1.4116
72%	1.3743	1.4313
71%	1.3937	1.4514
70%	1.4136	1.4721
69%	1.4341	1.4935
68%	1.4551	1.5154
67%	1.4769	1.5381
66%	1.4992	1.5614
65%	1.5223	1.5854

- e. **Outages.** KSPC shall guarantee continuous supply without Scheduled and Unscheduled Outages throughout the term of this Agreement.
- f. **Replacement Power.** KSPC shall guarantee the availability of the Contract Capacity/Energy during the term of this PSA, except when caused by a Force Majeure event allowed hereof. Notwithstanding the Outage, whether Scheduled Outage or Unscheduled Outage, of the Cebu Power Plant utilized by KSPC in order to supply the Contract Capacity/Energy per

Schedule 2, KSPC shall be responsible in securing and ensuring that the Contract Capacity and/or Contract Energy is delivered to LEYECO III at contract price or actual price, whichever is lower. KSPC’s supply of Replacement Power shall only be to the extent of the Contract Capacity.

- g. **Electricity Fees.** Refers to the total amount of charges due from LEYECO III in respect of the Contract Capacity and all Energy supplied by KSPC during a Billing Period, computed in accordance with Schedule 5⁴.
- h. **Proposed Base Rate/Price** and its breakdown exclusive of Value Added Tax (VAT) and other pertinent taxes:

COMPONENTS	PHP/KWH
CRF	0.9895
FOM	1.0305
VOM	0.0914
FUEL	3.1686
TOTAL	5.2800

- 33. LEYECO III simulated a rate impact analysis based on assumed quantities. The indicative rate impact on its overall generation rate with and without supply from KSPC under the PSA are as follows:

LEYECO III’s Generation Rate (Php/kWh)		
With KSPC PSA	Without KSPC PSA	Rate Impact
6.5756	6.8685	(0.2929)

- 34. As shown in the rate impact analysis, the implementation of the PSA between LEYECO III and KSPC will benefit the electric cooperative and its consumers with an estimated generation rate reduction of **Php 0.2872/kWh**. Thus, the PSA subject of this *Joint Application* will ultimately provide LEYECO III’s end-users with a continuous and reliable supply of electricity at affordable rates. A copy of the Rate Impact Simulation 2024 is hereto attached as **Annex “GG”**.
- 35. Environmental Compliance Certificate (ECC). On 10 September 2007, the Department of Environment and Natural Resources (DENR) has issued ECC Transfer of Ownership in favor of KSPC with ECC No. 0511- 013- 206. A copy of the ECC is hereto attached as **Annex “R”**.

⁴ Power Supply Agreement, pages 34-35.

36. 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 “S”**.
37. 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 “T”**.
38. 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 2006⁵, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
AA	*KSPC’s 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
BB	Shareholder’s Agreement
C	LEYECO III Certificate of Franchise
CC	*Certifications of Net Heat Rate
D	LEYECO III Verified Certification showing list of Board of Directors
DD	*Fuel Contract
E	LEYECO III DSM Certification
EE	*Sworn Statement on Fuel Procurement
F	LEYECO III Write Up NPC Certification
FF	KSPC’s WESM Registration Approval Form
G-4	LEYECO III Average Daily Load Curve
H-1	LEYECO III NGCP-MSA-2024
HH	LEYECO III Transmission Supply Agreement
J	MEOT Allocation to the generating units

⁵ Resolution No. 38, Series of 2006 – A Resolution Promulgating the Energy Regulatory Commission’s Rules of Practice and Procedure.

L	LEYECO III WESM Membership
K	Executive Summary of the LEYECO III and KSPC PSA
KK	LEYECO III Certificate of Email Registration
LL	KSPC Certificate of Email Registration
M	NWRB Water Permit
N	KSPC Articles of Incorporation

N-1	KSPC By- Laws
O	KSPC Verified Certification showing list of Board of Directors
P	KSPC General Information Sheet
Q	<p>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC):</p> <ul style="list-style-type: none">• Renewable Energy Service Contract• Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE• Requirements under emergency procurement• BIR Receipts• Seller's Receipts• Purchase Orders with Annotation of Acceptance or Transfers• Deeds of Sale and other Other Forms of Conveyance of Ownership <p>Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid.</p>
	<ul style="list-style-type: none">• Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs.• Distribution Wheeling Service Agreement• Transmission Wheeling Contract <p>EPC Contract</p>
Q-1	BOI Letter of cancellation
Q-2	KSPC Bank Certification
U	KSPC Transmission Service Agreement with NGCP

V	*Narrative on Sources of Funds, Generation Rates, Cash Flow
W	*Derivation of Rates (Excel File)
X	*KSPC's Financial Model
Y	Sample Power Bill
Z	*Relevant technical and economic characteristics of generation capacity

*Subject to the Motion For Confidential Treatment of Information

ALLEGATIONS IN SUPPORT OF THE MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION

39. 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.
40. KSPC prays that the information contained in the documents attached as **Annexes “AA”, “CC”, “DD”, “EE”, “V”, “W”, “X”, and “Z”** 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
AA	KSPC's 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
CC	Certifications of Net Heat Rate
DD	Fuel Contract
EE	Sworn Statement on Fuel Procurement
V	Narrative on Sources of Funds, Generation Rates, Cash Flow
W	Derivation of Rates (Excel File)
X	Financial Model
Z	Relevant technical and economic characteristics of generation capacity

41. Furthermore, KSPC prays that the detailed discussion on rate and its pertinent information thereto are specifically stated in Annex V - Narrative on Sources of Funds, Generation Rates, Cash Flow, which are subject to the Motion for Confidential Treatment of Information.
42. Co-applicant KSPC posits that the foregoing annexes contain financial models, computation/calculation for rate determination and cost components. Hence, KSPC has actual and valuable proprietary interest to protect such information and data, which fall within the bounds of "trade secrets" that are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
43. The foregoing annexes contain non-public, proprietary information and data involving Applicants' investments, business operations, and financial calculations. Applicants determine, among others, their competitive rates through its power rate calculations, and its financial model through this information. Thus, the methodology thereof is privileged and confidential in nature.
44. This information and data are not generally available to the public. Hence, KSPC will be at undue disadvantage and its competitiveness will seriously be prejudiced if this information is unduly disclosed.

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

45. LEYECO III and KSPC replead, by reference, all the foregoing allegations.
46. 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.
47. As shown in the LEYECO III's Supply and Demand Scenario, the peak demand ranges from 13.41 to 19.551 MW and our existing contract capacity is 9.5 MW which is an Emergency Power Supply Agreement (EPSA) w FDC Misamis Corporation (FDCMPC) which will expire on 25 September 2024. If no provisional authority or interim relief will be issued, the total demand of 16 MW will be exposed to the market having erratic power rates, to the prejudice of the consumers. Thus, the issuance of the provisional authority or interim relief is in the best interest of the electricity consumers, especially the captive customers, as it ensures

continuous and reliable electricity service, with stable rate, which is essential for public welfare, economic stability and growth.

48. Furthermore, from LEYECO III's rate impact simulation, it is clear that the implementation of the PSA with KSPC would reduce LEYECO III's rate by **Php 0.2872/kWh**, as compared to if the same power requirements are purchased from the Wholesale Electricity Spot Market (WESM).
49. As such, the early implementation of the PSA with KSPC would benefit LEYECO III and its end-users as it will ensure the provision of reliable, secure, and quality supply of electricity in the least cost manner.
50. 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 III's member consumers.
51. To support the prayer for provisional authority or interim relief, an Affidavit of Merit is hereto attached as ***Annex "CCC"***.

PRAYER

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

1. Give due course to the instant application especially on the proposed base rate or price as explicitly mentioned above.
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 authorize KSPC to charge and collect from LEYECO III the electricity fees based on the final rates approved by this Honorable Commission, and to authorize 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 hearing for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁶ and Resolution No. 01, Series of 2021⁷ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
21 May 2025 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	MS Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
28 May 2025 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

Accordingly, LEYECO III and KSPC are hereby directed to mirror the virtual hearings to be hosted by the Commission at **LEYECO III's Principal Office at Real National Highway, Barangay San Roque, Tunga, Leyte**, as the designated venue for the conduct thereof and ensure that the same is open to the public. Moreover, LEYECO III and KSPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

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 its own expense twice (2x) within two

⁶ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
⁷ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- (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 Governors, the Mayors and the Local Government Unit (LGU) legislative bodies, where LEYECO III and KSPC principally operate;
 - 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Joint Application*, their reasons therefor, and of the scheduled virtual hearings thereon;
 - 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearing; 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 III and KSPC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, and copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance with the aforementioned jurisdictional requirements, attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspaper 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 to inform the consumers within LEYECO III's franchise area of the filing of the *Joint Application*, its 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 *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 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 the concerned Offices of the Governor, Mayors and Local Legislative Bodies, and to submit proof of posting thereof.

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

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings thereof, 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 from attached to the Pre-Trial Brief.

Applicants 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 initial 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.

Applicants 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.

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

Applicants LEYECO III and KSPC are hereby directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Affidavits of witnesses, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgement receipt e-mail sent by the Commission.

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

SO ORDERED.

Pasig City, 04 April 2025

FOR AND BY AUTHORITY
OF THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service


LS: NMCRB/KACF

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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
Legal Counsel of LEYECO III
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3. KEPCO SPC Power Corporation (KSPC)
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Cebu City
4. Garcia Quijano and Associates Law Office
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Email: gq.kepcoco@gmail.com; attyrfchanco@gmail.com
5. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
Email address: docket@osg.gov.ph
6. Commission on Audit
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Email: citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Email: senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
Email: committee.energy@house.gov.ph
9. Office of the Governor
Province of Leyte
10. Office of the Local Government Unit (LGU) Legislative Body
Province of Leyte
11. Office of 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

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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
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
Energy Regulatory Commission
14F Exquadra Tower, Jade 1 Drive, Pasig City
Email: ros@erc.ph

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

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



ERC CASE NO. 2025-032 RC

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

X-----X

Promulgated:
April 04, 2025

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that, on 03 February 2025, Leyte III Electric Cooperative, Inc. (LEYECO III) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application*, dated 16 December 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 *Joint Application* are hereunder quoted as follows:

THE JOINT APPLICANTS

1. Applicant **LEYTE III ELECTRIC COOPERATIVE, INC. ("LEYECO III")** is a non-stock, non-profit 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 Real National Highway, Barangay San Roque, Tunga, Leyte, herein represented by its Board President, Santiago Hamtig, Jr., and General Manager, Allan Laniba, evidenced by Board Resolution no. 08-012, Series of 2024 dated September 02, 2024. A copy of which is attached hereto as **Annex "MM"**.
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, Luz, Cebu City, 6000 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 28, 2024, attached hereto as **Annex "NN."**
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 III and KSPC executed on 13 September 2024. A copy of the PSA is attached hereto as **Annex "A"**.

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, Alangalang, Sta. Fe, Jaro, and Pastrana, all in the Province of Leyte. A copy of applicant LEYECO III Articles of Incorporation, By-Laws, Certificate of Franchise, and Certificate of Registration are hereto attached as **Annex "B, B-1, C, and C-1"**, respectively.
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. As evidence thereto, a copy of LEYECO III's Supply and Demand Scenario is attached as **Annex "G"**.
8. In addition, LEYECO III's Single Line Diagram is attached as **Annex "E"**, the Reliability Report of its Performance Assessment is attached as **Annex "H"**, and the Estimated Potential Reduction in Load Supply is attached as **Annex "F"**.

**BRIEF DISCUSSION OF THE COMPETITIVE
SELECTION PROCESS**

9. Through a Memorandum of Agreement (MOA), ten (10) Electric Cooperatives (EC) of Region 8, including LEYECO III, agreed to conduct a joint procurement for their baseload requirement for the period of 2024 to 2033. The joint procurement was referred to as the Region 8 Joint Competitive Power Supply Procurement (R8 JCPSP). A copy of the Memorandum of Agreement dated November 10, 2023 is hereto attached as **Annex "PP"**.
10. Under the MOA, the Federation of Rural Electric Cooperatives in Region 8 Association, Inc. (FRECOR 8) was tasked to supervise and facilitate the transaction process, documentary requirements, and operational coordination among the member ECs of the R8 JCPSP.
11. A Joint Board of Directors (JBOD) was also created composed of General Managers and Board Presidents of the member ECs, which acts as the governing and policy-making body of the R8 JCPSP.
12. The JBOD passed Board Resolution No. 2023-11-002, Series of 2023 constituting the R8 Joint Bids and Awards Committee (JBAC) for the R8 JCPSP. A Joint Technical Working Group (JTWG) and a Joint Secretariat was also created. A copy of R8 JCPSP JBOD Board Resolution No. 2023-11-002, Series of 2023 dated 10 November 2023 is hereto attached as **Annex "PP"**.
13. The R8 JCPSP was for the procurement of an aggregate power supply of 190 MW, divided into two (2) lots: Lot 1 for 162 MW, which commences in 2024, and Lot 2 for 28 MW, which commences in 2027. The R8 JCPSP followed the policy and rules prescribed under Department of Energy (DOE) Department Circular No. DC2023-06-0021,¹ and Energy Regulatory Commission (ERC) Resolution No. 16, Series of 2023.²
14. On 15 December 2023, R8 JCPSP Bidding Documents, were submitted to NEA. NEA then issued a Certificate of

¹ Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market.

² Implementing Guidelines for the Procurement, Execution, and Evaluation of Power Supply Agreements Entered Into By Distribution Utilities for the Supply of Electricity to their Captive Market ("2023 CSP Guidelines").

Conformity No. NEA-RAO-COC-2024-02 dated 22 March 2024 when it found the R8 JCPSP's Bidding Documents to be consistent with the latest posted 2023-2032 Power Supply Procurement Plan of the member ECs of the R8 JCPSP. NEA likewise allowed the member ECs of the R8 JCPSP to proceed with the CSP.

Copies of the submitted Bidding Documents and the NEA Certificate of Conformity are hereto attached as **Annex "QQ" and "RR"**, respectively.

15. Thereafter on 6 and 13 April 2024, the Invitation to Bid and Terms of Reference were published in the Manila Bulletin newspaper. A copy of the Affidavit of Publication is hereto attached as **Annex "SS"**. Likewise, a complete copy of Manila Bulletin issues dated 6 and 13 April 2024 are hereto attached as **Annex "TT and series"** and **"UU and series"**.
16. There was likewise a local publication under the Leyte Samar Daily Express and the EV Mail. A copy of the Affidavit of Publication issued by EV Mail is hereto attached as **Annex "VV"**. Likewise, a complete copy of EV Mail issues dated 6 and 13 April 2024 are hereto attached as **Annex "WW and series"** and **"XX and series"**. Moreover, a copy of the Affidavit of Publication issued by Leyte Samar Daily Express is hereto attached as **Annex "YY"**. Likewise, a complete copy of LSDE issues dated 6 th April hereto attached as **Annex "ZZ and series"**.
17. Invitations to power suppliers were also sent through electronic mail and postings were made in the DOE CSP Portal and respective EC websites. The R8 JBOD JCPSP Proof of Posting of the Invitation to Bid are hereto attached as **Annex "BBB and series"**.
18. On 12 April 2024, Invitations to CSP Observers were sent to attend the Pre-Bid Conference, including NEA, DOE, ERC, consumer representatives, community representatives, interested civil society organizations and consumers, and regional development council for Eastern Visayas.
19. On 23 April 2024, the JBAC conducted its Pre-bid Conference 1. During the Pre-bid Conference 1, the comments and questions submitted by the bidders were reviewed and discussed.
20. On 18 May 2024, Supplemental Bid Bulletin Nos. 03 to 05 were issued and were posted on the DOE CSP Portal. They referred to amendments to the Terms of Reference, amendments to instruction to bidders, and amendments to the draft power supply agreement based on the comments and clarifications from the bidders of Pre-Bid Conference 1.
21. On 22 May 2024, the JBAC conducted the Pre-Bid Conference 2 to provide another opportunity for the bidders to seek

clarification on the Bidding Documents and revisions made therein. CSP Observers were invited again.

- 22. On 08 June 2024, the JBAC issued the Final Instructions to Bidders, Final Terms of Reference, Supplemental Bid Bulletin Nos. 06 and 07 and other documents as requested by bidders in preparation for the submission and opening of bids. Invitations to CSP Observers were sent to attend the submission and opening of bids on 25 to 26 June 2024.
- 23. On 25 June 2024, bidders submitted their respective bids for Lot 1 and Lot 2. The bids were opened on 25 June 2024 for Lot 1, and on 26 June 2024 for Lot 2 in the presence of JBAC, participating bidders, CSP Observers and an Independent Auditor.
- 24. On 1 to 3 July 2024, the JBAC conducted a post-qualification evaluation of the lowest calculated bids for Lot 1 and Lot 2.
- 25. On 3 July 2024, the JBAC issued Resolution No. 02, Series of 2024, recommending to the JBOD to award the power supply agreements to the following bidders for Lot 1 for the period of supply of 2024-2033:

Bidder	Capacity (Lot 1)
Therma Luzon Inc.	81 MW
Sual Power, Inc.	50 MW
KEPCO SPC Power Corp	31 MW

- 26. Further, the JBAC issued Resolution No. 03, Series of 2024, recommending to the JBOD to award the capacity of 28 MW for Lot 2 for the period of supply of 2027-2033 to TLI as the bidder having the lowest calculated responsive bid.
- 27. Consequently, on 3 July 2024, JBOD approved JBAC's Recommendation to award the Power Supply Agreements to the bidders with the lowest calculated responsive bids for Lot 1 and Lot 2 through JBOD Resolution No. 2024-07-001 and 2024-007-002, respectively.
- 28. After its receipt of NEA's Notice to Issue Award dated 13 August 2024 last 14 August 2024, on 19 August 2024, the JBAC issued a Notice of Award to KSPC for the 31 MW baseload demand under Lot 1 of the R8 JCPSP, which was acknowledged by KSPC on 20 August 2024.
- 29. On 29 August 2024, FRECOR 8 timely submitted to NEA the finalized draft PSA together with the Board Resolution and the justifications to the changes made in the PSA, for the issuance of the Notice to Execute Agreement. However, it was only on 13 September 2024 when FRECOR 8 received NEA's Notice to Execute Agreement dated 12 September 2024.

30. Thus, on 13 September 2024, LEYECO III and KSPC executed the Power Supply Agreement (PSA), commencing on the later of the two dates: (i) September 26, 2024 or (ii) immediately after the issuance by the ERC of a Provisional Authority, or Interim Relief, or Final Authority, until 25 December 2033 with a contract capacity of 2 MW.
31. Hence, this instant *Joint Application* for the approval of the PSA between LEYECO III and KSPC.

SALIENT FEATURES OF THE PSA

32. The PSA between LEYECO III and KSPC contains the following salient features:
- a. **Contract Term.** This Agreement shall take effect immediately from Effective Date, and from such date, shall remain in force and effect until December 25, 2033, unless sooner terminated in accordance with this Agreement and upon approval by the ERC.
 - b. **Delivery Date.** KSPC shall commence delivery of Contract Capacity to LEYECO III on September 26, 2024 or the date of the receipt of the Seller of the ERC Provisional Authority, as may be applicable, provided, the Buyer has given its day-ahead nomination, duly received by the Seller.
 - c. **Contract Capacity.** It shall mean a capacity of 2 MW reserved by KSPC for LEYECO III for the duration of the contract period. For the avoidance of doubt, this refers to the estimated capacity of electricity to be made available for Delivery to each LEYECO III Facility. The Buyer shall be allowed to nominate at least 50% of the Contract Capacity per interval divided by twelve (12) on all 5-minute Trading Intervals, but at the end of the relevant billing period, the Buyer shall be obligated to pay for the product at 65% monthly minimum CUF or actual energy nominated, whichever is higher, and the Total Generation Charge. The Buyer will be billed based on Minimum Monthly CUF if, at the end of the billing period and after reconciliation, the nomination falls below the Minimum Monthly CUF for reasons other than FM. The maximum contract energy shall be proportionately adjusted to account for the undelivered energy (kWh) due to Force Majeure.
 - d. **Capacity Utilization Factor.** The ratio of the amount of energy taken by LEYECO III from KSPC during any Billing Period to the actual capacity made available by KSPC. LEYECO III shall purchase the Contracted Capacity and pay for the Contracted Capacity from sixty-five (65%) to one hundred percent (100%) Capacity

Utilization Factor (CUF), computed per Billing Period, in accordance with Schedule 3³ below.

Capacity Utilization Factor (CUF) Price

CAPACITY FEE	LOCAL (PHP/kWh)	
	Capital Recovery	Fixed O&M
100%	0.9895	1.0305
99%	0.9995	1.0409
98%	1.0097	1.0515
97%	1.0201	1.0624
96%	1.0307	1.0734
95%	1.0416	1.0847
94%	1.0527	1.0963
93%	1.0640	1.1081
92%	1.0755	1.1201
91%	1.0874	1.1324
90%	1.0994	1.1450
89%	1.1118	1.1579
88%	1.1244	1.1710
87%	1.1374	1.1845
86%	1.1506	1.1983
85%	1.1641	1.2124
84%	1.1780	1.2268
83%	1.1922	1.2416
82%	1.2067	1.2567
81%	1.2216	1.2722
80%	1.2369	1.2881
79%	1.2525	1.3044
78%	1.2686	1.3212
77%	1.2851	1.3383
76%	1.3020	1.3559
75%	1.3193	1.3740
74%	1.3372	1.3926
73%	1.3555	1.4116
72%	1.3743	1.4313
71%	1.3937	1.4514
70%	1.4136	1.4721
69%	1.4341	1.4935
68%	1.4551	1.5154
67%	1.4769	1.5381
66%	1.4992	1.5614
65%	1.5223	1.5854

- e. **Outages.** KSPC shall guarantee continuous supply without Scheduled and Unscheduled Outages throughout the term of this Agreement.
- f. **Replacement Power.** KSPC shall guarantee the availability of the Contract Capacity/Energy during the

³ Power Supply Agreement, page 30.

term of this PSA, except when caused by a Force Majeure event allowed hereof. Notwithstanding the Outage, whether Scheduled Outage or Unscheduled Outage, of the Cebu Power Plant utilized by KSPC in order to supply the Contract Capacity/Energy per Schedule 2, KSPC shall be responsible in securing and ensuring that the Contract Capacity and/or Contract Energy is delivered to LEYECO III at contract price or actual price, whichever is lower. KSPC's supply of Replacement Power shall only be to the extent of the Contract Capacity.

- g. **Electricity Fees.** Refers to the total amount of charges due from LEYECO III in respect of the Contract Capacity and all Energy supplied by KSPC during a Billing Period, computed in accordance with Schedule 5⁴.
- h. **Proposed Base Rate/Price** and its breakdown exclusive of Value Added Tax (VAT) and other pertinent taxes:

COMPONENTS	PHP/KWH
CRF	0.9895
FOM	1.0305
VOM	0.0914
FUEL	3.1686
TOTAL	5.2800

- 33. LEYECO III simulated a rate impact analysis based on assumed quantities. The indicative rate impact on its overall generation rate with and without supply from KSPC under the PSA are as follows:

LEYECO III's Generation Rate (Php/kWh)		
With KSPC PSA	Without KSPC PSA	Rate Impact
6.5756	6.8685	(0.2929)

- 34. As shown in the rate impact analysis, the implementation of the PSA between LEYECO III and KSPC will benefit the electric cooperative and its consumers with an estimated generation rate reduction of **Php 0.2872/kWh**. Thus, the PSA subject of this *Joint Application* will ultimately provide LEYECO III's end-users with a continuous and reliable supply of electricity at affordable rates. A copy of the Rate Impact Simulation 2024 is hereto attached as **Annex "GG"**.

⁴ Power Supply Agreement, pages 34-35.

- 35. Environmental Compliance Certificate (ECC). On 10 September 2007, the Department of Environment and Natural Resources (DENR) has issued ECC Transfer of Ownership in favor of KSPC with ECC No. 0511- 013- 206. A copy of the ECC is hereto attached as **Annex “R”**.
- 36. 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 “S”**.
- 37. 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 “T”**.
- 38. 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 2006⁵, Rule 20 B Section 2 of the ERC Rules of Practice and Procedures:

ANNEX	DOCUMENTS/ INFORMATION
AA	*KSPC’s 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
BB	Shareholder’s Agreement
C	LEYECO III Certificate of Franchise
CC	*Certifications of Net Heat Rate
D	LEYECO III Verified Certification showing list of Board of Directors
DD	*Fuel Contract
E	LEYECO III DSM Certification
EE	*Sworn Statement on Fuel Procurement
F	LEYECO III Write Up NPC Certification
FF	KSPC’s WESM Registration Approval Form
G-4	LEYECO III Average Daily Load Curve

⁵ Resolution No. 38, Series of 2006 – A Resolution Promulgating the Energy Regulatory Commission’s Rules of Practice and Procedure.

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H-1	LEYECO III NGCP-MSA-2024
HH	LEYECO III Transmission Supply Agreement
J	MEOT Allocation to the generating units
L	LEYECO III WESM Membership
K	Executive Summary of the LEYECO III and KSPC PSA
KK	LEYECO III Certificate of Email Registration
LL	KSPC Certificate of Email Registration
M	NWRB Water Permit
N	KSPC Articles of Incorporation

N-1	KSPC By- Laws
O	KSPC Verified Certification showing list of Board of Directors
P	KSPC General Information Sheet
Q	<p>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC):</p> <ul style="list-style-type: none"> • Renewable Energy Service Contract • Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE • Requirements under emergency procurement • BIR Receipts • Seller's Receipts • Purchase Orders with Annotation of Acceptance or Transfers • Deeds of Sale and other Other Forms of Conveyance of Ownership <p>Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid.</p>
	<ul style="list-style-type: none"> • Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs. • Distribution Wheeling Service Agreement • Transmission Wheeling Contract <p>EPC Contract</p>
Q-1	BOI Letter of cancellation

Q-2	KSPC Bank Certification
U	KSPC Transmission Service Agreement with NGCP
V	*Narrative on Sources of Funds, Generation Rates, Cash Flow
W	*Derivation of Rates (Excel File)
X	*KSPC's Financial Model
Y	Sample Power Bill
Z	*Relevant technical and economic characteristics of generation capacity

*Subject to the Motion For Confidential Treatment of Information

ALLEGATIONS IN SUPPORT OF THE MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION

39. 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.
40. KSPC prays that the information contained in the documents attached as **Annexes “AA”, “CC”, “DD”, “EE”, “V”, “W”, “X”, and “Z”** 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
AA	KSPC’s 2023 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
CC	Certifications of Net Heat Rate
DD	Fuel Contract
EE	Sworn Statement on Fuel Procurement
V	Narrative on Sources of Funds, Generation Rates, Cash Flow
W	Derivation of Rates (Excel File)
X	Financial Model

Z	Relevant technical and economic characteristics of generation capacity
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- 41. Furthermore, KSPC prays that the detailed discussion on rate and its pertinent information thereto are specifically stated in Annex V - Narrative on Sources of Funds, Generation Rates, Cash Flow, which are subject to the Motion for Confidential Treatment of Information.
- 42. Co-applicant KSPC posits that the foregoing annexes contain financial models, computation/calculation for rate determination and cost components. Hence, KSPC has actual and valuable proprietary interest to protect such information and data, which fall within the bounds of “trade secrets” that are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
- 43. The foregoing annexes contain non-public, proprietary information and data involving Applicants’ investments, business operations, and financial calculations. Applicants determine, among others, their competitive rates through its power rate calculations, and its financial model through this information. Thus, the methodology thereof is privileged and confidential in nature.
- 44. This information and data are not generally available to the public. Hence, KSPC will be at undue disadvantage and its competitiveness will seriously be prejudiced if this information is unduly disclosed.

ALLEGATIONS IN SUPPORT OF THE MOTION FOR PROVISIONAL AUTHORITY

- 45. LEYECO III and KSPC replead, by reference, all the foregoing allegations.
- 46. 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.
- 47. As shown in the LEYECO III’s Supply and Demand Scenario, the peak demand ranges from 13.41 to 19.551 MW and our existing contract capacity is 9.5 MW which is an Emergency Power Supply Agreement (EPSA) w FDC Misamis Corporation (FDCMPC) which will expire on 25 September 2024. If no provisional authority or interim relief will be issued, the total demand of 16 MW will be exposed to the market having erratic power rates, to the prejudice of the

consumers. Thus, the issuance of the provisional authority or interim relief is in the best interest of the electricity consumers, especially the captive customers, as it ensures continuous and reliable electricity service, with stable rate, which is essential for public welfare, economic stability and growth.

48. Furthermore, from LEYECO III's rate impact simulation, it is clear that the implementation of the PSA with KSPC would reduce LEYECO III's rate by **Php 0.2872/kWh**, as compared to if the same power requirements are purchased from the Wholesale Electricity Spot Market (WESM).
49. As such, the early implementation of the PSA with KSPC would benefit LEYECO III and its end-users as it will ensure the provision of reliable, secure, and quality supply of electricity in the least cost manner.
50. 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 III's member consumers.
51. To support the prayer for provisional authority or interim relief, an Affidavit of Merit is hereto attached as ***Annex "CCC"***.

PRAYER

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

1. Give due course to the instant application especially on the proposed base rate or price as explicitly mentioned above.
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 authorize KSPC to charge and collect from LEYECO III the electricity fees based on the final rates approved by this Honorable Commission, and to authorize 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 2020⁶ and Resolution No. 01, Series of 2021⁷ (ERC Revised Rules of Practice and Procedure):

Date and Time	Platform	Activity
21 May 2025 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	MS Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
28 May 2025 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

Accordingly, LEYECO III and KSPC are hereby directed to mirror the virtual hearings to be hosted by the Commission at **LEYECO III's Principal Office at Real National Highway, Barangay San Roque, Tunga, Leyte**, as the designated venue for the conduct thereof and ensure that the same is open to the public. Moreover, LEYECO III 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 e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective

⁶ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁷ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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, 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, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least 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 acknowledgement receipt e-mail sent by the Commission.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through 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 4th of April 2025 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service


LS: NMCRB/KACF