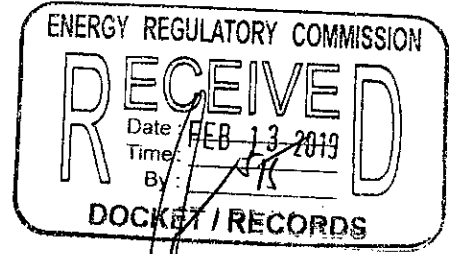


REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
Pacific Center Building
San Miguel Avenue, Ortigas Center
Pasig City

IN THE MATTER OF THE
APPLICATION FOR APPROVAL OF
THE ADDENDUM TO THE POWER
SUPPLY AGREEMENT BETWEEN
PALAWAN ELECTRIC
COOPERATIVE, INC. (PALECO) AND
DELTA P INC., WITH PRAYER FOR
PROVISIONAL AUTHORITY

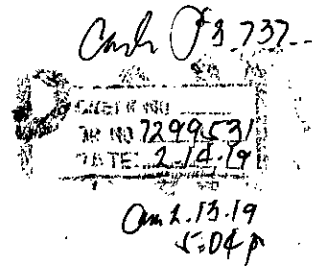


2019-010
ERC CASE NO. 2018-_____ RC

PALAWAN ELECTRIC
COOPERATIVE, INC. (PALECO) AND
DELTA P INC.,

Applicants.

X-----X



JOINT APPLICATION

The Applicants, PALAWAN ELECTRIC COOPERATIVE, INC. ("PALECO") and DELTA P INC. ("Delta P"), by and through the undersigned counsel and unto this Honorable Commission, most respectfully state that:

1. PALECO is an electric cooperative existing under the laws of the Republic of the Philippines, specifically under Presidential Decree No. 269 and duly registered with the Cooperative Development Authority under Registration Number QC-1616-EC-012, with principal office address located at Tiniguiban, Puerto Princesa City, Palawan. It is a holder of a Certificate of Franchise issued by the National Electrification Commission to operate as an electric distribution utility servicing its member-consumers within the Province of Palawan.

1.1. The National Electrification Administration granted PALECO a fifty (50)-year franchise to distribute electric service to its member-consumers in its franchise area covering Puerto Princesa

City, Aborlan, Narra, Brooke's Point, Espanola, Cuyo, Magsaysay, Quezon, Roxas, Taytay, El Nido, Araceli, San Vicente, Batarza, Rizal, Balabac, Cagayancillo, Agutaya, and Dumarán.

2. Delta P is a domestic corporation duly organized and existing pursuant to the laws of the Republic of the Philippines. Its principal place of business is at Kilometer 13, North National Highway, Barangay Sta. Lourdes, Puerto Princesa, Palawan. It may be served with pleadings and court processes through its counsel J. P. Garcia & Associates at Units 1501-1502 Ayala Life-FGU Center, Mindanao Avenue corner Biliran Road, Cebu Business Park, Cebu City.

3. Pursuant to Rule 20 (B) of the ERC Rules of Practice and Procedure, and other pertinent rules and regulations, this *Joint Application* is submitted to this Honorable Commission to approve the Power Supply Agreement ("PSA") executed by and between PALECO and Delta P.

I. Statement Of Facts

4. Delta P is a corporation duly existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Kilometer 13, North National Highway, Barangay Sta. Lourdes, Puerto Princesa, Palawan.

4.1. Copies of pertinent documents evidencing Delta P's due registration and permit to operate as a generation company are attached as follows and made integral parts hereof:

DOCUMENT	ANNEX
Latest Articles of Incorporation and By-Laws	"A"
SEC Certificate of Registration of the Articles of Incorporation	"B"
Generation Information Sheet for 2018	"C"
Latest Audited Financial Statements	"D"

5. On August 8, 2009, PALECO conducted a competitive selection process ("CSP") for the appointment of a New Power Provider ("NPP") that will provide a portion of its present and future power requirements in accordance with the Department of Energy ("DOE") Circular No. 2004-01-001.

6. The CSP concluded with the signing of a Power Supply Agreement on February 6, 2009 for the supply of an Estimated Deliverable Energy of 4,583,333 kWh/month or 55,000,000 kWh/year or a Maximum

Deliverable Energy of 6,000,000 kWh/month or 72,000,000 kWh/year for a Cooperation Period of ten (10) years from Commercial Operations Date (as these capitalized terms are defined in the PSA) (the “Old PSA”). Energy will be transmitted through the PALECO-owned 13.2 kV transmission line with the billing meter located within PALECO’s substation.

6.1. Thus, the Old PSA will end on April 03, 2019.

7. Following the execution of the Old PSA, on April 17, 2009, PALECO and Delta P filed a joint petition with the Honorable Commission for its approval which was docketed as ERC Case no. 2009-025 RC entitled *“In Re: Petition for Approval of the Power Supply Agreement (PSA) and the New Power Provider-True Cost Generation Rate (NPP-TCGR), with Prayer for Provisional Authority, Palawan Electric Cooperative, Inc. (PALECO and Delta P, Inc. (Delta P), Petitioners.”*

8. In support of the application for the approval of the Old PSA, PALECO and Delta P submitted the following documentary evidence:

DOCUMENT	ANNEX
Executive Summary of the Old PSA Relevant Technical and Economic Characteristics of the Generation Capacity; Installed Capacity; Mode of Operation; Dependable Capacity Sources of Funds/Financial Plans Purchase Power Rate Cash Flow	“E”
Procurement Process of Fuel	“F”
ERC Certificate of Compliance	“G”
Environmental Compliance Certificate from the Department of Environment and Natural Resources	“H”
Details of the CSP (as contained in the Petition in ERC Case No. 2009-025 RC)	“I”
Transmission projects or grid connection projects necessary to complement the proposed generation capacity	“J”
Certification of the consistencies and inconsistencies between the proposed generation capacity and the Doe Philippine Development Plant.	“K”
Load Forecast Projects in accordance with the Distribution Development Plan	“L”
Alternative Demand Side Management Program of PALECO	“M”

9. After due notice and hearing, the Old PSA was approved in a November 9, 2009 Decision of the Honorable Commission.

The Entry of the New Supplier.

10. Several years after the approval of the Old PSA, PALECO foresaw a need to secure additional power to cope with the increase in load in its franchise area. Accordingly, PALECO conducted another CSP (the “2nd CSP”) for the appointment of a New Power Provider to provide a Guaranteed Dependable Capacity of 20.0 MW in accordance with the same DOE Circular No. 2004-01-001.

11. The 2nd CSP resulted in the signing of a Power Supply Agreement with Delta P on March 18, 2016, having been declared as the winning bidder of the CSP (the “New PSA”). This time, the capacity is to be made available through the 13.2 kV of PALECO or 69 kV transmission line of the National Power Corporation (“NPC”).

12. Thereafter, on April 29, 2016 PALECO and Delta P filed a Joint Application for the approval of the New PSA with the Honorable Commission which was docketed as ERC Case No. 2016-082 RC and entitled “*In the Matter of the Application for Approval of the Power Supply Agreement Between Palawan Electric Cooperative, Inc. (PALECO) and Delta P Inc. and New Power Provider-True Cost Generation Rate (NPP-TCGR), with Prayer for Provisional Authority, Palawan Electric Cooperative, Inc. (PALECO) and Delta P Inc., Applicants.*”

13. On January 9, 2018, the parties, through their legal counsel, received an Order for Interim Relief, granting provisional authority to the New PSA.

14. At the time of the execution of the Old PSA on February 6, 2009, the parties did not contemplate that another power plant will use the same transmission line, that there will be a need to allocate system loss that will arise and which party shall bear the cost of the system loss. With the execution of the New PSA, even as the same supplier is involved, the parties saw the need to clarify the treatment of the system loss through an Addendum.

***Salient Provision of the Addendum
To the Power Supply Agreements***

15. The Addendum was signed on October 10, 2018 solely for the parties to implement a formula to allocate the system loss resulting from two (2) power plants using the same 13.2 kV transmission line.

16. The formula is as follows:

EOT_t = Energy delivered by Delta P (from the existing plant under the PSA signed on February 6, 2009) to PALECO as indicated in the Billing Meters during each Billing Period t expressed in kWh

$$EOT_t = oDPI_{BM} \times (oDPI_{SM} / (ED_{BM} + oDPI_{SM}))$$

Where:

$oDPI_{BM}$ = Energy delivered by Delta P (from the existing plant under the PSA signed on February 6, 2009) to PALECO as indicated in the Billing Meters during each Billing Period t expressed in kWh

$oDPI_{SM}$ = Energy generated by Delta P (from the existing plant under the PSA signed on February 6, 2009) to PALECO as indicated in the Summation Meter during each Billing Period t expressed in kWh

ED_{BM} = Energy delivered (of the expansion plant under the PSA signed on March 18, 2016) to PALECO as indicated in the Billing Meters during the Billing Month t expressed in kWh

17. Subject to the approval by the Honorable Commission, the parties intend to implement the foregoing formula starting on March 25, 2017, or the time when eDPI first infused energy into the grid.

18. Lastly, all other provisions of the Old PSA and the New PSA that are not inconsistent with the formula shall remain in effect. A copy of the Addendum is attached as *Annex 'N'* and made an integral part hereof.

18.1. As proof of the respective authority of PALECO and Delta P to execute the Addendum and apply for its approval, a copy of the Resolution of PALECO and the Secretary's Certificate of Delta P area attached and made integral part hereof as *Annexes "O" and "O-1"*, respectively.

II. Financial Impact on PALECO's Rates

19. If approved, the Addendum and the formula on the treatment of system loss shall not have any impact on PALECO's rates to its customers. Any system loss resulting from applying the formula shall be paid by the National Power Corporation.

III. Motion for Issuance of Provisional Authority

20. As alleged in paragraph 6.1, the Old PSA shall end on April 03, 2019. For this reason, there is a need to grant provisional authority to the Addendum to keep the Old PSA whole in terms of system loss.

21. However, the effectivity and term of this Addendum is dependent upon a provisional or final authority from this Honorable Commission.

22. Rule 14, Section 3 of the Honorable Commission's Rules of Practice and Procedure allows the issuance of Provisional Authority, even prior to the conduct of a hearing on an application. Thus:

“Section 3. Action on the Motion. – Motions for provisional authority or interim relief may be acted upon with or without hearing. The Commission shall act on the motion on the basis of the allegations of the application or petition and supporting documents and other evidences that applicant or petitioner has submitted and the comments or opposition filed by any interested person, if there be any.”

23. For the foregoing reasons, in the interest of keeping whole the Old PSA, the Applicants jointly seek the indulgence of this Honorable Commission for the issuance of a Provisional Authority for the Addendum.

IV. Compliance with Pre-Filing Requirements

24. The Applicants jointly manifest compliance with the pre-filing requirements under Rule 3, Section 4(e) of the Implementing Rules and Regulations of the EPIRA and Rule 6 of the 2006 ERC Rules of Practice and Procedure, as evidenced by the following documents:

a) Certification issued by the *Sangguniang Panlalawigan* of the Province of Palawan and the *Sangguniang Panlungsod* of the City of Puerto Princesa, attached as *Annexes “P” and “Q”*, respectively;

b) Notarized *Affidavit of Publication* certifying to the publication of this Application in a newspaper of generation circulation within the Franchise Area of PALECO, attached as *Annex “R”*; and

c) A copy of the newspaper where the *Application* was published, attached as *Annex “S”*.

PRAYER

WHEREFORE, in view of the foregoing, it is most respectfully prayed from this Honorable Commission:

1. To IMMEDIATELY HEAR the instant Application;
2. To RESOLVE the Motion for Provisional Authority within seventy-five (75) days from the filing of this Joint Application;
3. To APPROVE with finality the Addendum after due notice and hearing, including the formula for addressing system loss; and
4. Should the Provisional or Final Authority be issued after the expiration of the Old PSA (or after April 03, 2019), that the Honorable Commission authorize Delta P to RECOVER THROUGH THE NEW PSA.

Other reliefs as may be just and equitable under the premises are likewise prayed for.

Cebu City and Puerto Princesa City for Pasig City. December 10, 2018.

J.P. GARCIA AND ASSOCIATES

Counsel for Applicants Delta P Inc. and Palawan Electric Cooperative, Inc.
Units 1501-1502, 15th Floor Ayala Life-FGU Center
Mindanao Avenue cor. Biliran Road
Cebu Business Park, Cebu City
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By:


JOAN A. GIDUQUIO-BARON
Roll of Attorneys No.: 41829

IBP Lifetime Membership No.: 019431; Cebu City
PTR No.: 1434687; 1/4/2018; Cebu City
MCLE Compliance No.: V-0011654; 11/23/2015
E-mail: jbaron@jpgarcialaw.com

VERIFICATION and
CERTIFICATION OF NON-FORUM SHOPPING

Republic of the Philippines)
Taguig City) S.S.

I, **WALDEN H. TANTUICO**, of legal age with business address at GPI Building, 55 Bayani Road, Taguig City, after being duly sworn to in accordance with law hereby depose and say that:

I am the President and Chief Executive Officer of Applicant Delta P Inc.;

I have caused the preparation of this Joint Application;

I have read the contents of the Application and that the same are true and correct to the best of my knowledge and information;

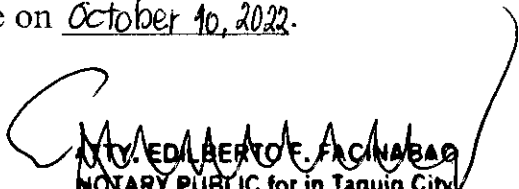
I have not cause commenced any other action or proceeding involving the same issue in the Supreme Court, the Court of Appeals or any agency or tribunal, and to the best of my knowledge, no such action or proceeding is pending in the same entities above-stated. If I should learn that a similar action or proceeding has been filed or pending before said court, agency or tribunal, I undertake to inform this Honorable Commission within 5 days from knowledge thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this
20 DEC 2018 at Taguig City.


WALDEN H. TANTUICO
Affiant

SUBSCRIBED AND SWORN TO before me on the date and place appearing above by the Affiant whom I have identified through his competence evidence of identity and who exhibited to me his Passport No. P4681081A which will expire on October 10, 2022.

Doc. No. 471 ;
Page No. 86 ;
Book No. 544 ;
Series of 2018.


NOTARY PUBLIC for in Taguig City
Until December 31, 2018
IBP O.R. No. 1051199 / 11-15-18
PTR No. A - 32170361 / 01-03-2017
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IBP Roll No. 29548
LC / Bldg. Gen. Luna St., Tuktukan Taguig

VERIFICATION and
CERTIFICATION OF NON-FORUM SHOPPING

Republic of the Philippines)
Puerto Princesa City)s.s.

I, **JEFFREY Y. TAN-EDRIGA**, of legal age and a resident of Puerto Princesa City, after being duly sworn to in accordance with law hereby depose and say that:

I am the Chairman of Palawan Electric Cooperative, Inc.;

I have caused the preparation of this Joint Application;

I have read the contents of the Application and that the same are true and correct to the best of my knowledge and information;


I have not cause commenced any other action or proceeding involving the same issue in the Supreme Court, the Court of Appeals or any agency or tribunal, and to the best of my knowledge, no such action or proceeding is pending in the same entities above-stated. If I should learn that a similar action or proceeding has been filed or pending before said court, agency or tribunal, I undertake to inform this Honorable Commission within 5 days from knowledge thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this
IAN 08 2019 at Puerto Princesa City.


JEFFREY Y. TAN-EDRIGA
Affiant

SUBSCRIBED AND SWORN TO before me on the date and place appearing above by the Affiant whom I have identified through his Passport No. P110224A which will expire on January 12, 2022 .

Doc. No. 362;
Page No. 74 ;
Book No. 403;
Series of 2019.


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PTR NO. 1263148 1/3/19 - PPC
TIN NO. W3-299-352
IBP NO. 044656 6/8/18 PPC
ATTORNEYS ROLL NO. 28094
MCLE COMPLIANCE NO. V-0003143
JULY 28, 2014 - PASIG CITY
VALID UNTIL APRIL 14, 2019