

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE POWER
SALES CONTRACT BETWEEN
SPC ISLAND POWER
CORPORATION (SIPC) AND
ANTIQUE ELECTRIC
COOPERATIVE, INC.
(ANTECO) WITH MOTION
FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2014-114 RC

**SPC ISLAND POWER
CORPORATION (SIPC) AND
ANTIQUE ELECTRIC
COOPERATIVE, INC.
(ANTECO),**

Applicants.

x-----x

D O C K E T E D
Date: NOV 09 2017
By: [Signature]

ORDER

Before the Commission for resolution is the *Ex Parte Manifestation Re: Extension of Power Sales Contract* (Manifestation) filed on 28 July 2017 by Applicants SPC Island Power Corporation (SIPC) and Antique Electric Cooperative, Inc. (ANTECO).

On 06 August 2014, SIPC and ANTECO filed their *Joint Application* for the approval of their Power Sales Contract (PSC).

On 20 October 2014, the Commission issued an *Order* granting provisional authority to Applicants, the dispositive portion of which reads:

WHEREFORE, the foregoing premises considered, the Commission hereby **PROVISIONALLY APPROVES** the Power Sales Contract (PSC) between SPC Island Power

Corporation (SIPC) and Antique Electric Cooperative, Inc. (ANTECO), subject to the following conditions:

1. Approved Base Rate:

| COMPONENT | PhP/kWh |
|--------------|---|
| CRF | 0.9645 |
| Fixed O&M | 0.6023 |
| Variable O&M | 0.6705 |
| Fuel Fee | Pass-through cost to be computed based on fuel consumption rate of 0.2561 li/kWh or actual, whichever is lower. |

2. The CRF and O&M shall not be subject to price or index adjustment for the duration of the contract;
3. The final generation cost that can be recovered shall be determined by the Commission in its final decision in the instant application; and
4. In the event that the rates provisionally approved are found to be higher than the final rates, the amount corresponding to the excess shall be refunded by SIPC to ANTECO and the latter shall pass it on to its customers by crediting the same in their electric bills over a period to be determined by the Commission. On the other hand, if the final rates are higher than the provisional rates, the resulting additional charges shall be collected by SIPC from ANTECO and the latter shall pass it on to its customers.

SO ORDERED.

On 13 October 2015, the Commission issued an *Order* extending the provisional authority granted to the Applicants until the same is revoked or made permanent by the Commission.

On 28 July 2017, SIPC and ANTECO filed the instant *Manifestation*, respectfully stating that:

1. SPC Island Power Corporation (SIPC), as Seller, and ANTECO Electric Cooperative, Inc. (ANTECO), as Buyer, are parties to a Power Sales Contract dated January 28, 2014 ("PSC"), which became effective on December 26, 2014,

pursuant to which the Buyer agreed to buy electric energy from the Seller, and the Seller agreed to deliver such electricity to the Buyer, under the terms and conditions specified therein, and for a term of three (3) years expiring on December 26, 2017.

2. Article 3.2.C and Article 13.1.a of the PSC provides for an extension of the term of the contract “by mutual agreement of the Parties in writing.
3. Resolution No.1 Series of 2016 dated March 15, 2016, of the Energy Regulatory Commission, in particular rule (a) of item no. 3 thereof, provides that:

3. In reference to PSA’s with provisions allowing the automatic renewal or extension of their term, whether or not such renewal or extension requires the intervention of the parties thereto, the following rules shall apply:

(a) PSAs that were approved by the Commission or filed with ERC before the effectivity of this Resolution may have one (1) automatic renewal or extension for a period not exceeding one (1) year from the end of their respective terms.

4. In ERC Case No. 2014-114 RC, the Honorable Commission provisionally approved the PSC on October 20, 2014, which was prior to the effectivity of ERC Resolution No.1, series of 2016, on April 30, 2016.
5. SIPC, as Seller, offered to extend the term of the PSC, under the same terms and conditions of the provisionally approved PSC.
6. After a comprehensive evaluation and deliberation of the economic impact of the offer, ANTECO, as Buyer, accepted SIPC’s offer.
7. Accordingly, SIPC and ANTECO executed a **Supplemental to the Power Sales Contract dated July 11, 2017**, with the following relevant provision:

2.1 Effectivity: This Supplemental Agreement shall take effect on **August 8, 2017 up to the Extended Schedule Termination Date on December 26, 2018.**

An original duplicate copy of the Supplemental to the Power Sales Contract dated July 11, 2017 is attached to the original of this Manifestation.

8. Therefore, SIPC and ANTECO request the Honorable Commission to NOTE their agreement to extend the PSC until December 26, 2018.

A perusal of the instant case reveals that the Applicants' PSC has a term of three (3) years effective on 26 December 2014. Thus, it is set to expire on 26 December 2017.

Relative to the instant *Manifestation*, Articles 3.2 (c) and 13.1 of the Applicants' PSC allows a renewal thereof upon mutual agreement of the parties in writing, to wit:

Article 3.2. **Term.** The term of this Contract shall be for three (3) years to commence from the Agreed Date and end on the Scheduled Termination Date unless the term is extended or adjusted by the following events:

xxx

- (c) an extension of the Term of this Contract mutually agreed by the Parties.

xxx

Article 13.1. **Generally.** This Contract shall terminate on the Scheduled Termination Date unless otherwise extended by mutual agreement of the Parties in writing. xxx

Likewise, in their *Manifestation*, Applicants attached thereto Board Resolution No. 81-17 Series of 2017 of Applicant ANTECO approving the one (1) year extension of its PSC with SIPC, and the Supplement to the Power Sales Contract dated 11 July 2017 containing the agreement of the Applicants to extend the term of their PSC for a period of one year from 26 December 2017 to 26 December 2018.

The Commission finds the attached submissions compliant with the requirements of Articles 3.2 (c) and 13.1 of Applicants' PSC, and the Commission's Resolution No. 01, Series of 2016¹, particularly, the provision governing the renewal and extension of Power Supply Agreements (PSAs):

¹ Entitled, "A Resolution Clarifying the Effectivity of ERC Resolution No. 13, Series of 2015" dated 15 March 2016.

3. In reference to PSAs with provisions allowing the automatic renewal or extension of their term, whether or not such renewal or extension requires the intervention of the parties thereto, the following rules shall apply:

- a. PSAs that were approved by the Commission or filed with the ERC before the effectivity of this Resolution may **have one (1) automatic renewal or extension for a period not exceeding one (1) year from the end of their respective terms;** (Emphasis supplied.)
- b. Automatic renewal clauses or extension of PSAs shall no longer be permitted upon effectivity of this Resolution².

WHEREFORE, the foregoing premises considered, the *Ex Parte Manifestation Re: Extension of Power Sales Contract* filed on 28 July 2017 by Applicants SPC Island Power Corporation (SIPC) and Antique Electric Cooperative, Inc. (ANTECO) is hereby **NOTED**.

ACCORDINGLY, the extension of the term of the Applicants' PSC for a period of one (1) year from 26 December 2017 to 26 December 2018 is hereby **GRANTED**.

(This space is intentionally left blank.)

² Ibid.

Finally, Applicants are **ENJOINED** to observe full compliance with the provisions of the Commission's Resolution No. 01, Series of 2016³.

SO ORDERED.

Pasig City, 15 August 2017.

JOSE VICENTE B. SALAZAR*
Chairman and CEO



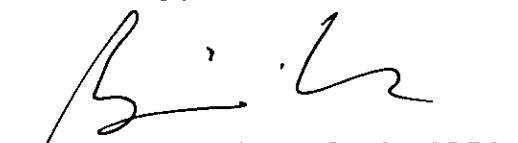
ALFREDO J. NON
Commissioner



GLORIA VICTORIA C. YAP-TARUC
Commissioner



JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner



GERONIMO D. STA. ANA
Commissioner

LS: JHH/LSP/APV

Copy Furnished:

1. ANCHETA & ASSOCIATES
Attn: Atty. REMIGIO MICHAEL A. ANCHETA II
Atty. MISHELLE ANNE R. RUBIO-AGUINALDO
Counsel for Applicants
Suite 2404 Entrata Urban Complex
2609 Civic Drive, Filinvest Corporate City
Alabang, Muntinlupa City 1781
2. Antique Electric Cooperative, Incorporated (ANTECO)
Barangay Funda, San Jose de Buenavista, Antique
3. SPC Island Power Corporation (SIPC)
7F Citibank Center, 8741 Paseo de Roxas,
Makati City

³ Ibid.

* *The Chairman was suspended as per Decision of the Office of the President (OP-DC Case No. 17-D-094) dated 2 August 2017.*