

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
SECOND AMENDMENT TO
THE POWER SUPPLY
AGREEMENT BETWEEN
BANTAYAN ISLAND POWER
CORPORATION (BIPCOR)
AND BANTAYAN ISLAND
ELECTRIC COOPERATIVE,
INC. (BANELCO), WITH
PRAYER FOR PROVISIONAL
AUTHORITY,**

ERC CASE NO. 2017-099 RC

**BANTAYAN ISLAND POWER
CORPORATION (BIPCOR)
AND BANTAYAN ISLAND
ELECTRIC COOPERATIVE,
INC. (BANELCO),**

Applicants.

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DOCKETED
Date: MAY 07 2018
By: [Signature]

ORDER

On 26 October 2017, Bantayan Island Power Corporation (BIPCOR) and Bantayan Island Electric Cooperative, Inc. (BANELCO) filed a *Joint Application* dated 20 August 2017 (Application) seeking the Commission's approval of the second amendment to the power supply agreement between BIPCOR and BANELCO, with prayer for provisional authority.

BIPCOR and BANELCO alleged the following in their *Application*:

1.0 PARTIES

- 1.1 BIPCOR is organized and existing as a private corporation under Philippine laws. It is classified as a generation company under Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA), and it is the only New Power Provider (NPP) in the small island of Bantayan, Province of Cebu. Its

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principal office is at the 4th Floor, Northside Business Hub, G. Lopez Jaena cor. A.P. Cortes St., Tipolo, Mandaue City, Cebu. It may be served with processes and papers through the undersigned counsel.

- 1.2 BANELCO is organized as an electric cooperative under Presidential Decree No. 269 and it exists as such under Philippine laws. It is classified as a distribution utility (DU) under the EPIRA, and it is the sole DU with a franchise and a Certificate of Public Convenience and Necessity to distribute electricity in the island of Bantayan, Cebu. Its principal office is at BANELCO Building, Barangay Bantigue, Bantayan, Cebu. It may be served with processes and papers through the undersigned counsel.

2.0 STATEMENT OF FACTS

2.1 BIPCOR-BANELCO POWER SUPPLY AGREEMENT

- 2.2 On June 11, 2004, BIPCOR and BANELCO executed a Power Supply Agreement (PSA), under which BIPCOR agreed to generate and supply power from its Diesel Power Plant to BANELCO at Net Capacity of 2.7 MW during the first three (3) years of the Cooperation Period as defined in the PSA, and thereafter, to generate and supply the total power requirements of BANELCO (base-load and peak-load demands) after the said 3-year period and throughout the Cooperation Period of 15 years from the Commercial Operations Date. The PSA was submitted to the Energy Regulatory Commission (ERC) for approval in ERC Case No. 2005-036RC, and the ERC approved the PSA with modifications in its Order dated February 15, 2006.

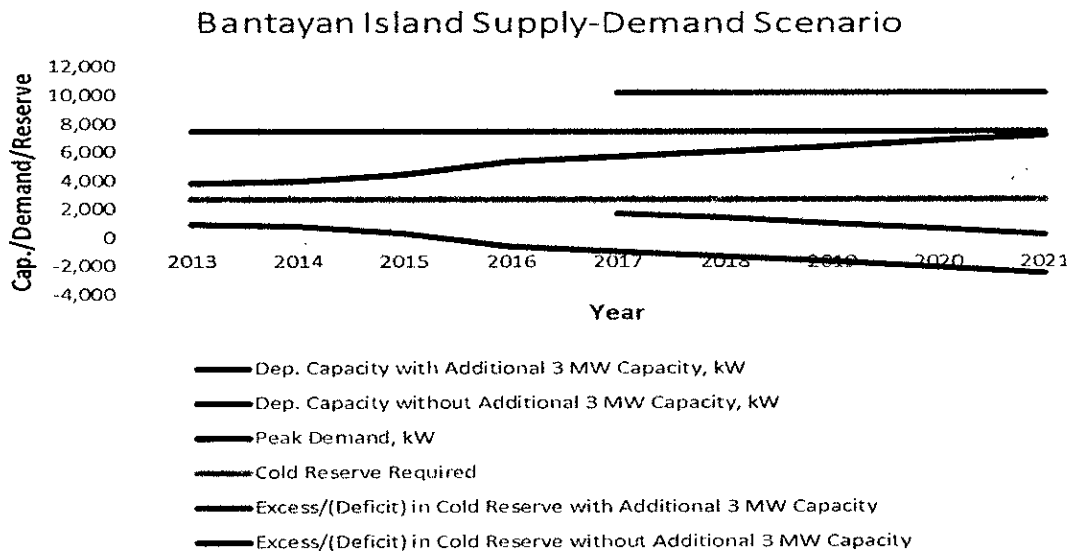
- 2.3 BIPCOR started its commercial operations on November 8, 2006 with base-load operation for its two (2) units of 3.0 MW bunker oil-fired diesel engine generators while NPC-SPUG supplied the peak-load requirements from 2006 to 2009.

- 2.4 Starting July 1, 2009, NPC-SPUG stopped its operation for peak-load requirements and BIPCOR carried the total load demand on a 24-hour basis with the support of the small peaking units of 2 x 319 kW capacities. When the peak demand increased to 3.5 MW in 2011, BANELCO and BIPCOR amended the PSA for the addition of a 1.7 MW diesel engine generator and to increase the Minimum Dependable Capacity (MDC) to 4.892 MW to make the power supply situation in the island stable. The amended PSA was submitted to ERC for approval in ERC Case No. 2012-010RC, and the ERC approved the amended

PSA with modifications in its Order dated April 2, 2012.

2.5 SUPPLY-DEMAND SCENARIO

2.6 In the meantime, the maximum electrical load demand in the island grid of Bantayan has increased and exceeded BANELCO's forecast resulting to an inadequate standby cold reserve capacity and the reduction of the MDC as required by the Grid Code for BIPCOR's existing Diesel Power Plant. This situation could eventually result to BIPCOR's inability to maintain a safe and reliable power supply to all consumers under BANELCO's franchise area. Shown below are the supply-demand curves covering the years 2013 to 2021.



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Dep. Capacity with Additional 3 MW Capacity, kW					10,18	10,188	10,188	10,188	10,188
Dep. Capacity without Additional 3 MW Capacity, kW	7,48	7,48	7,48	7,48	7,488	7,488	7,488	7,488	7,488
Peak Demand, kW	3,811	3,96	4,45	5,40	5,724	6,067	6,431	6,817	7,226
Cold Reserve Required	2,70	2,70	2,70	2,70	2,700	2,700	2,700	2,700	2,700
Excess/(Deficit) in Cold Reserve with Additional 3 MW Capacity					1,764	1,421	1,057	671	262
Excess/(Deficit) in Cold Reserve without Additional 3 MW Capacity	977	828	338	(612)	(936)	(1,279)	(1,643)	(2,029)	(2,438)

2.7 Below is Bantayan Island's historical and forecasted supply-demand scenario:

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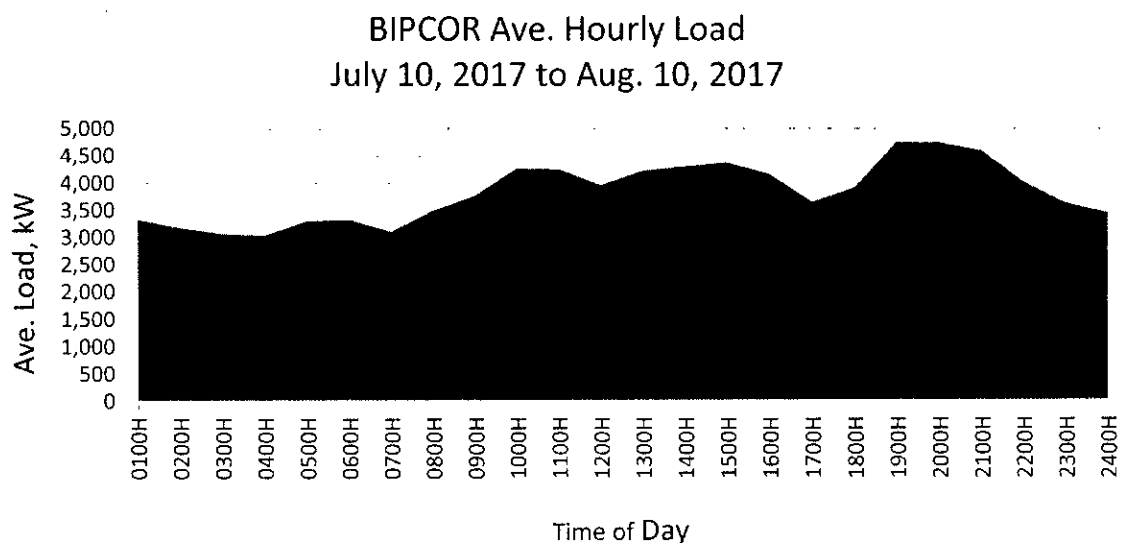
BANTAYAN ISLAND SUPPLY-DEMAND SCENARIO WITHOUT THE ADDITIONAL 3.0 MW

	Historical				Forecasted				
	2013	2014	2015	2016	2017	2018	2019	2020	2021
Peak Demand, kW	3,811	3,960	4,450	5,400	5,724	6,067	6,431	6,817	7,226
Supplier:									
BIPCOR (lone supplier)	7,488	7,488	7,488	7,488	7,488	7,488	7,488	7,488	7,488
Total Supply, kW	7,488	7,488	7,488	7,488	7,488	7,488	7,488	7,488	7,488
Deficit/Surplus, kW	3,677	3,528	3,038	2,088	1,764	1,421	1,057	671	262
Cold Reserve Required, kW	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700
Excess/(Deficit) in Cold Reserve, kW	977	828	338	(612)	(936)	(1,279)	(1,643)	(2,029)	(2,438)

BANTAYAN ISLAND SUPPLY-DEMAND SCENARIO WITH THE ADDITIONAL 3.0 MW

	Historical				Forecasted				
	2013	2014	2015	2016	2017	2018	2019	2020	2021
Peak Demand, kW	3,811	3,960	4,450	5,400	5,724	6,067	6,431	6,817	7,226
Supplier:									
BIPCOR (lone supplier)	7,488	7,488	7,488	7,488	7,488	7,488	7,488	7,488	7,488
Total Supply, kW	7,488	7,488	7,488	7,488	10,188	10,188	10,188	10,188	10,188
Deficit/Surplus, kW	3,677	3,528	3,038	2,088	4,464	4,121	3,757	3,371	2,962
Cold Reserve Required, kW	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700
Excess/(Deficit) in Cold Reserve, kW	977	828	338	(612)	1,764	1,421	1,057	671	262

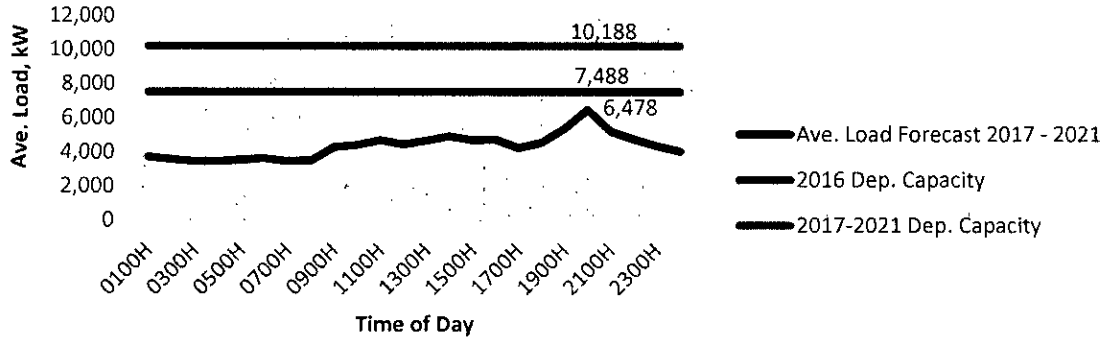
2.8 The average daily load curve is shown below:



*Note: Minimum load demand was 2,950 kW @ 0700H on 10 July 2017
Maximum load demand was 5,350 kW @ 1930H on 09 August 2017*

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**Forecasted Ave. Hourly Load Profile
 2017 to 2021**



	2017	2018	2019	2020	2021
Minimum	3350	3551	3764	3990	4229
Maximum	5850	6201	6573	6967	7385

3.0 EXECUTIVE SUMMARY OF THE SECOND AMENDED PSA

3.1 In view of the observed extraordinary load and energy growths, BANELCO requested, and BIPCOR agreed, to expand the plant capacity. A feasibility study was initiated by BIPCOR which confirmed that a 3.0MW capacity addition is the most appropriate to address the increasing load demand. Thus, BANELCO and BIPCOR entered into the second amendment of the PSA on April 27, 2016.

3.2 The agreement to amend the existing PSA was premised on the right of BANELCO to request for plant capacity addition when it is necessary to cope with the increasing load and energy demands beyond what had been guaranteed pursuant to Article 2, Section 2.7 and Article 8, Section 8.1 of the PSA. It was also taken into consideration that the period for the amended PSA shall be within the Cooperation Period for 15 years.

3.3 BIPCOR'S 3.0 PLANT CAPACITY EXPANSION PROJECT

3.4 BIPCOR's present installed capacity of 8,519 kW with MCR of 7,488 kW only is now operating at a risk during the peak hours when the power demand is at a maximum of 5,300 kilowatts. At this level of power demand, the Plant operates without sufficient cold reserve equivalent to at least an MDC of 2,700 kW. BIPCOR's required MDC is 2,700 kW when any of the 2 x 3.0 MW units are in operation. Presently, however, the cold reserve at peak time is 2,088 kW only, which is short of 612 kilowatts.

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- 3.5 In an island where the Plant is operating as a stand-alone power generating station, the spinning or hot reserve and the cold or standby reserve are to be provided by the Plant itself. The MDC or simply cold reserve should be at least equal in capacity to the biggest unit capacity in operation. This contingency reserve should be ready at all times to start and substitute any of the biggest unit in operation that may conk out or may be shut down for repair and maintenance. Any shortfall in Plant capacity resulting from the breakdown of a unit in operation, which is not being replaced due to the absence or the inadequacy of the cold or contingency reserve, would definitely cause, and has caused, power supply shortage and load-shedding.
- 3.6 Hence, the urgency and the necessity to address any power supply shortfall now and until the next five years justify the immediate implementation of the 3.0-MW Plant Capacity Expansion Project.
- 3.7 DELAY IN PROJECT IMPLEMENTATION
- 3.8 This Project was originally intended to be operational in the second quarter of 2017. However, the delay in the filing of this application deferred the project implementation which caused the recurrent power outages in BANELCO's franchise area. The filing of the application did not materialize in view of BIPCOR's inability to procure its Environmental Compliance Certificate (ECC). This was primarily due to the permanent environmental protection order and writ of continuing mandamus issued by the Regional Trial Court (RTC) of Mandaue City, Branch 28 which enjoined the DENR from accepting, processing, and approving applications of Certificate of Non-Coverage (CNC) and Environmental Compliance Certificate (ECC) upon all constructions and projects pending the completion of the Protected Area Management Plan for Bantayan Island. In deference to the Commission's directive to secure first the ECC before the application will be accepted, BIPCOR exerted all efforts to follow up on the status of the protection orders and continuing mandamus with RTC of Mandaue City, Branch 28. Finally, on August 4, 2017, the Environmental Management Bureau of Region 7 issued the amended ECC for the 3.0MW plant capacity expansion project.
- 3.9 PROCUREMENT PROCESS
- 3.10 In the parties' attempt to comply with ERC rules and regulations relative to the conduct of the Competitive Selection Process (CSP), BIPCOR, in a letter dated September 19, 2016 (attached hereto as Annex L-1),

sought clarification from the Department of Energy (DOE) if the PSA between BIPCOR and BANELCO was covered by the Competitive Selection Process (CSP) raising among other things the following grounds for consideration (1) Bantayan Island is an off-grid area; (2) pursuant to Article 2, Section 6 of the PSA, BANELCO shall, at no cost to BIPCOR, purchase all of its electricity requirement from BIPCOR's Plant on a priority basis throughout the 15-year Cooperation Period; and (3) BIPCOR is the only power provider in the island of Bantayan.

3.11 In its reply-letter dated September 20, 2016 (attached hereto as Annex L), the DOE clarified that it has "recognized BIPCOR as the New Power Provider of BANELCO that will generate and supply the total power requirements (base load and peak load demands, including ancillary services) in Bantayan Island throughout the 15-year cooperation period as provided in their PSA."

3.12 Thus, the PSA between BIPCOR and BANELCO is not covered by the CSP requirement as certified by the DOE.

4.0 SALIENT FEATURES OF THE SECOND AMENDED PSA

4.1 The supply of the contracted energy under the amended PSA shall be subject to the following salient terms and conditions:

4.1.1 Term

The term consists of the twelve-month period commencing on November 8, 2006 and every year thereafter for fifteen (15) years.

4.1.2 Supply

The works called for in this Project shall include the financing, design, procurement, permitting, construction, transport, installation/erection, completion, testing, commissioning, operation and maintenance of the additional 3.0MW engine generator of the existing powerplant.

4.1.3 Capacity

With the additional installed capacity of 3.0 MW, the Net Capacity of the power plant or the maximum dependable capacity shall not be less than 9.6 MW as measured at the high voltage side of the main output transformer at the site

and design conditions provided in Article 4.1 of the First Schedule.

4.1.4 *Guaranteed Annual Energy Delivery and Plant Capacity*

BIPCOR shall guarantee the delivery of the 9.6 MW as minimum Guaranteed Net Capacity of the plant to BANELCO. BIPCOR shall guarantee the delivery of 37,500,000 kilowatt-hours of electricity annually to BANELCO measured at the high voltage side of the main power transformer of the plant.

4.1.5 *Rate Impact*

Rate Impact

With the proposed Tariff Adjustment, an increase of 0.7246 per kWh in the true cost generation rate (TCGR) is expected.

The breakdown of the rate impact, as computed by BIPCOR and BANELCO, respectively, is submitted herewith as Attachment 1 and Attachment 2.

	Existing PSA (without 3.0MW)	2016 Amended PSA (with 3.0MW)	Variance
SAGR	6.2553	6.2553	0.0000
ERC Order No. 2012-010 RC	0.2378	0.2378	0.0000
2017 adjustment (3.0 MW genset)		0.7246	0.7246
AGR	6.4931	7.2177	0.7246
Add: Unimplemented GRAM/ICERA	0.7940	0.7940	0.0000
New Generation Rate	7.2871	8.0117	0.7246
Other Charges	See Attachment 2 (System Loss, DSM, Lifeline Rate and Senior Citizen Subsidy and VAT)		
BANELCO Effective Rate	11.7033	12.5148	0.8115

4.1.6 *Payment*

Details of the payment arrangement between BIPCOR and BANELCO can be found in page 20 of the 2016 Amended PSA.

4.1.7 *Sources of Funds/ Financial Plans; Cash Flow*

Submitted herewith are the following: (a) a discussion on BIPCOR's cash flow, including information related thereto; and (b) a copy of Philippine Veteran's Bank Certification of Long-

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Term Loan including the schedule of Original Loan and Updated Balances.

4.1.8 Operation Mode

The Plant shall continue to be operated twenty-four (24) hours a day following load requirements of BANELCO.

There shall be no minimum power or energy off-take; however, BIPCOR's Plant shall be the **exclusive power supplier** to BANELCO for the whole duration of the Cooperation Period.

4.1.9 Terms of Payment

Energy Fee

For the energy delivered by BIPCOR, BANELCO shall pay BIPCOR an amount based on the Amended Tariff Formula hereunder as approved by ERC in its Decision, ERC Case No. 2012-010 RC dated April 2, 2012:

Energy Fee	=	Energy Tariff x Energy Delivered																																								
Where:																																										
Energy Tariff	=	CCR + Fc + LOc + O&M																																								
or	=	True Cost Generation Rate (TCGR)																																								
CCR	=	Capital Cost Recovery Fee																																								
	=	1.5771 per kWh (as at ...)																																								
		This is the combined weighted average of the New Plant (3.0 MW) and the Existing Plant (8.519 MW). Based on the existing PSA of P0.8035 per kWh and the New Plant of P2.7375 per kWh as computed below:																																								
		<table border="1"> <thead> <tr> <th>Existing Plant</th> <th>Projected kWh Sold</th> <th></th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>P0.8035</td> <td>95,986,000</td> <td></td> <td>77,124,751</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>New Plant</td> <td></td> <td></td> <td></td> </tr> <tr> <td>P2.7375</td> <td>64,000,000</td> <td>=</td> <td>175,200,000</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Combined Plant</td> <td></td> <td></td> <td></td> </tr> <tr> <td>P1.5771</td> <td>146,457,000</td> <td></td> <td>203,729,751</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td>•</td> <td>Weighted Average per kWh</td> </tr> </tbody> </table>	Existing Plant	Projected kWh Sold		Amount	P0.8035	95,986,000		77,124,751					New Plant				P2.7375	64,000,000	=	175,200,000					Combined Plant				P1.5771	146,457,000		203,729,751							•	Weighted Average per kWh
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P1.5771	146,457,000		203,729,751																																							
		•	Weighted Average per kWh																																							

Fc = Fuel Cost Recovery Fee

Actual Fuel Rate = Wtd. Ave. of Fuel Prices Delivered at the Plant site and consumed during the Billing Period using the approved fuel mix of 95% HFO and 5% LFO

Where Fuel rate in liter per kWh is 0.2611 or the actual fuel consumption rate whichever is lower. Prices of fuel oil shall be in Pesos per liter.

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LOc = Lube Oil Cost Recovery Fee

Actual Lube Oil Rate x Weighted Ave. of Lube Oil Prices Delivered at Plant site and consumed during the Billing Period.

Where Lube Oil Rate in liter/kWh shall be 0.0022 or the actual consumption rate whichever is lower.

O&M= Operation & Maintenance Costs Recovery Fee

1.5215 per kWh

This is the combined weighted average of the New Plant (3.0 MW) and the Existing Plant (8.519 MW), based on the existing Amended PSA of P1.2384 per kWh but adjusted to the CPI as of March 2016 which is 146.2 from the CPI as of April 2011 which was 119.

4.1.10 Tariff Adjustment

The energy tariff shall be subjected to adjustment due to inflation but for the O&M Cost Recovery Fee component only starting on the First Billing Period after the Effectivity date of this Amendment PSA. The formula to be applied in computing the adjusted Energy Tariff shall be:

$$\text{Adjusted Energy Tariff} = \text{CCR} + \text{Fc} + \text{LOc} + \text{O\&M} \left(\frac{\text{CPIc}}{\text{CPIo}} \right)$$

Where:

CPIc = Consumer Price Index for Cebu Province published by the Philippine Statistics Authority (PSA) for the month at the date of determination of the Billing Period

CPIo = Consumer Price Index for Cebu Province published by the Philippine Statistics Authority (PSA) for the month upon signing of this Agreement

The agreed Energy Tariff Adjustment is PhP0.7246 per kWh, computed from the forecasted Energy Sales from 2017 to 2021 of 159,986,000 kilowatt-hours with the 3.0-MW New Plant's energy share of 64,000,000 kilowatt-hours (40%) and the existing Plant's energy share of 95,986,000 kilowatt-hours (60%), as shown below:

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PROJECT FEASIBILITY STUDY
INSTALLATION OF ADDITIONAL 3MW BUNKER-FIRED GENERATOR
TARIFF RATE COMPUTATION - COMBINED PLANT

FORMULA :			Proposed	2011		
Energy Tariff = CCR + FC + LOC + O&M			2017 Adjusted Tariff	Amended Tariff	Variance	
Assumptions:						
Capital Cost Recovery (FCR + LCR):						
Computation (Combined Plant):						
1	Existing Plant (Php/kWh)	0.8035				
	New Plant (Php/kWh)	2.7375	CCR	capital cost recovery		
	Combined (Php/kWh)	1.5771	1.5771	0.8035	0.7736	
FC fuel rate x fuel price						
2	Fuel price (Php/Li)	14.00	0.2611 x P14.00	3.6554	3.7044	
	Fuel Consumption Rate:				(0.0490)	
	Existing Plant (Liter/kWh)	0.2646	LOC	lube oil rate x lube oil price		
	New Plant (Liter/kWh)	0.2559	0.0022 x 115	0.2530	0.2530	
	Combined (Liter/kWh)	0.2611			-	
O&M O&M cost						
	Fuel Cost: Existing Plant (Php/kWh)	3.7044	1.5215	1.5215	-	
	New Plant (Php/kWh)	3.5826				
	Combined	3.6554				
			Tariff Rate/kWh (TCGR)	7.0070	6.2824	0.7246
Subsidy Rate:						
(TCGR Based on Old Formula)						
3	Lube oil price (Php/Li)	115.00	FCR = 0.19 x (146.2/87.90)	0.3160	0.3160	
	Lube Oil Consumption Rate:		LCR = 0.28	0.2800	0.2800	
	Existing Plant (Liter/kWh)	0.0022	Fuel = 0.2695 x fuel price			
	New Plant (Liter/kWh)	0.0022	0.2695 x 14.00	3.7730	3.7730	
	Combined (Liter/kWh)	0.0022	O&M 0.98 x (146.2/87.90)	1.6300	1.6300	
Lube Oil Cost:						
	Existing Plant (Php/kWh)	0.2530	Old Tariff Rate/kWh	5.9990	5.9990	
	New Plant (Php/kWh)	0.2530	Less: SAGR	6.2553	6.2553	
	Combined	0.2530	Subsidy Rate/kWh	(0.2563)	(0.2563)	
4	O&M Cost:					
	Existing Plant (Php/kWh)	1.5215	Banelco Rate: (Tariff Rate - Subsidy Rate)	7.0070	6.2824	
	New Plant (Php/kWh)	1.5215			0.7246	
	Combined	1.5215				

4.1.11 Project Cost

Details of the Project Cost are included in this application as Annex W.

4.1.12 Summary Analysis of the Amended PSA

A summary analysis of the impact of the increased electricity infusion as to capacity and cost is as follows:

		Existing PSA	1st Amendment	2nd Amendment
1.	Guaranteed Annual Net Energy	20,000,000 kWh	36,000,000 kWh	37,500,000 kWh
2	Installed Capacity	6.638 MW	8.519 MW	11.519 MW
3.	Dependable Capacity			
	Maximum DC	5.976 MW	7.592 MW	10.188 MW
	Minimum DC	3.276 MW	4.892 MW	7.488 MW
4.	Energy Tariff Formula			
	Foreign Cost Recovery (FCR)	Php0.1900 per kWh	Php0.5227 per kWh	
	Local Cost Recovery (LCR)	Php0.2800 per kWh	Php0.2808 per kWh	
	Capital Cost Recovery (CCR)		Php0.8035 per kWh	Php1.5771 per kWh
	O&M Cost Recovery (O&M)	Php0.9800 per kWh	Php1.2384 per kWh	Php1.5215 per kWh
	Fuel Cost (Fc)		As modified in ERC Order Case No. 2005-036RC	Actual Fuel Rate = Wtd. Ave. of Fuel Prices Delivered at the Plant site and consumed during the Billing Period using the approved fuel mix of 95% HFO and 5% LFO Where fuel rate in liter per kWh is 0.2611 or the actual fuel consumption rate whichever is lower.
	Lube Cost (LOc)		Requested by applicant BIPCOR to be passed-on cost	Actual Lube Oil Rate x Weighted Ave. of Lube Oil Prices delivered at Plant site and consumed during the Billing Period

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5.0 COMPLIANCE

5.1 In support of this Application, BIPCOR and BANELCO respectfully submit the following requirements:

ANNEX	DESCRIPTION
A	Amended Articles of Incorporation and By-Laws of the Generation Company
B	Shareholders' Agreement
C	SEC Certificate of Registration of the Articles of Incorporation
D	List of Shareholders (Latest General Information Sheet)
E	Information relating to Ultimate Parent Company
F	Board of Investment Certificate of Registration
G	Environmental Compliance Certificate
H	Certificate of Compliance
I	Certificate of Endorsement from DOE
J	BANELCO's Certification re: Alternative Demand Side Management Program
K	Load Forecast Projections, Average Daily Load Curve, Supply and Demand Scenario
L	Certification from DOE re: CSP
M	Power Supply Agreement
N	Related Agreements (Sales Agreement and Fuel Supply Agreement)
O	Executive Summary
P	Debt-Equity Ratio
Q	Project Cost
R	Computation on Return on Investment/WACC
S	Certification from Land Bank of the Philippines
T	Life of Asset
U	Derivation of Rates
V	Capital Recovery Fee, Fixed and Variable O&M, and Fuel Fee
W	Breakdown of Project Cost and O&M
X	Sample Computation of Power Rates
Y	Rate Impact Simulation
Z	Basis/Rationale of Indexation
AA	Basis/Rationale of Other Charges
BB	Cash Flow
CC	Sworn Statement on How Fuel was Competitively Procured
DD	All Relevant Technical and Economic Characteristics
EE	Cost Analysis
FF	Latest Audited Financial Statements
GG	Certification of Net Heat Rate
HH	Simulation of the No. of Operating Units to meet MEOT

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6.0 MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

6.1 Pursuant to Section 1, Rule 4 of the ERC Rules of Practice and Procedure, applicants BIPCOR and BANELCO jointly move for the confidential treatment of the following information:

ANNEX	DESCRIPTION
B	Shareholders' Agreement
M	Power Supply Agreement
N	Related Agreements (Sales Agreement and Fuel Supply Agreement)
P	Debt-Equity Ratio
Q	Project Cost
R	Computation on Return on Investment/WACC
S	Certification from Land Bank of the Philippines
T	Life of Asset
CC	Sworn Statement on How Fuel was Competitively Procured (Attachments only)

6.2 These documents contain valuable proprietary interests and information relating to the business and operations of BIPCOR and they are not available to the public. Hence, they must be perpetually protected and not disclosed to any third party.

7.0 PROVISIONAL AUTHORITY

7.1 Applicants replead by reference the foregoing allegation and further aver:

7.2 In view of the urgency of the Project and the length of time to be able to complete its financing, installation, testing, and commissioning, applicants BIPCOR and BANELCO pray for a provisional authority to proceed with the Project and to charge the applied Energy Tariff Adjustment or such tariff that the Commission will allow, subject to the final decision on this Application. Applicants adopt all the allegations herein and all submissions in support of the prayer for a Provisional Authority.

7.3 It is understood that the interim relief sought by the applicants that may be granted by the Commission, shall be subject to adjustments and other conditions that the Commission may impose after hearing and final determination of the Honorable Commission.

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RELIEF

Applicants BIPCOR and BANELCO pray that the Honorable Commission:

- (1) approve this Application;
- (2) grant the applicants Provisional Authority to implement the Project and to charge the corresponding Energy Tariff Adjustment;
- (3) treat Annexes B, M, N, P, Q, R, S, T, and CC as confidential information; and
- (4) grant the applicants other equitable relief.

Finding the said *Application* sufficient in substance with the required fees having been paid, on 14 March 2018, the Commission issued an Order and Notice of Public Hearing, setting the case for hearing on 03 May 2018.

On 19 April 2018, BIPCOR and BANELCO filed an *Urgent Motion to Reset Initial Public Hearing* dated 17 April 2018 (Motion) praying that the 03 May 2018 be reset to another date due to lack of time to publish.

Finding the said Motion in order, the Commission hereby grants the same. Hence, the hearing on 03 May 2018 is cancelled.

Accordingly, the Commission sets anew the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **30 May 2018 (Wednesday) at ten o'clock in the morning (10:00 A.M.), at BANELCO's principal office at BANELCO Building, Barangay Bantigue, Bantayan, Cebu.**

Accordingly, Applicants are hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;

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- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected areas for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon the consumers within the affected area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public 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 at the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission their written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing, consisting of the affidavits of the Editor or Business Manager of the newspapers where the said Notice of Public Hearing was published, and the complete issue of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing, consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of the other means employed by Applicants to inform of the filing of the *Application*, its reasons therefore,

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and of the scheduled hearing thereon, the consumers within the affected franchise area;

- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing, by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicants and all interested parties are also required to submit, at least five (5) days before the date of initial 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 therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicants to comply with the above requirement within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

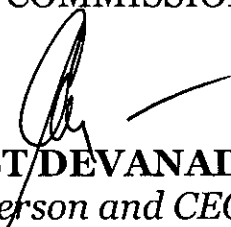
(This space is intentionally left blank.)

BIPCOR and BANELCO must also be prepared to make an expository presentation of the instant *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, what the *Application* is all about and the reasons and justifications being cited in support thereof.

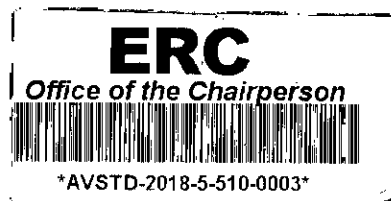
SO ORDERED.

Pasig City, 23 April 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST/DEVANADERA
Chairperson and CEO

LS: KJP/ARG/APV



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COPY FURNISHED:

1. Bantayan Island Power Corporation (BIPCOR)
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2. Ancheta & Associates
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Mishelle Anne R. Rubio-Aguinaldo
Counsel for Applicant BIPCOR
Suite 2404 Entrata Urban Complex
2609 Civic Drive, Filinvest Corporate City
Alabang, Muntinlupa City 1781
3. Bantayan Island Electric Cooperative, Inc. (BANELCO)
Applicant
BANELCO Building, Barangay Bantigue, Bantayan, Cebu
4. A.C. Gaviola Law Office
Attention: Attys. ALAN C. GAVIOLA and
ALAN BYRNE S. GAVIOLA
Counsel for Applicant BANELCO
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5. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
6. Commission on Audit
Commonwealth Avenue
Quezon City, Metro Manila
7. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
Metro Manila
8. House Committee on Energy
Batasan Hills, Quezon City, Metro Manila
9. Office of the Provincial Governor
Province of Cebu
10. Office of the Sangguniang Panlalawigan
Province of Cebu
11. Office of the Municipal Mayor
Bantayan, Cebu
12. Office of the Sangguniang Bayan
Bantayan, Cebu
13. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
14. Regulatory Operations Service
Energy Regulatory Commission
17th Floor, Pacific Center Building,
San Miguel Avenue, Ortigas Center 1600, Pasig City

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