

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



IN THE MATTER OF THE APPLICATION FOR AUTHORIZATION TO PROVIDE ELECTRICITY SERVICE IN BARANGAYS CANDAWAGA AND CULASIAN, RIZAL, PALAWAN AS QUALIFIED THIRD PARTY (QTP) AND FOR ISSUANCE OF THE CORRESPONDING AUTHORITY TO OPERATE (ATO) AND FOR APPROVAL OF THE QTP SERVICE AND SUBSIDY CONTRACT (QSSC) WITH NATIONAL POWER CORPORATION (NPC), WITH PRAYER FOR ISSUANCE OF A PROVISIONAL AUTHORITY (PA)

ERC CASE NO. 2015-200 RC

POWERSOURCE PHILIPPINES, INC.,

Applicant.

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DOCKETED
Date: **JUN 08 2018**
By: _____

ORDER

Before this Commission for resolution is the motion for the issuance of an interim relief prayed for in the *Application* filed by PowerSource Philippines, Inc. (PSPI) on 11 November 2015, and reiterated in its *Manifestation with Urgent Motion* (Urgent Motion) filed on 10 August 2017, for authorization to provide electricity service in Barangays Candawaga and Culasian, Rizal, Palawan as a Qualified Third Party (QTP), with request for the issuance of the corresponding Authority to Operate (ATO), and for approval of the QTP Service and Subsidy Contract (QSSC) with the National Power Corporation (NPC).

In its *Application*, the Applicant alleged the following:

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28. Under Rule 14 of the Honorable Commission's Rules of Practice and Procedure authorizes the issuance of a provisional authority and/or an interim relief prior to a final decision, provided that the facts and circumstances warrant the issuance of the same.

29. In the Applicant's case, it must be noted that the Provisional Authority is necessary for the execution of the agreement between the NPC and Applicant which will embody the seamless phase-in of Applicant's operation, and the eventual phase-out of NPC's generating function, in the QTP Area.

30. Furthermore, the Provisional Authority will be submitted by the Applicant to its prospective lenders as a requirement for the grant of loans necessary to finance the project.

31. Moreover, it must be emphasized that the Applicant has already secured offers from third parties for the lease of the rights to the generation and distribution facilities for the project. Applicant is, therefore, constrained to request for the issuance of the Provisional Authority before the expiration of the aforesaid offers.

32. In the matter of Interim Relief, Applicant is seeking to collect a lower rate through the Subsidized Approved Retail Rate (SARR) instead of the Full Cost Recovery Rate (FCRR) as ordered by the ERC in consideration of the limited paying capacity of its consumers. Please note that the electrification of the QTP Service Area will not be possible if consumers were charged at true cost.

33. Finally, the success of this project with the regulatory imprimatur of this Honorable Commission will pave the way for further investment by the Applicant in additional projects designed to spur economic growth in remote and unviable areas through the provision of 24-hour, reliable electricity service. Applicant's interests in other project sites will very much depend upon the success of the present Application, particularly on the availment of the necessary subsidy support under the QTP program. With such support, Applicant looks forward to replicating the success of this project in other areas.

PRAYER

WHEREFORE, in view of the foregoing, it is most respectfully prayed that at the soonest possible time, this Honorable Commission grant Applicant provisional relief and interim relief as follows:

1. Applicant be granted Authority to Operate as a Qualified Third Party under the ERC QTP Guidelines;

2. A Provisional Authority to Operate in the QTP Area be immediately issued in favor of the Applicant pending ERC Resolution.
3. The QTP Service Contract, including the Full Cost Recovery Rate therein, be approved;
4. Applicant be authorized to charge its customers a tariff equivalent to the ERC-approved retail rate of PALECO, in accordance with Section II, Article IV of the ERC QTP Guidelines; and
5. Applicant be permitted to recover from the UC-ME Subsidy the difference between the FCRR and rate charged by Applicant to its consumers; and to this end, NPC be directed to release to Applicant such subsidy in accordance with the terms of the QTP Service Contract.

In the *Urgent Motion*, Applicant alleged the following:

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7. The Applicant seeks the Honorable Commission's benevolence in understanding the urgency of this Application which has yet to be resolved 18 months after the filing with no provisional authority issued, leaving the residents of Barangays Candawaga and Culasian still in darkness. Applicant respectfully draws the Commission's attention once again to the resolution adopted by the Sangguniang Barangay of Candawaga, Rizal Palawan begging the ERC to immediately resolve the application and allow them access to reliable electricity service at subsidized rates.

8. Applicant has diligently filed all the necessary submissions, compliances and recently an Urgent Motion for Resolution that prompted the conduct of a clarificatory hearing on 20 July 2017.

9. On 6 June 2017, Palawan Electric Cooperative (PALECO), through its Chairman Jeffrey Y. Tan-Endriga, wrote a letter addressed to the Commission (also attached to the Urgent Motion) imploring for the issuance of the Final Authority on behalf of the residents in the area to allow them to enjoy the same service given by the Applicant to the residents of Barangay Liminangcong, Taytay, Palawan.

10. Based on the foregoing exigent circumstances, the Applicant, with the support of other government agencies such as the Department of Energy, National Power Corporation and National Electrification Administration, is now constrained to heed the appeal of the Provincial Government of Palawan and Palawan Electric Cooperative, to respond to the need of residents in Barangays Candawaga and Culasian for 24/7 access to electricity by immediately taking over the provision of electricity in the area while waiting for the resolution of the

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application which is uncertain and which non-issuance prejudices the nearly 1,000 residents of a community largely dependent on farming and fishing for their livelihood.

11. Now more than ever, the Applicant begs the Honorable Commission's grant of an INTERIM RELIEF issuing the Applicant an Authority to Operate in the QTP Service Area and allow the residents access to a subsidized electricity rate in the meantime that Applicant is also simultaneously obtaining all other permits and licenses from the ERC, DOE, DENR and all other government agencies which are necessary to implement the immediate take-over.

12. The instant application is similar to ERC Case No. 2015-208 RC also filed by Applicant as QTP in Barangay Liminangcong, Taytay, Palawan, where the Commission issued a Provisional Authority on 23 August 2016.

13. Barangay Liminangcong has about 700 households while the instant application covers 2 barangays – Candawaga and Culasian – hence with slightly higher number of households or reaching nearly 1,000; both communities comprise of farmers and fishermen with very limited commercial establishments; both located far from the PALECO grid and cannot be connected within at least the next ten (10) years hence the waiver of electricity service in said areas; both are in dire need of reasonably-priced electric power since electricity service had been provided by the Barangay Power Association (BAPA) and private electric power operators with their own generator sets which also cannot provide 24/7 electricity service.

14. Moreover, both utilize purely diesel generator sets, which would be on a leasing arrangement with a third party provider, with similar projected capital and operation and maintenance expenses due to the use of same technology, with variances being accounted for in terms of size and geographical nuances and the like.

15. In the case of Barangay Lminangcong, Applicant was also constrained to immediately provide electricity service due to the clamor from residents which was recognized by the Commission leading to the issuance of a PA as follows:

Particulars	Rate
CRF (Php/kWh)	9.37
Fixed Operation and Maintenance Cost (Php/kWh)	8.63
Variable Operation and Maintenance Cost (Php/kWh)	1.59
Fuel Cost	Pass-through cost based on actual fuel price and actual fuel consumption subject to the approved fuel efficiency cap or actual fuel consumption rate, whichever is lower.

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16. Similarly, the Honorable Commission provisionally approved a Subsidized Approved Retail Rate of Php9.12/kWh based on the retail rate of PALECO in the QTP Service Area in accordance with the ERC QTP Guidelines.

17. Considering the similar nature of the instant application with ERC 2015-208 RC (which has been granted a PA), Applicant respectfully seeks the Honorable Commission's grant of the prayer in this Urgent Motion.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission to IMMEDIATELY RESOLVE the Application (1) granting the Applicant the Authority to Operate as Qualified Third Party in Barangays Candawaga and Culasian, Municipality of Rizal, Palawan (2) approving the QTP Service and Subsidy Contract between the Applicant and the National Power Corporation, as well as the Full Cost Recovery Rate, Subsidized Approved Retail Rate and adjustment mechanisms indicated therein, and (3) in the event the FCRR is higher than the SARR, the approval to recover the difference from the UCME.

Alternatively, if the Final Approval cannot be granted swiftly by the Honorable Commission for any reason, then Applicant urgently prays for the issuance of an INTERIM RELIEF allowing Applicant to immediately commence operations in the QTP Service Area and charge the customers a provisional rate benchmarked to the latest PA issued by the ERC in ERC Case No. 2015-208 RC with the FCRR and SARR indicated therein, which if granted shall be effective until a Decision rendered by the Honorable Commission in the instant case becomes final and executory.

Other reliefs just and equitable, under the premises are likewise prayed for.

The Commission, having found the said *Application* to be sufficient in form and substance with the required fees having been paid, issued an *Order* and a *Notice of Public Hearing*, both dated 09 February 2016, setting the case for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on 15 March 2016.

In the 15 March 2016 hearing, only the Applicant PSPI appeared. There was neither Intervenor nor Oppositor who appeared at the hearing.

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On 07 April 2016, PSPI filed its *Compliance* with the Commission's directive to submit additional documents.

On 15 November 2016, PSPI filed its *Formal Offer of Evidence* (FOE) dated 11 November 2016.

ISSUE

The issue for the Commission's resolution is whether or not PSPI is entitled to the grant of interim relief.

COMMISSION'S RULING

I. THE COMMISSION IS AUTHORIZED TO GRANT INTERIM RELIEF IN THE INSTANT CASE.


Sections 2 and 3, Rule 14 of the Commission's 2006 Rules of Practice and Procedure (ERC Rules) provide that the Commission may act upon Motions seeking interim relief, to wit:

Section 2. Allegations in Support of the Motion and Supporting Documents - The motion must be accompanied by supporting affidavits and documents, and must allege such facts and circumstances as would justify the Commission's exercise of discretion by granting provisional authority or interim relief prior to a final decision.

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. (Emphasis supplied.)

Further, in the case of *Freedom from Debt Coalition (FDC) vs. Energy Regulatory Commission (ERC)*,¹ the Supreme Court traced the source of the Commission's power to grant temporary relief in applications, petitions or complaints filed before it, to wit:

¹ G.R. No. 161113, 15 June 2004



Similarly, Sections 8 and 14 of E.O. No. 172 of the ERB Charter continue to be in full force by virtue of Sections 44 and 80 of the EPIRA. Said provisions of the ERB charter read:

SEC. 8. Authority to Grant Provisional Relief. – The Board may, upon the filing of an application, petition or complaint or at any stage thereafter and without prior hearing, on the basis of the supporting papers duly verified or authenticated, **grant provisional relief on motion of a party in the case or on its own initiative**, without prejudice to a final decision after hearing, should the Board find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support of the provisional order;

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SEC. 14. Applicability Clause. The applicable provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Service Act"; Republic Act No. 6173, as amended, otherwise known as the "Oil Industry Commission Act"; Republic Act No. 6395, as amended, revising the charter of the National Power Corporation under C. A. 120; Presidential Decree No. 269, as amended, also referred to as the "National Electrification Administration Decree"; and Presidential Decree No. 1206, as amended, creating the Department of Energy, shall continue to have full force and effect, except insofar as inconsistent with this Order.

(Emphasis ours.)

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Considering the foregoing, the Commission has the authority to issue interim relief as prayed for in the *Urgent Motion*.

II. THE APPLICANT HAS SATISFIED THE SUBSTANTIAL REQUIREMENTS FOR THE GRANT OF INTERIM RELIEF.

More importantly, the Commission looked into the alleged necessity in the grant of interim relief to implement Applicant's ATO, as prayed for in its *Urgent Motion*. After initial review thereof, the Commission determined the need therefor based on the following allegations of the Applicant:

- The instant *Application* was filed on 12 November 2015, followed by the conduct of a public hearing in Brgy. Candawaga, Rizal, Palawan, on 15 March 2016. In accordance with the ERC Rules, a Compliance and Formal Offer of Evidence were submitted to the Honorable Commission on 16 April 2016 and 15 November 2016, respectively. No Provisional Authority has been issued by the Commission.
- On 27 June 2017, Applicant filed a “Supplement to the Urgent Motion for Resolution” to include the 15 June 2017 letter of National Electrification Administrator Edgardo Masongsong addressed to ERC, noting the government’s recognition of the private sector’s role in achieving the goal of total electrification in the country.
- In compliance with the clarificatory meeting on 20 July 2017, the Applicant submitted the following:
 - Application for Certificate of Non-Coverage (CNC)²;
 - Indicative Terms and Conditions of the loan to be secured from United Coconut Planters Bank (UCPB)³; and
 - Proposed rental agreements issued by Hastings Motor Corporation with respect to the generator set units⁴.
- The Applicant seeks the Honorable Commission’s benevolence in understanding the urgency of this *Application* which has yet to be resolved 18 months after the filing with no Provisional Authority issued, leaving the residents of Brgys. Candawaga and Culasian still in darkness.
- Based on foregoing exigent circumstances, the Applicant, with the support of other government agencies such as the Department of Energy (DOE), National Power Corporation (NPC) and the National Electrification Administration (NEA), is now constrained to heed the appeal of PALECO, to respond to the need of residents in Brgys. Candawaga and Culasian for a 24/7 access to electricity which non- issuance prejudices the nearly 1,000 residents of a community largely dependent on fishing for their livelihood.

² Annex “A” of “Manifestation with Urgent Motion”

³ Annex “B” of “Manifestation with Urgent Motion”

⁴ Annex “C” of “Manifestation with Urgent Motion”

- The instant *Application* is similar to ERC Case No. 2015-208 RC also filed by Applicant as QTP in Brgy. Liminangcong, Taytay, Palawan, where the Commission issued a Provisional Authority on 23 August 2016.
- Finally, the Applicant begs the Honorable Commission's grant of an Interim Relief issuing the Applicant the authority to operate in the QTP Service Area and allow the residents access to a subsidized electricity rate in the meantime that Applicant is also simultaneously obtaining all other permits and licenses from the ERC, DOE, DENR, and all other government agencies which are necessary to implement the immediate take-over.

DISCUSSION

1. The QTP Service Area

Barangays Candawaga and Culasian, both located in the Municipality of Rizal in the Province of Palawan (the QTP Service Area) are remote and unviable areas within the franchise area of Palawan Electric Cooperative, Inc. (PALECO).

The QTP Service Area is located approximately 230 kilometers southwest from Puerto Princesa City, about 5-6 hours land trip. From Rizal's town center, Barangays Candawaga and Culasian are accessible via a gravel road with an approximate distance of 22 kms.

There is a Barangay Power Association (BAPA) located in Sitio Sicud, Candawaga and is operating a 1x100 kVA diesel genset 5-hours daily from 6pm -11pm. While in Culasian, it was once a KEPCO recipient in the O'Ilaw Program of the government. The power plant is no longer operating since 2009 due to financial reasons (high fuel costs and low collection efficiency).⁵

Prior to PSPI's entry in the QTP Service Area, based on actual survey conducted by PSPI staff, the average monthly electricity expense of residents in Barangay Candawaga is approximately PhP378.20 while the average monthly electricity

⁵ Paragraph 14.2 of Application

expense of residents in Barangay Culasian is approximately PhP1,084.24.

Based on extensive house-to-house customer load surveys and projected small loads of electricity on off-peak hours which will likely be experienced in the early years of Project Development, PSPI will install a very modular, flexible and highly redundant diesel generating plant based on 2 units of small high speed gensets, 1 x 48 kW and 1 x 80 kW on the first year of operation. This ensures modest capital cost a maximum operating flexibility in the early years of operation.

PSPI's project is aimed to be a realization of the goal of the QTP program to stimulate economic progress in remote and unviable areas through electrification. The beneficial impact of stable and reliable electricity service to the economy of the local community in the QTP Service Area as well as the daily lives of the consumers cannot be overstated.

1.1. Declaration of QTP Service Area/PALECO's Waiver of Service

In Board Resolution No. 1, Series of 2005⁶ dated 10 January 2005, PALECO temporarily waived its franchise to operate in Balut Island covering Barangays Port Barton, Poblacion, Sta. Teresita, Funda, Caburian, Balading, Manamoc, Liminangcong, Candawaga, Mangsee, New Guinlo, and New Ibajay in favor of a Qualified Third Party (QTP). As a result of the Board Resolution, a Memorandum of Agreement⁷ between the Provincial government of Palawan and PSPI was signed on 23 February 2013, and a Waiver Agreement⁸ between PALECO and PSPI was signed on 1 October 2014.

1.2. Salient Features of the Project and the QSSC

Generation Facilities⁹

Diesel Gensets
- 1 x 48kW
- 1 x 80kW
- 1 x 140kW (PSPI may add this on the 3rd year as the island load increases)

⁶ Annex 'K' of Application

⁷ Annex "J" of Application

⁸ Annex 'L' of Application

⁹ Annex 'U' of Application

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Net Dependable Capacity¹⁰ 121.6kW (90% of the Installed Capacity)

Project Cost¹¹ PhP23,191,392.00

Distribution System Applicant will rehabilitate and upgrade the existing distribution network in Rizal. Applicant will also plan for an expansion of the existing grid based on the high load growth potential. For the term of the Project, PSPI will strive to maintain on the average 11% system loss. The O&M of the distribution system, as well as billing and collection, will be performed by the Applicant. This fee is incorporated as a flat rate in the Full Cost Recovery Rate. Distribution System Components (Schedule 3 of QSSC):

- 2 x 300kVA Substation
- 3-phase distribution lines with step-down transformers
- serving approximately 998 households

Term¹² This Contract shall have a term (the "Term") commencing on the Effective Date and expiring on the date when the earlier of the following events occur:

- a. The last day of the fifteenth (15th) year of the Commercial Operations Period; or
- b. Termination of this Contract pursuant to Section 9 of this Contract.

¹⁰ Annex 'U' of Application

¹¹ Annex 'N' of Application

¹² Section 3.2 of QSSC

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Availment of UC-ME Subsidy¹³ - The QSSC provides the terms and conditions governing PSPI's availment of the UC-ME Subsidy. For the provision of electricity service, PSPI shall charge and collect from its end users the SARR. Should the FCRR be higher than the SARR, PSPI shall be entitled to recover the difference from the UC-ME Subsidy through the mechanism provided in the QSSC.

Purchased Power Rate¹⁴ - The Full Cost Recovery Rate ("FCRR") consists of a levelized base rate of **PhP34.08/kWh**, which shall be automatically adjusted for each billing period based on Philippine and US consumer price indices as well as actual fuel costs, in accordance with the adjustment mechanisms in the QSSC. Pursuant with the ERC QTP Guidelines, PSPI shall charge and collect from the end-users' SARR. Should the FCRR be higher than the SARR, PSPI shall be entitled to recover the difference from the UC-ME Subsidy.

Projected Demand¹⁵ - Considering the nature of the project, there is no minimum energy off-take, as the sale of power is based on actual energy consumed by each end-user consumer. The FCRR is determined based on an assumed annual increase in actual energy demand of four percent (4%). The following table shows the projected demand of Brgys. Candawaga and Culasian, Rizal, Palawan for 15 years:

Years	Projected Energy Sales (kWh)	Years	Projected Energy Sales (kWh)
1	368,563.5	9	886,918.1
2	673,984.8	10	922,394.8
3	700,944.2	11	959,290.6
4	728,982.0	12	997,662.2
5	758,141.3	13	1,034,977.1
6	788,466.9	14	1,072,064.4
7	820,005.6	15	1,108,677.7
8	852,805.8		

A survey study was commissioned by PSPI on the QTP Service Area. The results of the survey were considered and used as the assumption for the load demand and load growth in the Financial Model¹⁶.

¹³ Section 6 of QSSC

¹⁴ Schedule 4 of QSSC

¹⁵ Annex "S" of Application

¹⁶ Annex "T" of Application

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Procurement of Fuel. PSPI is sourcing and will source its future diesel fuel supply from potential suppliers willing to deliver fuel to the site. PSPI will procure fuel from the least expensive supplier should additional suppliers become available.

Indexation. The O&M is annually adjusted based on the following formulas¹⁷:

$$\text{Fixed O\&M} = \frac{\sum_{n=1}^{15} \frac{\text{Fixed O\&M}_n}{\text{kWh Sales}_n}}{15 \text{ years}} * \frac{\text{FOREX}_{\text{adj}}}{\text{FOREX}_{\text{base}}} * \left(\frac{\text{CPI Index}_{\text{adj}}}{\text{CPI Index}_{\text{base}}} \right)$$

Where:

Fixed O&M = Fixed costs referring to staffing, insurance, land lease, travel and representation expenses, and fixed lease fees, among others for the respective year, n.

kWh Sales_n = kWh Sales for the respective year, n.

FOREX_{adj} = ratio of PhP to USD exchange rate as published by the BSP on the meter reading date.

FOREX_{base} = ratio of PhP and USD exchange rate, PhP44.00/USD 1.00 as indicated in the assumptions of this Schedule 4.

CPI Index_{adj} = Consumer Price Index for all items posted by the BSP in which the Billing period starts.

CPI Index_{base} = Consumer Price Index for all items posted by the BSP as of 30 August 2014, as indicated in the assumptions of this Schedule 4.

Variable O&M = Local Variable O&M + Foreign Variable O&M

$$\text{Local Variable O\&M} = \frac{\sum_{n=1}^{15} \frac{\text{Variable O\&M}}{\text{kWh Sales}_n}}{15 \text{ years}} * \left(\frac{\text{PH CPI Index}_{\text{adj}}}{\text{PH CPI Index}_{\text{base}}} \right)$$

$$\text{Foreign Variable O\&M} = \frac{\sum_{n=1}^{15} \frac{\text{Variable O\&M}}{\text{kWh Sales}_n}}{15 \text{ years}} * \frac{\text{FOREX}_{\text{adj}}}{\text{FOREX}_{\text{base}}} * \left(\frac{\text{US CPI Index}_{\text{adj}}}{\text{US CPI Index}_{\text{base}}} \right)$$

¹⁷ Schedule 4-C and 4-D of QSSC.

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Where:

Variable O&M = Variable costs referring to lubes, spares, local taxes variable rental rates, ER1-94, and variable components of lease fees, among others for the respective year, n.

kWh Sales_n = kWh Sales for the respective year, n.

FOREX_{adj} = ratio of PhP to USD exchange rate as published by the BSP on the meter reading date.

FOREX_{base} = ratio of PhP and USD exchange rate, PhP44.00/USD 1.00 as indicated in the assumptions of this Schedule 4.

CPI Index_{adj} = Consumer Price Index for all items posted by the BSP in which the Billing period starts.

CPI Index_{base} = Consumer Price Index for all items posted by the BSP as of 30 August 2014, as indicated in the assumptions of this Schedule 4.

US CPI Index_{adj} = Consumer Price Index for all items posted by the Bureau of Labor Statistics in which the Billing period starts.

US CPI Index_{base} = Consumer Price Index for all items posted by the Bureau of Labor Statistics as of 30 August 2014, as indicated in the assumptions of this Schedule 4.

1.3. Government Permits

The following Government Documents were issued in relation to the *Application*:

- a. Department of Energy (DOE) issued Certificate of Endorsement (CoE) No. 2015-006 dated 17 December 2015; and

- b. Department of Environment and Natural Resources (DENR) issued Certificate of Non-Coverage (CNC) No. CNC-OL-R4B-2017-09-00377 dated 25 September 2017.¹⁸

2. COMMISSION'S DERIVATION OF THE SELLING RATE

Based on the allegations above, the Commission deems it necessary to issue *Interim Relief*. It must also be considered that applicant is to operate on a 24-hour level as compared to that of the current 5 hour operation (6PM-11PM)¹⁹.

The Commission considered the following rate components in determining the reasonableness of the proposed rates as the same were derived based on a calculation of the expected cost of generation, transmission and distribution.

- a) **Capital Recovery Fee** - a capital related element that will allow the PSPI to recover the cost of its investment over the life of the plant together with a reasonable rate of return;
- b) **O&M Fee** - a component to recover operating and maintenance costs. The power plant O & M cost is commonly composed of local and foreign costs, where the local O&M cost represents locally denominated plant operating cost such as salaries, wages, overhead and technical expenses, while foreign O&M cost represents maintenance of spare parts, supplies, and all other cost associated with the said parts that are usually imported.
- **Fixed O&M** - a component to recover fixed operating and maintenance (O&M) costs. This cost is determined by the capacity of the plant, not the level of utilization.
 - **Variable O&M** - an element to recover variable O&M costs. These non-fuel costs will vary with the amount of electricity generated.
- c) **Fuel Fee** - a component to recover fuel cost subject to efficiency cap.

¹⁸ "Compliance" dated 3 October 2017, follow-up to "Manifestation with Urgent Motion dated 27 June 2017.

¹⁹ Paragraph 14.2 of Application

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In its *Application*, PSPI proposed a total of PhP37.14/kWh Full Cost Recovery Rate broken down as follows:

Particulars	PhP/kWh
Capital Recovery Fee	6.0303
Fixed Operation and Maintenance	8.3404
Variable Operation and Maintenance	1.8117
Fuel Cost	17.8964
Full Cost Recovery Rate (FCRR)	34.0788

The Commission evaluated the reasonableness of the proposed rates based on the documents and information submitted by PSPI. The following sections discuss the Commission's evaluation.

2.1. Capital Recovery Fee (CRF)

The CRF is intended to recover the cost to build the facilities that are needed to provide the capacity and supply the energy to PSPI plus a reasonable return.

PSPI proposed a CRF rate of PhP6.0303/kWh using the Discounted Cash Flow method. The following are the parameters examined by the Commission in calculating the CRF.

2.1.1. Project Cost

PSPI proposed a total project cost of PhP23,191,392.00 with the following breakdown²⁰:

Particulars	Amount (PhP)
Generation	5,157,517.57
Transmission and Distribution	5,751,693.89
General & Administrative, Shipment, and Start-up Inventories	1,219,821.43
Project Management and Construction	3,470,000.00
Soft Costs	6,808,108.66
Contingency (3.5%)	784,249.95
TOTAL PROJECT COST	23,191,392.00

²⁰ Annex "N" of Application

The Commission noted the following on the project cost components:

- a. Generation** – This refers to costs related to the development and construction of the power generation plant. It is comprised mainly of labor and material for the site development, balance of plant, powerhouse, fuel tanks, switchgear, control systems, substation, power lines, and other equipment or items necessary to build a generation plant. This does not include the cost of the diesel generator sets, since those are rented from a third party company.
- b. Transmission and Distribution** – This refers to the costs of upgrading and extension of the transmission and distribution system within the QTP service area.
- c. G&A, and Start-up Inventories** – These pertain to costs attributable to establishing the plant office and other administrative requirements needed for the plant office.
- d. Project Management and Construction** – These cover costs on engineering, design & construction, construction management costs for producing services of an owner’s engineer.
- e. Soft Costs** – These include VAT, initial working capital, financing costs and other costs required for the start-up of the plant such as, 1-week fuel supply, and spare parts inventory.
- f. Contingency** – The Applicant’s provision for contingency is 3.5% of the project cost allocated for cost overruns during development and construction, which is consistent with the Commission’s approved contingency rate from a previous case²¹.

The Commission believes that the following items that should be removed in the project cost:

Particulars (Soft Costs)	Amount (PhP)
1-Week fuel	131,793.04
VAT on Soft Costs	1,983,221.24
Total	2,115,014.28

²¹ ERC Case No. 2014-032 RC: In the Matter of the Application for Approval of the Power Purchase and Transfer Agreement between Agugn Del Sur Electric Cooperative, Inc and Peak Power San Francisco, Inc: with Prayer for Issuance of A Provisional Authority. Decision dated 09 July 2015.

While items pertaining to initial working capital were excluded in the capitalized project cost, the Commission, consistent with previous approval, computed for a return on two months working capital (levelized operation and maintenance expense).

Interest during construction and loan fees are adjusted as both are calculated based on the debt ratio of the total project cost. Both are further reduced with the adjustment of the Cost of Debt from 9.50% to 6.00%.²² Shown in the following table are the parameters and the amount after the adjustment:

	Amount		
	Proposed	Adjusted	Variance
Parameters			
Total Project Cost	23,194,392.00	20,634,089.00	2,560,303.00
Debt Amount (67% Debt Ratio)	15,460,927.67	13,756,059.15	1,704,868.52
Interest Rate	9.5%	6.00%	3.5%
Soft Costs			
Interest During Construction	734,394.06	412,681.77	321,712.29
Loan Fees	309,218.55	275,121.18	34,097.37

Contingency costs equivalent to 3.5% of the project was based on total project cost, hence excluding the above also resulted in a decrease in this item. With this, the project cost determined by the Commission only amounts to **PhP20,634,088.73**. The following table shows the comparison between the proposed amounts and the Commission's calculation:

Particulars	PSPI	COMMISSION	Variance
Generation	5,157,517.57	5,157,517.57	-
Transmission and Distribution	5,751,693.89	5,751,693.89	-
G&A, Shipment, and Start-up Inventories	1,219,821.43	1,219,821.43	-
Project Management and Construction	3,470,000.00	3,470,000.00	-
Soft Costs	6,808,108.66	4,337,284.72	2,470,823.94
Contingency (3.5%)	784,249.95	697,771.12	86,478.84
TOTAL PROJECT COST	23,191,391.50	20,634,088.73	2,557,302.77

2.1.2. Weighted Average Cost of Capital (WACC)

PSPI's project is to be funded by loans and equity at a capital structure of 67:33 with a return of 14.00% for its capital

²² Annex "B" of Manifestation with Urgent Motion (10 August 2017)

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contribution. The Commission adopted the cost of equity of 12.23% which was adopted for agreements entered into by CY 2015.

The following discussion will provide the details of the derivation of the cost of debt and cost of equity.

Cost of Debt

PSPI proposed a cost of debt of 9.50% for its debt amount of 67% of the total project cost (equivalent to PhP13,824,839.45 of the recommended total project cost). As of 10 August 2017, PSPI submitted the indicative term sheet provided to them by UCPB, which offers a debt amount of up to 70% of the total project cost and a cost of debt of 6.00% p.a.

Cost of Equity

PSPI proposed a 14% Cost of Equity. Using the Cost of Debt of 9.5% and the debt-equity ratio of 67:33 yields to a WACC of 11.08%.

However, with the submission of the indicative term sheet which shows a 6% Cost of Debt, the adjusted WACC is at 8.67%²³

The Commission noted that the QSSC was signed in 2015, thus it was deemed appropriate to calculate the Cost of Equity using the latest parameters/estimates.

The Commission used the following parameters, to wit:

$$r_e = r_f + \text{Beta}_e \times \text{MRP}$$

Where:

r_e = nominal cost of equity

r_f = risk free rate for the Philippines

Beta_e = equity beta for benchmark generation company

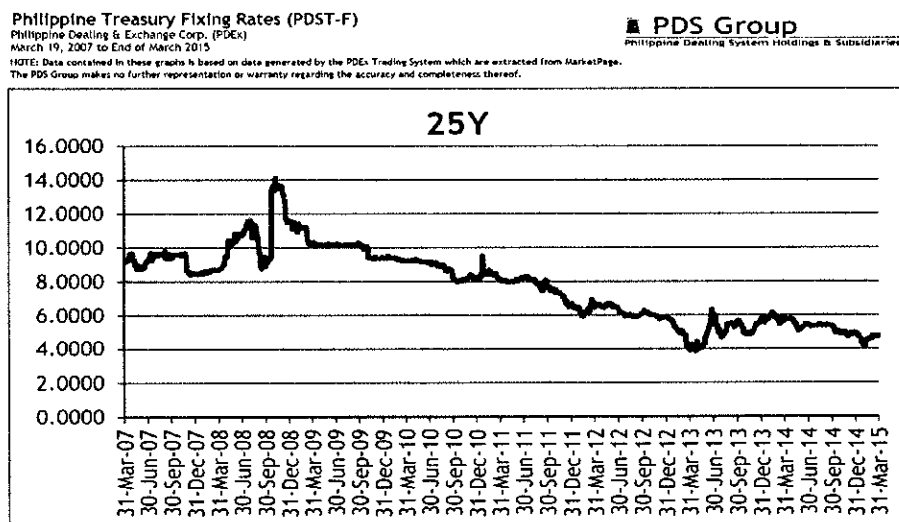
MRP = Market Risk Premium (MRP)

²³ Proposed WACC was calculated without the 30% Corporate Tax

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The Commission sourced an independent measure of Philippines' Country Risk Premium (CRP) provided by Professor Aswath Damodaran of New York University, Stern. He updates his estimates annually and based on the data published in 2015, the Philippines was estimated to have a CRP of 2.85% and Total Risk Premium of 8.60% based on a default spread of 190 basis points and a country rating by Moody's of Baa2. The Total Risk Premium of 8.60% is equal to the estimated Default Spread plus the historical risk premium for a mature equity market (estimated from historical US data). Thus, COMMISSION adopted a Market Risk Premium of **8.60%**.

From 5.27% risk free rate (r_f) which was benchmarked on the PDST-F²⁴, the Commission used an updated risk free rate (r_f) of **3.63%** for CY 2015 which is based on published government securities yield rates CY 2000-2015 by Bureau of Treasury (www.treasury.gov.ph). It is a reasonable risk free rate based on the graph trend published by the Philippine Treasury Fixing Rates (PDST-F).



The Commission adopts a beta of 1.0 which is consistent with its previous rulings. The Commission takes note that there were cases decided by the Commission using a beta of 1.03²⁵.

In view of the foregoing, the Commission derived an adjusted Cost of Equity of 12.23%, to wit:

²⁴ PDST-F or Philippine Dealing System Treasury Fixing Rates pursuant to the Bankers Association of the Philippines (BAP) Memo dated 08 January 2015, publication of PDST-F ceased on 01 April 2015.

²⁵ ERC Case Nos. 2015-132RC (LUELCO-TMHEC); 2013-134RC (CEPALCO-MINERGY); 2014-164RC (ANECO-TSI); 2014-108RC (CEBECO II-PCPC); 2011-138 (SOCOTECO II-SEC)

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Particular	Values
Market Risk Premium	8.60%
Multiply By Relevered Beta	1.0
Equals	8.60%
Plus Risk – Free Rate	3.63%
Cost of Equity	12.23%

Summarized below is the comparison between PSPI's proposed WACC and Commission's calculated WACC:

Particulars	PSPI²⁶	COMMISSION
Debt		
Pre-Tax Cost of Debt	6.00%	6.00%
Post-Tax Cost of Debt	-	4.20%
Weight of Debt	67.00%	67.00%
	4.00%	2.80%
Equity		
Cost of Equity	14.00%	12.23%
Weight of Equity	33.00%	33.00%
	4.67%	4.04%
WACC (post-tax)	-	6.88%
WACC (pre-tax)	8.67%	9.82%

The WACC is in effect the hurdle rate a prospective generator will look at before investing in a new plant. The opportunity of earning an appropriate return on investment is a question of setting an appropriate level for the cost of capital.

2.1.3. Billing Determinant

The Commission adopted PSPI's projected kWh sales for the whole cooperation period. Applicant alleged that its projected demand is based on an annual increase of 4%. In average, the billing determinant is at **751,983.50kWh**.

2.1.4. Terminal Value

The Commission considers the range of 5% to 10% as a reasonable provision for Terminal Value. This will depend on a

²⁶ Proposed WACC calculation did not factor in the Tax as shown in Annex "O" of Application

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number of factors like, specific company policy on Terminal Value, the economic useful life adopted by the Commission in calculating the CRF, among others.

Considering that the Applicant planned to operate the plant at its full lifespan of 15 years, the Commission adopted the **five percent (5%) terminal value** for calculating the CRF.

2.1.5. Derivation of the CRF

Using the Levelized Cost of Energy (LCOE) method, the Commission calculated a CRF rate of **PhP3.9619/kWh** using the parameters as shown in the following table:

Particular	Amount
Recommended Project Cost, PhP	20,634,088.73
Terminal Value (5% of Project Cost at), PhP	1,031,704.44
Life of the Asset in Years	15
Pre-Tax WACC	9.82%
A/P	0.1302
A/F	0.0319
Annualized Value of the Project Cost, PhP	2,685,614.80
Less: Annualized Value of the Terminal Value, PhP	32,928.06
Add: Return on Working Capital, PhP	326,580.21
Annual Capital Recovery, PhP	3,012,195.01
Billing Determinant, kWh	751,983.50
CRF, PhP/kWh	3.9619

Shown in the table below is the comparison between the proposed and the calculated CRFs:

PSPI	COMMISSION	Variance
6.0303	3.9619	(2.0684)

In view of the foregoing, the Commission approves the CRF rate at **PhP3.9619/kWh**.

2.2. Operation and Maintenance Expense (O&M)

Operation and Maintenance (O&M) costs are the recurring expenses which are related to the operation of a business or to the operation of the power plant facilities.

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Based on the PSPI's tariff structure, they proposed a fixed O&M of PhP8.3404/kWh and a variable O&M of PhP1.8117/kWh. Upon perusal of PSPI's financial model, the Commission noted the following:

The Fixed O&M composed of the following components²⁷:

FOM Components	Amount (PhP)
Personnel	767,165.00
Contribution to Central OH	1,895,122.00
Insurance and Real Property Tax	285,181.00
Land Lease	180,000.00
Travel	600,000.00
Representation & Entertainment	504,000.00
General & Administrative	240,000.00
Fixed Rental Rate	1,331,532.00
Total Annual FOM Cost	5,803,000.00

The breakdown of the fixed O&M is denominated in US Dollars and Applicant used a conversion rate of US\$1.00=PhP44.00.

The Commission noted the following on the cost components:

- a. Personnel** – Projected annual cost of employees' salaries on the plant site.
- b. Contribution to Central OH** – Budget allocated for head office expenses such as employees' salaries, rent, utilities, etc.
- c. Insurance and Real Property Tax** – Budgeted for insurance and real property tax to be paid for the project.
- d. Land Lease** – Annual lease payment for the land area being used for the project.
- e. Travel** – Includes expenses for land, sea, and air transportation including travels within and outside Candawaga and Culasian.
- f. Representation & Entertainment** – Budget allocated to hotel & accommodation expenses for guests and visitors (e.g. regulators, gov't employees, investors, etc.).

²⁷ Annex "R-2" of Application

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- g. General & Administrative** – Budget for the plant's G&A costs which include the site office, minor plant works (i.e. repainting, repairs, etc.) and supplies for the plant and plant office.
- h. Fixed Rental Rate** – Annual fixed rental fee for the diesel generators.
- i. Provincial Government of Palawan (PGP) Lease Fee** – A separate Fixed O&M cost agreed upon in the Memorandum of Agreement (MOA) between PGP and PSPI, wherein the amount of the Lease Fee shall be One Peso per kWh (PhP1.00/kWh) on the Net Power Output of PSPI in each project area but in no case shall the Lease Fee exceed PhP20,000/month.

In computing the O&M rates, PSPI projected the total O&M for the cooperation of 15 years divided by the projected kWh sales and then averaged the resulting rate thereof.

The Variable O&M composed of local taxes (2% of revenue), ER1-94 (PhPo.01/kWh), and the variable rental fee amounting to PhPo.86/kWh.

The PGP, Local Taxes and the ER1-94, are not subject to any form of indexation, thus will be classified as the Pass-through rate.

Items such as the Representation & Entertainment, amounting to PhP420,000.00, must not be allowed in the FOM as it does not contribute to the annual operation of the plant.

The above rates are subject to periodic adjustment based on the formula²⁸ provided in the QSSC. The Commission will adapt the indexation formula for the O&M except for the pass through rates.

Based on the foregoing, the Commission approves a FOM rate of **PhP7.0396 /kWh**, VOM rate of **PhPo.6500/kWh**, and Pass-through rate of **PhPo.9389/kWh**.

²⁸ Schedule 4 of QSSC

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The Commission also compared the proposed O&M rates versus the Commission's previous approval for other cases where PSPI also serves as a QTP. The following table shows the comparison with the Total O&M arranged in descending order:

Case No.	Applicants w/ PSPI	FOM	VOM	Pass-Through	Total O&M	Remarks
2008-065 RC	Rio Tuba	8.0991	12.9801	-	21.0792	Decided
2015-208 RC	Liminangcong	8.6300	1.59000	-	10.22	P.A.
2015-200 RC	Rizal	7.0396	0.6500	0.9389	8.6285	
2013-223 RC	Malapascua	5.4565	0.7777	-	6.2342	P.A.

As can be gleaned from the table above, the proposed O&M rate for Rizal is within the range of approved rates for the other similar cases which involves PSPI.

2.3. Fuel Cost

Applicant's FCRR included a rate of PhP17.8964 /kWh for the fuel cost. Same with the O&M, PSPI derived said rate by computing for the total fuel expense for the 15-year period dividing the same with the kWh sales and getting the average of the result. The said computation utilized an optimization of the genset capacity and projected demand and used a fuel cost of PhP50.00/liter.

Based on previous approvals, the Commission does not specifically approve of a base fuel rate subject to adjustment, instead fuel cost is a full pass-through cost based on actual fuel prices and consumption subject to fuel efficiency cap or actual consumption rates, whichever is lower. Hence, the Commission is of the position that the fuel cost of PhP17.8964 /kWh should be removed from the FCRR and the fuel cost be computed based on the pass-through methodology.

In its *Application*, PSPI proposed a Specific Fuel Consumption Rate (SFCR)²⁹ as follows:

Average Load % per month	Specific Fuel Consumption Rate (liters/kwh)
≤25%	0.340
≤50%	0.315
≤75%	0.295

²⁹ Annex 'P' of Application

≤100%	0.285
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In the Commission's decisions for ERC Case No. 2008-065RC (QTP for Rio-Tuba) and ERC Case No. 2015-106 RC (QTP for Sabang), the approved fuel efficiency cap is at 0.3430 liter/kWh and at 0.3027 liter/kWh, respectively. Considering that the above proposed fuel consumption rate is within the range of said approvals, the Commission adopts the same.

2.4. Subsidized Approved Retail Rate (SARR)

Consistent with Section 2, Article IV of ERC Resolution 22, Series of 2006 "A Resolution Promulgating the Rules for the Regulation of Qualified Third Parties Performing Missionary Electrification in Areas Declared Unviable by the Department of Energy" the SARR to be charged shall be as follows:

*"Section 2. Rules for Setting the Subsidized Approved Retail Rate (SARR) – NPC-SPUG shall file an application with ERC for the setting of the maximum retail rate which customers should pay for electricity in QTP Service Areas
xxx*

Pending ERC Approval of the NPC-SPUG Application, the SARR for a particular QTP Service Area shall be the ERC-approved and existing retail rate of the waiving DU."

Under the *Application*, the Applicant alleged that in the absence of the ERC-approved SARR, the tariff to be charged by Applicant shall be the ERC-approved retail rate of PALECO which amounts to PhP8.50/kWh.

However, upon checking the latest Uniform Reportorial Requirement (URR) filed by PALECO for December 2017, the effective rate for residential customers of PALECO amounts to **PhP9.9082/kWh**, the Commission approves this rate to be adopted as the SARR.

The following table shows the charges for residential customers as submitted under the December 2017 URR:

Particulars	Unit	PhP
Generation Energy Charge	PhP/kWh	6.0972
Transmission Charges	PhP/kWh	
System Loss Charge	PhP/kWh	0.7713
Distribution Energy Charge	PhP/kWh	0.9500
Supply Energy Charge	PhP/kWh	0.4751
Metering Energy Charge	PhP/kWh	0.3952
Metering Retail Customer Charge	PhP/Customer/Month	5.0000
Loan Condonation	PhP/kWh	(0.0731)
Lifeline Subsidy Charge	PhP/kWh	0.1184
Sr. Citizen Subsidy Charge	PhP/kWh	0.0019
Reinvestment Fund/MCC	PhP/kWh	0.2819
UC-Missionary Electrification	PhP/kWh	0.1561
UC-Environmental Charge	PhP/kWh	0.0025
UC - NPC Stranded Contract Cost	PhP/kWh	-
FIT Allowance	PhP/kWh	-
VAT on Generation	PhP/kWh	0.7317

2.5. Subsidy and Rate Impact

For purposes of estimating the subsidy requirement of PSPI, the Commission adopted the rates above and the fuel cost computed by PSPI. The following table shows the simulation of the approved rate as opposed to the proposed rates:

Particulars	Proposed	Approved	(Decrease) Increase
CRF	6.0303	3.9619	(2.0684)
Fixed O&M	8.3404	7.0396	(1.3008)
Variable O&M	1.8117	0.6500	(1.1617)
Pass-through O&M	-	0.9389	0.9389
Fuel Cost	17.8964	17.8964	-
FCRR	34.0788	30.4868	(3.5920)
SARR	8.5000	9.9082	1.4082
Subsidy	25.5788	20.5786	(5.0002)

As can be gleaned from the table above, the approved FCRR is lower by PhP3.5920/kWh, while the SARR is higher by PhP1.4082/kWh, with the net effect of a decrease in required estimated subsidy of PhP5.0002/kWh.

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WHEREFORE, the foregoing premises considered, the *Application* of PowerSource Philippines, Inc. to implement its Authority to Operate (ATO) as Qualified Third Party (QTP) in Candawaga and Culasian, Rizal, Palawan and its QTP Service and Subsidy Contract (QSSC) with National Power Corporation (NPC), is hereby **GRANTED INTERIM RELIEF** subject to the following conditions:

- a. Applicable rates (Full Cost Recovery Rate):

Particulars	Rate
CRF (PhP/kWh)	3.9619
FOM (PhP/kWh)	7.0396
VOM (PhP/kWh)	0.6500
Pass-Through (PhP/kWh)	0.9389
Fuel Cost	Pass-through cost based on actual fuel price and actual fuel consumption subject to the approved fuel efficiency cap or actual fuel consumption rate whichever is lower

- b. The Pass-through rate, which comprised the PGP, Local Taxes, and the ER1-94 is not subject to any form of indexation;
- c. The pass-through fuel cost be subject to the actual fuel consumption rate or the Specific Fuel Consumption Rate (SFCR) shown in the table below, whichever is lower:

Average Load % per month	Specific Fuel Consumption Rate (liters/kwh)
≤25%	0.340
≤50%	0.315
≤75%	0.295
≤100%	0.285

- d. The Subsidized Approved Retail Rate (SARR) to be charged to PSPI's end-user amounts to PhP9.9082/kWh;
- e. PSPI is allowed to recover the subsidy from the ERC-approved Universal Charge-Missionary Electrification (UC-ME) based on the petition filed by the National Power Corporation-Small Power Utilities Group (NPC-SPUG) and as set forth under the amended Guidelines for the Setting

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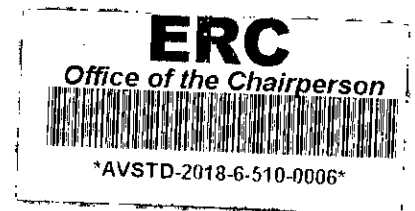
and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas promulgated on 22 August 2011. Accordingly, NPC-SPUG is directed to pay PSPI the difference between the Full Cost Recovery Rate (FCRR) and the SARR;


- f. The final cost that can be recovered shall be determined by the Commission in its Decision in the instant *Application*;
- g. In the event that the final rate is higher than that provisionally granted, the resulting additional charges shall be collected by PSPI from NPC/PSPI end-consumers. On the other hand, if the final rate is lower than that provisionally granted, the amount corresponding to the reduction shall be refunded by PSPI to NPC/ PSPI end-consumers; and
- h. PSPI is directed to submit, after seven (7) years, a revised tariff scheme and a proposed revised Subsidized and Approved Retail Rate (SARR).

SO ORDERED.

Pasig City, 11 April 2018.


AGNES VST DEVANADERA
Chairperson and CEO




ALFREDO J NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


GERONIMO D. STA. ANA
Commissioner


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