

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



IN THE MATTER OF THE
APPLICATION FOR APPROVAL
OF THE POWER SUPPLY
AGREEMENT (PSA) BETWEEN
VISAYAN ELECTRIC COMPANY,
INCORPORATED (VECO) AND
SOUTHWEST LUZON POWER
GENERATION CORPORATION
(SLPGC), WITH MOTIONS FOR
ISSUANCE OF PROVISIONAL
AUTHORITY AND CONFIDENTIAL
TREATMENT OF INFORMATION

ERC CASE NO.2015-137 RC

VISAYAN ELECTRIC COMPANY,
INCORPORATED (VECO) AND
SOUTHWEST LUZON POWER
GENERATION CORPORATION
(SLPGC),

Applicants.

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DOCKETED
Date: SEP 24 2015
By: *W*

ORDER

On July 20, 2015, Visayan Electric Company, Incorporated (VECO) and Southwest Luzon Power Generation Corporation (SLPGC) filed an application for approval of their Power Supply Agreement (PSA), with motions for issuance of provisional authority and confidential treatment of information.

In the said application, VECO and SLPGC alleged, among others, that:

The Applicants

1. VECO is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal business address at J. Panis Street, Banilad, Cebu City. It is the duly authorized distribution

utility of the electric light, heat and power systems in the Municipalities of San Fernando, Minglanilla, Consolacion and Lilo-an and the Cities of Naga, Talisay, Cebu and Mandaue, all in the Province of Cebu (Franchise Area), pursuant to its franchise under Republic Act No. 9339;

2. SLPGC is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Balayan, Batangas. It owns and operates a 2 x 150 MW coal-fired power plant located at Calaca, Batangas (the Plant);

Nature of the Application

3. The application for approval of the PSA dated April 13, 2015, as amended on June 22 2015 between them, is being submitted to the Commission pursuant to Rule 20(B) of the ERC Rules of Practice and Procedure and other pertinent rules and regulations;

Statement of Facts

4. Previously, VECO sourced 120 MW or about thirty percent (30%) of its electricity requirements from the National Power Corporation (NPC)/Power Sector Assets and Liabilities Management Corporation (PSALM) under a Contract for Supply of Electric Energy (CSEE). On December 25, 2014, the said CSEE expired, and was not extended, leaving VECO with a supply deficit of 120 MW subsequent to the expiration thereof;
5. In fulfilment of its responsibility to provide secure and reliable supply to its end-users within the Franchise Area, VECO solicited offers from various generation suppliers, including 1590EC, SLPGC, Vivant Energy Corporation (VEC), Aboitiz Energy Solutions, Incorporated (AESI), Trans-Asia Power Generation Corporation (TA-OIL), Unified Leyte Geothermal Energy, Incorporated (ULGEI), and Cebu Energy Development Corporation (CEDC) to address its electricity requirements. Consequently, power supply agreements with AESI, ULGEI and VEC resulted with these companies offering supply at one hundred percent (100%) load factor. Since its baseload requirements are potentially covered by supply from

AESI, ULGEI and VEC, VECO considered mid-merit and/or peaking plants to supply the remainder of its un-contracted electricity requirements;

6. While negotiations with SLPGC were being conducted, VECO, likewise, entered into an Interim Power Supply Agreement (IPSA) with 1590EC for a term of six (6) months from January 2015 or until June 25, 2015. This was to address its peaking requirement and to bridge the supply gap until SLPGC comes online;
7. On April 13, 2015 negotiations between them culminated in the execution of the PSA for the supply of 50 MW contracted capacity for a period of three (3) years;
8. They re-negotiated the above-mentioned PSA and, on June 22, 2015, executed the Amended PSA wherein they undertook, among others, to include in the application a motion for the issuance of a provisional authority by the Commission;
9. Under the foregoing circumstances, they now come before the Commission to apply for approval of the PSA, as amended, which has been entered into with due consideration of the best interests of the customers of VECO;

Salient Terms of the PSA

10. **Term.** The PSA has a Cooperation Period of three (3) years commencing on the *Start of Supply of Electricity* and ending on the third (3rd) anniversary thereof but not later than June 25, 2018¹;
11. **Contracted Capacity.** SLPGC shall supply and deliver 50 MW to VECO within the Cooperation Period with minimum monthly contracted energy set forth in Schedule

¹ Article 1 in relation to Article 3.2.1 of the Amended PSA:

"The obligation of SELLER to supply electricity in accordance with this Agreement shall commence at the start of the Billing Month immediately following the Commercial Operation Date or the date of issuance of the ERC Provisional Authority, whichever comes later."

1 of the PSA, to be delivered at the Delivery Point indicated in Schedule 2. In case of Force Majeure, neither party shall incur any delay or be liable for non-performance of its obligations under the PSA;

12. **Outages.** The supply obligation of SLPGC shall be subject to an outage allowance of 1,080 hours or forty-five (45) days per Contract Year (Allowable Outage). During the Allowable Outage, VECO has the obligation to source replacement power at no cost to SLPGC. Beyond the Allowable Outage, SLPGC has the obligation to source replacement power which shall be for its account;
13. **Electricity Fees.** The Electricity Fees shall be as follows:

Monthly Electricity Fees:

$$MP = FCP + FOMP + VOMP + EP + SSCP + VAT$$

Where:

MP = Monthly Payment, PhP
= the total amount payable by VECO to SLPGC for the Billing Month

Composed of:

A. Fixed Capacity Payment, FCP

$$FCP = FCF \times CC \times HA$$

Where:

FCP = FCF x CC x HA

FCF = PhP2.0519/kW/h

CC = Contracted Capacity, kW
= the 50,000 kW capacity reserved by SLPGC for VECO

HA = the total number of hours where SLPGC is available to supply to VECO all or part of the Contracted Capacity, h

= $24h \times (D_M - O_m - FM_M)$

Where:

D_M = the total number of calendar days for the Billing Month

O_M = the total number of days during the Billing Month where SLPGC utilized the Allowable Outage computed as per Schedule 5

FM_M = the total number of days during the Billing Month affected by a Force Majeure event computed as per Schedule 5

B. Fixed O&M Payment, FOMP

$FOMP = FOMF \times CPIA \times CC \times (24h \times D_M)$

Where:

FOMF = Fixed O&M Fee
= 0.6035 PhP/kW/h

CPIA = Philippine Consumer Price Index (CPI) Adjustment
= CPI_a / CPI_o

CPI_a = Philippine CPI for the immediate calendar month prior to the Billing Month

CPI_o = Base Philippine CPI
= 140.5 (December 2014 reference)

CC = as previously defined

D_M = as previously defined

C. Variable O&M Payment, VOMP

$$VOMP = VOMF \times CPIA \times TDQ$$

Where:

VOMF = Variable O&M Fee
= PhP0.2948/kWh

CPIA = as previously defined

TDQ = Total Declared Quantity
= Equal to the total declared energy by SLPGC to VECO for the Billing Month, kWh. If the TDQ is less than the Contracted Energy for the Billing Month, the Contracted Energy will be used in place of the TDQ

D. Energy Payment, EP

$$EP = (CCFA + CTFA) \times TDQ$$

Where:

CCFA = Coal Commodity Fee with Adjustment, PhP/kWh

CTFA = Coal Transport Fee with Adjustment, PhP/kWh

TDQ = as previously defined

i. Coal Commodity Fee Adjustment, CCFA

$$\text{CCFA} = \text{CCF} \times \text{ICIA}$$

Where:

CCF = Coal Commodity Fee
= PhP1.4840/kWh

ICIA = Indonesian CPI (ICI) Adjustment
= ICla/IClo

ICla = ICI of the immediate calendar month prior to
the Billing Month, US\$/MT

IClo = Base ICI
= 67.28 US\$/MT (December 2014 reference)

ii. Coal Transport Fee Adjustment, CTFA

$$\text{CTFA} = \text{CTF} \times [(40\% \times \text{MOPA}) + (15\% \times \text{MWRA}) + (45\% \times \text{CPIA})]$$

Where:

CTF = Coal Transport Fee
= PhP0.2310/kWh

MOPA = Mean of Platts Singapore (MOPS) Index
Adjustment
= MOPa/MOPo

MOPa = the MOPS Diesel Oil (0.25% Sulfur Content)
Index for the calendar month immediately
preceding the relevant Billing Month, US\$/bbl

MOPo = Base MOPS Diesel Oil (0.25% Sulfur
Content) Index
= 76.583 US\$/bbl (December 2014 reference)

MWRA = the Minimum Wage Rate (MWR)
Adjustment
= MWR_a/MWR_o

MWR_a = the applicable MWR for the National Capital
Region during the Billing Month, PhP/day

MWR_o = Base MWR
= PhP466.0/day

CPIA = as previously defined

**E. Start-Stop Costs Payment, SSCP (*Applicable only
within Allowable Outage*)**

$$SSCP = SDC + SUC$$

Where:

SDC = passed-through Shutdown Costs, PhP

SUC = passed-through Start-up Costs, PhP

i. Shutdown Costs, SDC

$$SDC = [HFOV_{SD} \times HFOP] + (LFOV_{SD} \times LFOP)] \times (CC/NPC)$$

Where:

HFOV_{SD} = the volume of heavy fuel oil consumed to
facilitate ramping down until such time that
the Unit is completely offline, Li

HFOP = the price of heavy fuel oil, based on the most
recent Invoice prior to usage, PhP/Li

LFOV_{SD} = the volume of light fuel oil consumed to
facilitate ramping down until such time that
the Unit is completely offline, Li

LFOP = the price of light fuel oil, based on the most recent Invoice prior to usage, PhP/Li

CC = as previously defined

NPC = the Net Plant Capacity as defined in Section 1.1 of the PSA

ii. Start-up Costs, SUC

$$SUC = [(HFOV_{SU} \times HFOP) + (LFOV_{SU} \times LFOP)] \times (CC/NPC)$$

Where:

HFOV_{SU} = the volume of heavy fuel oil consumed to facilitate ramping up until such time that the Unit is operating at a stable load using coal, Li

HFOP = as previously defined

LFOV_{SU} = the volume of light fuel oil consumed to facilitate ramping up until such time that the Unit is operating at a stable load using coal, Li

LFOP = as previously defined

CC = as previously defined

NPC = as previously defined

F. Value- Added Tax, VAT

$$VAT = (FCP + FOMP + VOMP + EP + SSCP) \times VATR$$

Where:

FCP = Fixed Capacity Payment, PhP

FOMP = Fixed O&M Payment, PhP

VOMP = Variable O&M Payment, PhP

EP = Energy Payment, PhP

SSCP = Start-Stop Costs Payment, PhP

VATR = Value- Added Tax Rate, %
= the applicable rate of the VAT imposed by the
Philippine Government

14. **Other Charges.** All fees related to the delivery of power solely from SLPGC's trading node to the Delivery Point, such as line rental, transmission services, ancillary services, among others, shall be for the account of VECO;
15. **Security Deposit.** The posting of Security Deposit (SD) is initially waived by SLPGC. However, in the event of any payment default by VECO, it shall be required by SLPGC to post SD within seven (7) calendar days from written notice of such requirement to post SD. The SD shall be equivalent to one hundred percent (100%) of the average monthly power bill for the preceding twelve (12) months, or the average of previous monthly power bills, if VECO has not been required to post SD during the first twelve (12) months of the PSA. In the event that VECO fails to post SD, it shall incur an additional charge of PhP0.05/kWh;

Submissions in Support of the Application

16. In support of the application and in compliance with Rule 20(B) of the ERC Rules of Practice and Procedure, they are submitting the following documents, which are attached as annexes and made integral parts thereof:

Name of Document	Reference
Articles of Incorporation of SLPGC	Annex A
Securities and Exchange Commission (SEC) Certificate of Registration of SLPGC	Annex B
Latest General Information Sheet (GIS) of SLPGC	Annex C
Board of Investment (BOI) Certificate of Registration of SLPGC	Annex D
Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR)	Annex E
PSA dated April 13 2015	Annex F
Amended PSA dated June 22, 2015	Annex F-1
Sources of Funds/Loan Terms	Annex G
Financial Model/Purchased Power Rate computation [includes Debt/Equity Ratio, Project Cost, Cash Flow and Computation of Return on Investment/Weighted Average Cost of Capital (WACC)]	Annex H and series
SLPGC fuel supply contract	Annex I
VECO's Transmission Service Agreement (TSA)	Annex J
Certification from the National Grid Corporation of the Philippines (NGCP) on SLPGC's application for TSA and Connection Agreement (CA)	Annex K
Certification from the Commission on SLPGC's application for Certificate of Compliance (COC)	Annex L
All relevant technical and economic characteristics of the generation capacity, Installed Capacity, Mode of Operation, and Dependable Capacity	Annex M
Details on the procurement process used by VECO leading to the selection of SLPGC and support for the motion for the issuance of the provisional authority for the PSA	Annex N
Distribution Development Plan (DDP) of VECO	Annex O
VECO's historical and forecasted Daily Load Curve	Annex P
VECO's historical and forecasted Demand/Supply Scenario	Annex Q
Rate Impact Analysis	Annex R

Acknowledgment receipt by the <i>Sangguniang Panlungsod</i> of Cebu of a copy of the application/petition (with all annexes and accompanying documents)	Annex S
Publication in a newspaper of general circulation within its franchise area of the entire application or petition (excluding its annexes) specifying the rate impact per customer class	Annexes T and T-1
CD-ROM containing the softcopy of the application and the annexes	Annex U

17. As required by the ERC Rules of Practice and Procedure, an analysis was conducted to determine the impact of the implementation of the PSA on VECO's generation costs once the same is approved:

Particulars	Generation Rate		
	With PSALM (No Unified Leyte Strips and SLPGC)	With Unified Leyte Strips and Reduced PSALM (No SLPGC)	With Unified Leyte Strips and SLPGC (No PSALM)
Rate (PhP/kWh)	5.3533	5.8163	5.6723
Difference vs. with PSALM only (PhP/kWh)		0.4630	0.3190

Assumptions:

- 2016 kWh Purchases using four percent (4%) annual growth
- Using 2013 Historical Wholesale Electricity Spot Market (WESM) Prices
- Forecast Average Cost from April – July 2016

18. Due to the expiration of the CSEE and its non-renewal as a result of the privatization of the Unified Leyte Geothermal Power Plant (ULGPP), VECO faces a supply deficiency as high as 120 MW in the summer of 2016. The supply from the Plant will definitely help address a portion of this deficiency. In this regard, they request the approval of the PSA by the Commission to enable continuous and reliable supply of electricity to serve the requirements of end-users in the Franchise Area;

**Motions for Issuance of Provisional Authority and
Confidential Treatment of Documents**

19. They move for the issuance of a provisional approval of the PSA, as amended, pending trial on the merits thereof, on the following grounds:
- a. **Expiration and Non-renewal of the CSEE with PSALM.** The expiration of the CSEE of VECO with PSALM on December 25, 2014 and the non-extension thereof due to the privatization of ULGPP, result in a deficiency of about 120 MW in the total demand of VECO. The present PSA with SLPGC will help address such deficiency and will aid in ensuring sufficient supply of the requirements of VECO's customers; and
 - b. **Continuing Demand Growth.** As illustrated in its DDP, VECO is expecting a growth in the total demand of its end-users so that, coupled with the expiration and non-extension of its CSEE with PSALM, there will be a supply gap that urgently needs to be filled. In addition, the entire supply deficit resulting from the expiration of the NPC CSEE has not been covered by power supply agreements entered into after its expiration. In fact, the IPSA with 1590EC has already expired last June 25, 2015. Without the PSA, VECO and ultimately, its end-users, may be forced to resort to the volatile prices of the WESM.
- Attached to the application as Annex "N" is an affidavit in support of the motion for the issuance of provisional authority for the PSA;
20. Under Rule 4 of the ERC Rules of Practice and Procedure, the Commission may, upon request of a party and determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential;
21. Annexes "G", "H", "I", and certain files contained in Annex "U" in the instant application contain certain non-public information, data and calculations involving business operations and financial trade secrets reflecting their

investment and business calculations and, as such, are confidential in nature. Thus, they submit that the said documents should be treated as confidential documents and information in the application, which should be maintained separate and apart from the records of the case and should not be disclosed to third persons other than the officers and staff of the Commission. Accordingly they hereby submit one (1) copy each of Annexes "G", "H", "I", and certain files in Annex "U" in a sealed envelope, with the said envelope and each page of the documents and file stamped with the word "*Confidential*";

Prayer

22. Thus, they pray that the Commission:
- a. Issue an Order treating Annexes "G", "H", "I", and certain files contained in Annex "U" and the information contained therein as confidential, directing their non-disclosure to persons other than the officers and staff of the Commission, and directing the separation of the confidential documents and information from the records of the case, as necessary, pursuant to Rule 4 of the ERC Rules of Practice and Procedure, and prescribing the guidelines for the protection thereof;
 - b. Pending trial on the merits, issue an Order granting provisional authority and approval for the PSA, as amended; and
 - c. Approve their PSA dated April 13, 2015, as amended, including the rates and fees as contained therein.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **October 29, 2015 (Thursday) at nine-thirty in the morning (9:30 A.M.) at the ERC Visayas Field Office, St. Mary's Drive, Banilad, Cebu City.**

VECO and SLPGC are hereby directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. They are also directed to inform the customers within VECO's franchise area, by any other means available and appropriate, of the filing of the instant application, their reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished 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.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor of the Province of Cebu and the Mayors of the Cities and Municipalities within VECO's franchise area for the appropriate posting thereof on their respective bulletin boards.

VECO and SLPGC are hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, VECO and SLPGC must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor and Mayors or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

VECO and SLPGC and all interested parties are directed 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:

- a) A summary of admitted facts and proposed stipulation of facts;
- b) The issues to be tried or resolved;
- c) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of VECO and SLPGC to submit the required Pre-trial Brief and Judicial Affidavits of their witnesses 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 said date of cancellation.

As part of the pre-trial conference, VECO and SLPGC must also be prepared to make an expository presentation of their 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 customers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

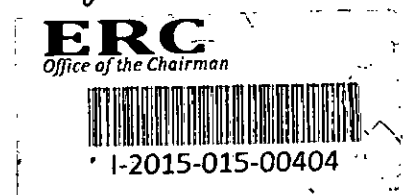
SO ORDERED.

Pasig City, September 1, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman

 m/VECO and SLPGC/PSA/2015-137 RC/initial order



Copy Furnished:

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2. **Puyat Jacinto and Santos (PJS) Law Offices**
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3. **Visayan Electric Company, Incorporated (VECO)**
J. Panis St., Banilad, Cebu City
4. **Southwest Luzon Power Generation Corporation (SLPGC)**
Balayan, Batangas
5. **Office of the Solicitor General**
134 Amorsolo St., Legaspi Village, Makati City
6. **Office of the Commission on Audit**
Don Mariano Marcos Avenue, Diliman, Quezon City
7. **The Committee On Energy
Senate of the Philippines**
GSIS Building, Roxas Blvd., Pasay City
8. **The Committee On Energy
House of Representatives**
Batasan Hills, Quezon City
9. **Office of the City Mayor**
Cebu City 6000
10. **Office of the City Mayor**
Mandaue City 6014

- 11. Office of the City Mayor**
Naga City 6037

- 12. Office of the City Mayor**
Talisay City 6045

- 13. Office of the Municipal Mayor**
Consolacion, Cebu 6001

- 14. Office of the Municipal Mayor**
Lilo-an, Cebu 6002

- 15. Office of the Municipal Mayor**
Minglanilla, Cebu 6046

- 16. Office of the Municipal Mayor**
San Fernando, Cebu 6018

- 17. Office of the Governor**
Province of Cebu

- 18. Cebu Chamber of Commerce and Industry**
CCCI Center, corner 11th and 13th Avenues,
North Reclamation Area, Cebu City

- 19. Mandaue Chamber of Commerce and Industry**
3rd Floor, FCB Financial Center Building,
A.C. Cortes Avenue corner P. Burgos St.,
Alang-alang, Mandaue City

- 20. 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