

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




IN THE MATTER OF THE  
APPLICATION FOR APPROVAL  
OF THE ELECTRIC POWER  
PURCHASE AGREEMENT (EPPA)  
BETWEEN ILOILO III ELECTRIC  
COOPERATIVE, INCORPORATED  
(ILECO III) AND PANAY ENERGY  
DEVELOPMENT CORPORATION  
(PEDC), WITH PRAYER FOR  
PROVISIONAL AUTHORITY

ERC CASE NO. 2015-154 RC

ILOILO III ELECTRIC  
COOPERATIVE, INCORPORATED  
(ILECO III) AND PANAY ENERGY  
DEVELOPMENT CORPORATION  
(PEDC),

Applicants.

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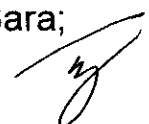
## ORDER

On August 14, 2015, Iloilo III Electric Cooperative, Incorporated (ILECO III) and Panay Energy Development Corporation (PEDC) filed an application for approval of their Electric Power Purchase Agreement (EPPA), with prayer for provisional authority.

In the said application, ILECO III and PEDC alleged, among others, that:

### Parties to the Case

1. ILECO III is an electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Barangay Preciosa, Sara, Iloilo. It is a franchised electric utility servicing its member-consumers in certain Municipalities of the Province of Iloilo, namely: Ajuy, Anilao, Balasan, Banate, Barotac Viejo, Batad, Carles, Concepcion, Estancia, Lemery, San Dionisio, San Rafael, and Sara;



2. PEDC is a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at Barangay Ingore, La Paz, Iloilo City. It owns and operates a 2 x 82 MW coal-fired power plant (the Existing Plant) located in Barangay Ingore, La Paz, Iloilo City. It has embarked on an expansion project through the construction of a 1 x 150 MW coal-fired power plant (the Expansion Plant) in the same location;

**Statement of Facts and of the Case**

3. Pursuant to Rule 20 (B) of the 2006 ERC Rules of Practice and Procedure, the application is submitted to the Commission for its review and approval of the EPPA dated April 2015 between ILECO III as the Buyer and PEDC as Seller;
4. Under the EPPA, PEDC agreed to supply and deliver, and ILECO III agreed to take and pay for electricity supplied by PEDC at a contracted capacity of 3 MW (the Contracted Capacity), at one hundred percent (100%) load factor, commencing on the Commercial Operation Date of the Expansion Plant (i.e., the date when the Expansion Plant has been completed, inspected, tested, and is ready to commence operation as confirmed in a written communication from Seller to Buyer, which date should not be later than July 26, 2016 or such later date as the parties may agree upon in writing), at an Electricity Fee (Schedule 4 of the EPPA) computed as follows:



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**Load Factor : 100%**

$$\begin{aligned} \text{Electricity Fee} &= \text{Energy Fees} + \text{Fuel Cost} \\ \text{Energy Fees} &= \text{Tariff Fee} \times E \\ \text{Tariff Fee} &= \text{CRF} + \left[ \text{PhpO\&M} \times \frac{\text{PhCPI}_c}{\text{PhCPI}_b} \right] + \\ &\quad \left[ \text{USDO\&M} \times \frac{\text{USCPI}_c}{\text{USCPI}_b} \times \text{Forex} \right] \\ \text{Fuel Cost} &= \frac{\text{Cost of Coal}}{1,000} \times \text{Consumption Rate} \times \text{Forex} \times \text{En} \\ \text{Cost of Coal} &= \left[ \text{Base Coal Price} \times \frac{\text{Newcastle}_c}{\text{Newcastle}_b} \right] + \text{Transport Cost} \end{aligned}$$

Where:

CRF	=	Capital Recovery Fee	=	Php 2.3096 per kWh
PhpO&M	=	Peso-based O&M Fee	=	Php 0.2736 per kWh
PhCPI <sub>c</sub>	=	Philippine Consumer Price Index (CPI) for all items for the Current month as published by the National Statistics Coordination Board, <a href="http://www.nscb.gov.ph">www.nscb.gov.ph</a>		
PhCPI <sub>b</sub>	=	Base Philippine CPI	=	138.30 May-14
USDO&M	=	USD-based O&M Fee	=	\$ 0.0092 per kWh
USCPI <sub>c</sub>	=	US Consumer Price Index (CPI) for all items for the Current Month as published		
USCPI <sub>b</sub>	=	Base US CPI	=	237.07 May-14
Forex	=	Reference exchange rate (in Php per USD) on the meter reading date, as		
E	=	in kWh, Minimum Contracted Energy (MCE) or Actual Energy Delivered,		
Base Coal Price	=	Base reference coal price	=	\$ 56.33 USD per MT
Newcastle <sub>c</sub>	=	Preceding quarter's average coal price for 6,700kcal/kg ADB per the Global Coal Newcastle Physical Trading Index, <a href="http://www.globalcoal.com">www.globalcoal.com</a> (in USD/MT)		
Newcastle <sub>b</sub>	=	Base Newcastle Index	=	\$ 77.31 USD per MT
Transport Cost	=	Cost of freight, insurance, brokerage, taxes, and other costs in USD per MT		
Consumption Rate	=	0.68kg/kWh, escalated at a rate of 1.5% per year or actual, whichever is lower		
En	=	Nominated Energy of Buyer to Seller in kWh		

5. In addition, subject to availability of capacity, PEDC is given priority to supply ILECO III any additional capacity requirements it may have, subject to mutually acceptable terms and conditions. The power to be supplied will be sourced from the Expansion Plant;
6. The Contracted Capacity shall be delivered to ILECO III at the delivery points designated in the EPPA (Schedule 3 of the EPPA) beginning on the Commercial Operation Date;



7. Nonetheless, during the Testing and Commissioning of the Expansion Plant, PEDC will deliver to ILECO III on a non-firm basis electric power, subject to the payment of Electricity Fees for actual energy taken by ILECO III computed as follows:

**Testing and Commissioning at 100% Load Factor**

$$\begin{aligned}
 \text{Electricity Fee} &= \text{Energy Fees} + \text{Fuel Cost} \\
 \text{Energy Fees} &= 50\% \times \text{Tariff Fee} \times E \\
 \text{Tariff Fee} &= \text{CRF} + \left( \text{PhpO\&M} \times \frac{\text{PhCPI}_c}{\text{PhCPI}_b} \right) + \\
 &\quad \left( \text{USDO\&M} \times \frac{\text{USCPI}_c}{\text{USCPI}_b} \times \text{Forex} \right) \\
 \text{Fuel Cost} &= \frac{\text{Cost of Coal}}{1,000} \times \text{Consumption Rate} \times \text{Forex} \times \text{En} \\
 \text{Cost of Coal} &= \left( \text{Base Coal Price} \times \frac{\text{Newcastle}_c}{\text{Newcastle}_b} \right) + \text{Transport Cost}
 \end{aligned}$$

Where:

- CRF = Capital Recovery Fee = Php 2.3096 per kWh
- PhpO&M = Peso-based O&M Fee = Php 0.2736 per kWh
- PhCPI<sub>c</sub> = Philippine Consumer Price Index (CPI) for all items for the Current month as published by the National Statistics Coordination Board, [www.nscb.gov.ph](http://www.nscb.gov.ph)
- PhCPI<sub>b</sub> = Base Philippine CPI = 138.30 May-14
- USDO&M = USD-based O&M Fee = \$ 0.0092 per kWh
- USCPI<sub>c</sub> = US Consumer Price Index (CPI) for all items for the Current Month as published
- USCPI<sub>b</sub> = Base US CPI = 237.07 May-14
- Forex = Reference exchange rate (in Php per USD) on the meter reading date, as
- E = in kWh, Minimum Contracted Energy (MCE) or Actual Energy Delivered,
- Base Coal Price = Base reference coal price = \$ 56.33 USD per MT
- Newcastle<sub>c</sub> = Preceding quarter's average coal price for 6,700kcal/kg ADB per the Global Coal Newcastle Physical Trading Index, [www.globalcoal.com](http://www.globalcoal.com) (in USD/MT)
- Newcastle<sub>b</sub> = Base Newcastle Index = \$ 77.31 USD per MT
- Transport Cost = Cost of freight, insurance, brokerage, taxes, and other costs in USD per MT
- Consumption Rate = 0.68kg/kWh, escalated at a rate of 1.5% per year or actual, whichever is lower
- En = Nominated Energy of Buyer to Seller in kWh

8. Moreover, upon completion of the commissioning of the Expansion Plant, ILECO III shall take the proportionate net electrical output of the Expansion Plant delivered by PEDC during the Pre-Commercial Operation Period on a firm basis, subject to the payment of Electricity Fees computed as follows:

**Pre-Commercial Operations at 100% Load Factor**

$$\begin{aligned}
 \text{Electricity Fee} &= \text{Energy Fees} + \text{Fuel Cost} \\
 \text{Energy Fees} &= 75\% \times \text{Tariff Fee} \times E \\
 \text{Tariff Fee} &= \text{CRF} + \left[ \text{PhpO\&M} \times \frac{\text{PhCPI}_c}{\text{PhCPI}_b} \right] + \\
 &\quad \left[ \text{USDO\&M} \times \frac{\text{USCPI}_c}{\text{USCPI}_b} \times \text{Forex} \right] \\
 \text{Fuel Cost} &= \frac{\text{Cost of Coal}}{1,000} \times \text{Consumption Rate} \times \text{Forex} \times \text{En} \\
 \text{Cost of Coal} &= \left[ \text{Base Coal Price} \times \frac{\text{Newcastle}_c}{\text{Newcastle}_b} \right] + \text{Transport Cost}
 \end{aligned}$$

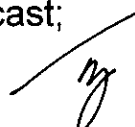
Where:

CRF	=	Capital Recovery Fee	=	Php 2.3096 per kWh
PhpO&M	=	Peso-based O&M Fee	=	Php 0.2736 per kWh
PhCPI <sub>c</sub>	=	Philippine Consumer Price Index (CPI) for all items for the Current month as published by the National Statistics Coordination Board, <a href="http://www.nscb.gov.ph">www.nscb.gov.ph</a>		
PhCPI <sub>b</sub>	=	Base Philippine CPI	=	138.30 May-14
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Forex	=	Reference exchange rate (in Php per USD) on the meter reading date, as		
E	=	in kWh, Minimum Contracted Energy (MCE) or Actual Energy Delivered,		
Base Coal Price	=	Base reference coal price	=	\$ 56.33 USD per MT
Newcastle <sub>c</sub>	=	Preceding quarter's average coal price for 6,700kcal/kg ADB per the Global Coal Newcastle Physical Trading Index, <a href="http://www.globalcoal.com">www.globalcoal.com</a> (in USD/MT)		
Newcastle <sub>b</sub>	=	Base Newcastle Index	=	\$ 77.31 USD per MT
Transport Cost	=	Cost of freight, insurance, brokerage, taxes, and other costs in USD per MT		
Consumption Rate	=	0.68kg/kWh, escalated at a rate of 1.5% per year or actual, whichever is lower		
En	=	Nominated Energy of Buyer to Seller in kWh		

9. The EPPA thus proposes separate rates on the power delivered by PEDC to ILECO III, depending on the stage of the plant development (i.e., during Testing and Commissioning, during the Pre-Commercial Operation Period, or on Commercial Operation Date);
10. It should be noted that the cost of testing and commissioning the Expansion Plant was not included in the rate for power delivered upon Commercial Operation Date, and the rate to be charged during Testing and Commissioning is intended to compensate PEDC for the commissioning cost of the Expansion Plant. Moreover, it should be stressed that the commissioning cost was not included in the rate for commercial operation because commissioning power was intended to be sold by PEDC;
11. The EPPA shall have a term of twenty-five (25) years commencing on the Commercial Operation Date and ending on the 25<sup>th</sup> anniversary of such commencement date, unless sooner terminated pursuant to the terms thereof (the Cooperation Period);
12. The foregoing agreed terms, among others, are embodied in the EPPA, a copy of which is attached to the application as Annex "A" and made an integral part thereof;
13. Should the Commission approve the Electricity Fees under the EPPA, there will be a decrease in generation cost of PhP0.20/kWh on the Commercial Operation Date;

**Allegations in Support of the Prayer for Provisional Authority**

14. The current demand of ILECO III is 14 MW. To meet this demand, it sources 4 MW of its electric power requirements from PEDC's Existing Plant and 5.5 MW from Green Core Geothermal, Incorporated (GCGI). It also sources about 4.5 MW from the Wholesale Electricity Spot Market (WESM) during peak hours;
15. It is expected that ILECO III's current demand will increase to over 15 MW by 2016 and 16 MW by 2017 based on its load forecast;



16. Considering that ILECO III is in need of additional supply of power beginning 2016, it is imperative that it obtain the Commission's approval of the EPPA with PEDC;
17. The supply of additional 3 MW from the Expansion Plant to ILECO III (and ultimately, to its member-consumers) will not only secure the power requirements of ILECO III but also lessen its exposure to the volatility of the WESM prices and reduce its dependence on the Negros-Panay submarine cable;
18. Under the terms of the EPPA, among the conditions precedent to the performance by ILECO III and PEDC of their respective obligations thereunder is the approval of the application by the Commission;
19. Thus, for PEDC to be able to deliver and ILECO III to be able to receive power from PEDC as early as the Testing and Commissioning and the Pre-Commercial Operation Period of the Expansion Plant, it is imperative that a provisional authority be granted for the EPPA to allow PEDC to deliver and ILECO III to receive power during these periods;
20. Should the Commission grant a provisional authority for PEDC to deliver and ILECO III to receive power during the Testing and Commissioning, there will be a net reduction in its generation cost of PhP0.66/kWh during this period. Should a provisional authority be given for the Pre-Commercial Operation Period, there will be a net reduction in its generation cost of PhP0.43/kWh during this period;

**Compliance with Pre-Filing Requirements**

21. They manifest their compliance with the pre-filing requirements mandated under Rule 3, Section 4(e) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA, and Rule 6 of the 2006 ERC Rules of Practice and Procedures, as evidenced by the following attachments:



- 21.1 Affidavit of Service re: service of the application with annexes to the *Sangguniang Panlungsod* of Iloilo City;
- 21.2 Affidavit of Service re: service of the application with annexes to the *Sangguniang Bayan* of Sara, Iloilo;
- 21.3 Affidavit of Service re: service of the application with annexes to the *Sangguniang Panlalawigan* of the Province of Iloilo;
- 21.4 Affidavit of Publication stating that the application had been published in a newspaper of general circulation;
- 21.5 Newspaper issue where the application appeared, as published;
- 21.6 A copy of the Board Resolution authorizing ILECO III to jointly file the application with PEDC;
- 21.7 A copy of the Board Resolution authorizing PEDC to jointly file the application with ILECO III; and
- 21.8 Proof of payment of filing fees;

**Prayer**

22. Thus, they pray, that the Commission:

- 22.1 Upon initial review of the application and pending trial on the merits, issue a provisional authority for the terms of the April 2015 EPPA between ILECO III and PEDC, thereby authorizing PEDC to charge and collect from ILECO III the respective Electricity Fees corresponding to the (a) Testing and Commissioning, (b) Pre-Commercial Operation Period, and (c) Commercial Operation Date, and authorizing ILECO III to pass the full amount thereof to its member-consumers; and





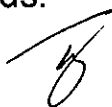
22.2 After trial on the merits, issue a permanent approval of the terms of the April 2015 EPPA between ILECO III and PEDC, thereby authorizing PEDC to charge and collect from ILECO III the respective Electricity Fees corresponding to the (a) Testing and Commissioning, (b) Pre-Commercial Operation Period, and (c) Commercial Operation Date, and authorizing ILECO III to pass the full amount thereof to its member-consumers.

Finding the said application to be sufficient in form and substance with the required fees having been paid, the same is hereby set for initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **November 27, 2015 (Friday) at nine o'clock in the morning (9:00 A.M.) at ILECO III's Main Office, Barangay Preciosa, Sara, Iloilo.**

ILECO III and PEDC 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 scheduled date of initial hearing. They are also directed to inform ILECO III's consumers, 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 Mayors of the Municipalities within the franchise area of ILECO III and the Provincial Governor of Iloilo for the appropriate posting thereof on their respective bulletin boards.



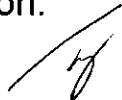
ILECO III and PEDC are hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing and pre-trial conference, ILECO III and PEDC must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Mayors and Governor 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.

ILECO III and PEDC 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 thereof; 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 ILECO III and PEDC 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.



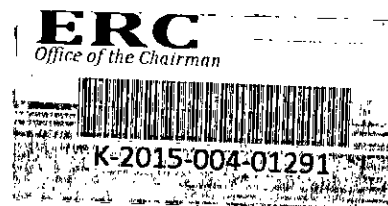
As part of the pre-trial conference, ILECO III and PEDC must also be prepared to make an expository presentation of their application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

**SO ORDERED.**

Pasig City, October 29, 2015.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**JOSE VICENTE B. SALAZAR**  
Chairman 





Copy Furnished:

1. **Lerios-Amboy Pingol & Gonzales Law Offices**  
**Attn: Atty. Precious Ellen L. Pingol**  
*Counsel for ILECO III*  
Units 1609-1610, Tycoon Centre,  
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2. **Attys. Amanda Roselle A. Bengson, Rogelio D. Puno,  
Jr. and Mark Jorel O. Calida**  
*Counsel for PEDC*  
c/o Global Business Power Corporation  
22<sup>nd</sup> Floor, GT Tower International,  
6813 Ayala Avenue corner H.V. De La Costa St.,  
Makati City
3. **Iloilo III Electric Cooperative, Incorporated (ILECO III)**  
Barangay Preciosa, Sara, Iloilo
4. **Panay Energy Development Corporation (PEDC)**  
Barangay Ingore, La Paz, Iloilo City
5. **Office of the Solicitor General (OSG)**  
134 Amorsolo Street, Legaspi Village, City of Makati 1229
6. **Commission on Audit (COA)**  
Commonwealth Avenue, Quezon City 1121
7. **Senate Committee on Energy**  
GSIS Building, Roxas Boulevard, Pasay City 1300
8. **House of Representatives Committee on Energy**  
Batasan Hills, Quezon City 1126
9. **Office of the Municipal Mayor**  
Ajuy, Iloilo
10. **Office of the Municipal Mayor**  
Anilao, Iloilo



11. **Office of the Municipal Mayor**  
Balasan, Iloilo
12. **Office of the Municipal Mayor**  
Banate, Iloilo
13. **Office of the Municipal Mayor**  
Barotac Viejo, Iloilo
14. **Office of the Municipal Mayor**  
Batad, Iloilo
15. **Office of the Municipal Mayor**  
Carles, Iloilo
16. **Office of the Municipal Mayor**  
Concepcion, Iloilo
17. **Office of the Municipal Mayor**  
Estancia, Iloilo
18. **Office of the Municipal Mayor**  
Lemery, Iloilo
19. **Office of the Municipal Mayor**  
San Dionisio, Iloilo
20. **Office of the Municipal Mayor**  
San Rafael, Iloilo
21. **Office of the Municipal Mayor**  
Sara, Iloilo
22. **Office of the Governor**  
Province of Iloilo
23. **Philippine Chamber of Commerce and Industry (PCCI)**  
3<sup>rd</sup> Floor, Chamber and Industry Plaza (CIP),  
1030 Campus Avenue corner Park Avenue,  
McKinley Town Center, Fort Bonifacio, Taguig City

