

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE 1ST
AMENDMENT TO THE
ELECTRICITY SUPPLY
AGREEMENT(ESA)
BETWEEN FIRST
CATANDUANES ELECTRIC
COOPERATIVE, INC.
(FICELCO) AND SUNWEST
WATER AND ELECTRIC
COMPANY (SUWECO), WITH
PRAYER FOR THE ISSUANCE
OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2015-065 RC

**FIRST CATANDUANES
ELECTRIC COOPERATIVE,
INC. (FICELCO) AND
SUNWEST WATER AND
ELECTRIC COMPANY
(SUWECO),**

DOCKETED
Date: FEB 17 2016
By: W

Applicants.

x-----x

ORDER

On 31 March 2015, First Catanduanes Electric Cooperative Inc. (FICELCO) and Sunwest Water and Electric Company (SUWECO) filed an application for the approval of the 1ST Amendment of their Electric Supply Agreement (ESA) with prayer for provisional authority.

In the said application, FICELCO and SUWECO alleged, among others, that:

A handwritten signature in black ink, appearing to be a stylized 'W' or similar character.

THE APPLICANTS

1. Applicant FICELCO is a non-stock, non-profit rural electric cooperative duly organized and existing under the laws of the Republic of the Philippines, with principal office at Marinawa, Bato, Catanduanes.
2. Applicant FICELCO is a holder of an exclusive franchise to operate an electric light and power service in the Municipalities of Bagamanoc, Baras, Bato, Caramoan, Gigmoto, Pandan, Panganiban, San Andres, San Miguel, Viga and Virac, all in the Province of Catanduanes (the Franchise Area).
3. Applicant SUWECO is a corporation duly organized and existing under Philippine laws with principal office address at Embarcadero de Legaspi, Port Area, Legazpi City. Copy of SUWECO's Amended Articles of Incorporation, Certificate of Filing of Amended Articles of Incorporation and the General Information Sheet are hereto attached as Annexes "A", "A-1" and "A-2", respectively;
4. The Parties may be served with orders and other processes of this Honorable Commission through the undersigned counsel.

NATURE AND SCOPE OF THE APPLICATION

5. The aforementioned parties are jointly filing the instant Application for the approval of the 1st AMENDMENT TO THE ESA (hereafter "1st Amendment") with a prayer for the issuance of Provisional Authority pursuant to Rules 14 and 20 (B) of the ERC Rules of Practice and Procedure. Copy of the ESA and the 1st Amendment are attached hereto as Annexes "B" and "B-1".
6. The 1st Amendment between SUWECO and FICELCO provides for new Plant Factors for the Solong Minihydro Power Plant (MHP), Hitoma 01 MHP, Capijian MHP and Hitoma 02 MHP which



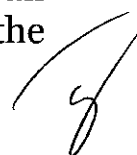
are the MHP's subject of the ESA. This is in line with the experience of SUWECO with the Solong MHP and Hitoma 01 MHP wherein it failed to reach the projected plant capacity factors due to lack of water to run the MHP's. It also provides for the installation and commissioning of additional diesel-fueled power generators to provide for the power supply requirements of FICELCO until Hitoma 02 MHP and Capiian MHP becomes operational.

**COMPLIANCE WITH PRE-FILING
REQUIREMENTS –
RULE 6, ERC RULES**

7. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, Applicants have furnished the legislative bodies of each of the local government units where they principally operate a copy of the present Application with all its annexes and accompanying documents. Proofs of receipt by the legislative bodies of the City of Legaspi, the Province of Albay, the Municipality of Bato and the Province of Catanduanes, are attached hereto as Annexes "C", "C-1", "C-2" and "C-3", respectively.
8. Furthermore, Applicants have caused the publication of the present Application in its entirety in a newspaper of general circulation within the franchise area. Copies of the newspaper and corresponding affidavit of publication are attached hereto as Annexes "D" and "D-1," respectively.

PRELIMINARY FACTS

9. At present, there is insufficient supply of power in the Province of Catanduanes. Copies of FICELCO's Distribution Development Program, 2014 Projected Monthly Peak Demand, Daily Load Curve for the month of October 2014 and List of FICELCO's current power suppliers are hereto attached as Annexes "E", "E-1", "E-2" and "E-3", respectively.
10. In view of this prevailing situation, there is an insistent demand from FICELCO and the



Catandunganons to modify and clarify the terms of the ESA. This is to continuously ensure good operating condition and deliver electricity of up to 7.9 MW in a safe and reliable manner to the Catandunganons and augment FICELCO's emergency power requirements.

11. To be able to comply with the demands of FICELCO's member consumers SUWECO and FICELCO executed the 1st Amendment to the Electricity Supply Agreement (ESA) on June 25, 2014.
12. The parties then informed the Department of Energy (DOE) of the planned diesel power plant as embodied in the 1st Amendment and the latter issued a Certificate of Endorsement stating that the planned 5MW Solong Diesel Power Plant is consistent with the Missionary Electrification Development Plan (MEDP) of the government. Copy of the Certificate of Endorsement is herein attached as Annex "F".
13. The additional energy to be sourced from the said 5MW Solong Diesel Power Plant is projected to alleviate the insufficient power supply within the franchise area of FICELCO which is currently causing substantial economic losses and severe disruptions in the day-to-day activities of the consumers within the franchise area of FICELCO.
14. There will be no increase in the rates currently charged to FICELCO consumers as a result of the operation of the 5MW Solong Diesel Power Plant because electricity fees to be charged to FICELCO under the 1st Amendment will remain to be the Subsidized Approved Generation Rate (SAGR).
15. In case however that the True Cost of Generation Rate (TCGR) of SUWECO exceeds the SAGR then the difference thereto shall be charge against the Universal Charge-Missionary Electrification (UC-ME) Subsidy.



**ABSTRACT OF THE 1st AMENDMENT TO
THE ESA
AND RELATED INFORMATION**

16. The parties desire to clarify, modify and add to the terms provided in the ESA thus, they entered into a 1st Amendment to the ESA on 25 June 2014.
17. **Power Plant Capacity.** The Parties agreed to include the installation and commissioning of additional diesel-fueled power generators with a gross maximum capacity of 4.4MW plus 600 kW, 80% rated capacity and an estimated annual contracted energy of 31,536,000 kWh.
18. **Period of Operation.** It is understood that the 5MW Solong Diesel Power Plant shall be in operation pending the completion, delivery and full operation of the Capijian MHP and Hitoma 02 MHP. Upon delivery and full operation of the Capijian and Hitoma 02 power plants the diesel-fueled power generators shall only be used to augment any power deficiency in the province of Catanduanes.
19. **Completion date of the Capijian MHP and Hitoma 02 MHP.** SUWECO is obliged to deliver the Capijian Mini-hydro Power Plant by 2018 and the Hitoma 02 Mini hydro Power Plant 4 years from the delivery of the Capijian MHP at full energy capacity of 4,175 kW.
20. **Amount of Contracted Energy.** It is agreed by the parties that all power generated from the 5MW Solong Diesel Power Plant shall be purchased by FICELCO. FICELCO requires SUWECO to deliver an annual contracted energy of 31, 536,000 kWh.
21. In connection with this planned 5MW Solong Diesel Power Plant, SUWECO was issued an Environmental Compliance Certificate (ECC) by the Department of Environment Natural Resources (DENR). A copy of the ECC issued to SUWECO is herein attached as Annex "G". SUWECO in relation to said project also filed an Application for the issuance of Certificate of Compliance with the



Energy Regulatory Commission (ERC). A copy of the Application is hereto attached as Annex "H".

22. Electricity Fees for the 5MW Solong Diesel Power Plant. The Computation of the Total Fees for the Interim Diesel Power Plant shall be as follows:

1. Total Electricity Fees. The Total Electricity Fees for the supply of power by **SUWECO** shall be the sum of the Capacity Fee, the Local O & M Fee, the Foreign O& M Fee, Lube Oil Charge and the Fuel Charge.

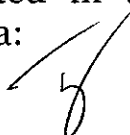
(TEF = CF + Local O & M Fee + Foreign O & M Fee + Lube Oil Charge + Fuel Charge).

The parties agree that in case where the TRUE COST GENERATION RATE (TCGR) of SUWECO is higher than the SUBSIDIZED APPROVED GENERATION RATE (SAGR) determined by the Energy Regulatory Commission, then SUWECO shall be allowed to recover the difference between the TCGR and the SAGR from the UC/ME Subsidy.

2. Capacity Fee. The monthly Capacity Fee shall be **PhP2.94/kwh** of Delivered Energy per month during the entire cooperation period subject to adjustment from time to time upon agreement of the parties and approval of the Energy Regulatory Commission.

3. Local O & M Fee. The monthly Local Operation & Maintenance Fee shall be **PhP0.89/kwh** of Delivered Energy per month during the entire cooperation period subject to adjustment from time to time upon agreement of the parties and approval of the Energy Regulatory Commission.

4. Foreign O & M Fee. The monthly Foreign Operation and Maintenance Fee shall be computed in accordance with the following formula:



$$\text{FOMF} = \text{FOMR} \times \text{DE} \times \text{CPI current} / \text{CPI base}$$

Where:

FOMF Foreign Operation and Maintenance Fee

FOMR Foreign operation and maintenance rate of **Php0.71/kwh**

DE Delivered Energy

CPI current- The latest Philippine Consumer Price Index as published by the NSO applicable during the Billing Period.

CPI base- The Philippine Consumer Price Index as published by the NSO for the month at the time of signing of the First Addendum.

5. Lube Oil Charge. The monthly Lube Oil Charge shall be computed in accordance with the following formula:

$$\text{LOC} = \text{SE} \times \text{LOC/kWhr.}$$

$$\text{LOC/kWhr.} = \text{GLOR} \times \text{ALOC}$$

Where:

LOC Lube Oil Charge

LOC/kWhr. Lube Oil Charge per Kilowatt-Hour

DE Delivered energy

GLOR Guaranteed Lube Oil Consumption **Rate of 0.001 liter/kWh**

ALOC Actual Lube Oil Cost

6. Fuel Charge. The monthly Fuel Charge shall be computed in accordance with the following formula:

$$\text{FC} = \text{DE} \times \text{FC/kWhr.}$$

$$\text{FC/kWhr.} = \text{GFCR} \times \text{AFC}$$

Where:

FC Fuel Charge

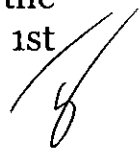
FC/kWhr. Fuel Charge per Kilowatt-Hour

DE Delivered Energy



GFCR Guaranteed Fuel Consumption
Rate of **0.280 liter/kWh**
AFC Average Actual Fuel Cost in Pesos
per liter

23. Project Cost. The total capital cost of the 5MW Solong Diesel Power Plant is estimated at P138,080,422.10. Copy of the detailed breakdown of the total project cost is hereto attached as Annex "I".
24. Diesel-Fueled Power Plant. The 5MW Solong Diesel Power Plant will consist of four (4) KTA50-G3 Diesel Engine plus one 600 kW diesel engine. Copies of the General Plant Description, KTA50-G3 RP Connect Price Quotation, Purchase Order No. SWC00323 issued to Bussbarr Corporation, Cummins-KTA38-AA19-GCA RP Connect Price Quotation and 750 kVA D-2 Power Genset NOVOsol Power Price Quotation are hereto attached as Annexes "J", "J-1", "J-2", "J-3" and "J-4", respectively.
25. Debt-Equity Ratio and Weighted Average Cost of Capital (WACC) - The cost of the 5MW Solong Diesel Power Plant will be funded through loans and equity. The indicative debt-equity ratio for the project is 70:30 and the Pre-tax Weighted Average Cost of Capital (WACC) is 13.23571%. A copy of the Bank Terms and Conditions, Amortization Schedule and the computation of WACC are hereto attached as Annexes "K", "K-1" and "K-2", respectively.
26. Working Capital. The working capital allotted for sixty (60) days of operation for the 5MW Solong Diesel Power Plant is P43,312,647.31. A copy of the detailed computation of the working capital is hereto attached as Annex "L".
27. Using these estimated project costs, Applicants were able to justify the Capacity Fee stipulated under the 1st Amendment. It is worthy to note that the computed Capacity Fee is higher than the Capacity Fee stipulated under Annex "A" of the 1st



Amendment. Copy of the Computation is hereto attached as Annex "M". Also, utilizing the projected Operations & Maintenance (O&M) expenses the Applicants were able to justify the stipulated Local O&M Fee (LOM) and Foreign O&M Fee (FOM) under the 1st Amendment. Copies of the computation of the LOM and FOM are hereto attached as Annexes "N" and "O", respectively.

**ALLEGATIONS IN SUPPORT OF THE PRAYER
FOR PROVISIONAL AUTHORITY**

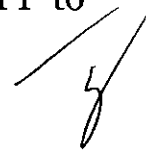
Joint Applicants replead the foregoing allegations and further state that:

28. There is a paramount relevance and urgent need for additional generating capacity in the Province of Catanduanes due to insufficiency of power supply resulting in numerous forced outages, to the substantial prejudice of the consumers of FICELCO. Thus, the urgent need to implement the 1st Amendment to the ESA.
29. To prevent delay in the implementation of the 1st Amendment to the ESA, a provisional authority is respectfully prayed for. An affidavit of merit in support of the prayer for provisional authority is hereto attached as Annex "P".
30. Clearly, therefore, public interest compels the immediate issuance of a provisional authority, subject to any provisional or final authority that may be subsequently issued by this Honorable Commission.

PRAYER

WHEREFORE, premises considered, Joint Applicants SUWECO and FICELCO respectfully pray that:

- (a) Upon filing of the instant Application, and pending hearing thereon, an Order be issued:
 - (1) granting PROVISIONAL AUTHORITY to



Joint Applicants for the implementation of the provisions of the 1st Amendment to the ESA; and (2) directing NPC-SPUG to pay the difference between the approved rate and the amount billed to FICELCO.

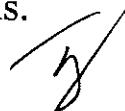
- (b) After hearing on the merits, a Decision be rendered: (1) issuing a **PERMANENT APPROVAL** of the said 1st Amendment to the ESA, including the rates set forth therein; and (2) directing NPC-SPUG to pay the difference between the approved rate and the amount billed to FICELCO.

Finding the said application to be sufficient in form and 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 **March 15, 2016 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at FICELCO's Principal Office, Marinawa, Bato, Catanduanes.**

FICELCO and SUWECO 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 FICELCO'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 Mayors of the Cities and Municipalities within FICELCO's franchise area and the Provincial Governor of Negros Occidental for the appropriate posting thereof on their respective bulletin boards.



FICELCO and SUWECO 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, FICELCO and SUWECO must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences of 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 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.

FICELCO and SUWECO 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 thereof 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 FICELCO and SUWECO 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, FICELCO and SUWECO must also be prepared to make an expository presentation of their application, aided by whatever communication medium that they may

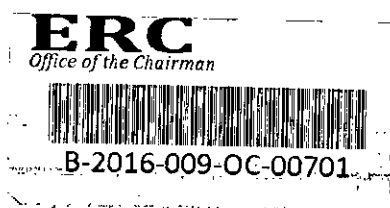


deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the member-consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 21 January 2016.

**FOR AND BY AUTHORITY
OF THE COMMISSION:**

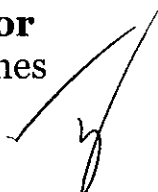


JOSE VICENTE B. SALAZAR
Chairman

U *H*
gls/apv/FICELCO and SUWECO/2015-065 RC/initial order

Copy Furnished:

1. **Atty. Cecilia R. Layug**
LAYUG LAW OFFICE
Counsel for Joint Applicants
Unit 2904, One San Miguel Building
San Miguel Avenue corner Shaw Boulevard
Ortigas Center, Pasig City, Metro Manila
2. **First Catanduanes Electric Cooperative, Incorporated (FICELCO)**
Marinawa, Bato, Catanduanes
3. **Sunwest Water and Electricity Company, Incorporated (SUWECO)**
Embarcadero de Legaspi, Port Area, Legazpi City
4. **The Municipal Mayor**
Bagamanoc, Catanduanes
5. **The Municipal Mayor**
Baras, Catanduanes
6. **The Municipal Mayor**
Bato, Catanduanes
7. **The Municipal Mayor**
Caramoan, Catanduanes
8. **The Municipal Mayor**
Gigmoto, Catanduanes
9. **The Municipal Mayor**
Pandan, Catanduanes
10. **The Municipal Mayor**
Panganiban, Catanduanes
11. **The Municipal Mayor**
Viga, Catanduanes
12. **The Municipal Mayor**
San Miguel, Catanduanes
13. **The Municipal Mayor**
San Andres, Catanduanes



14. **The Municipal Mayor**
Virac, Catanduanes

15. **The Provincial Governor**
Province of Catanduanes

16. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila

17. **Commission on Audit**
Commonwealth Avenue
Quezon City, Metro Manila

18. **The Committee On Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City

19. **The Committee On Energy**
House of Representatives
Batasan Hills, Quezon 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

