

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



IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE POWER PURCHASE AND TRANSFER AGREEMENT BETWEEN BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO) AND PEAK POWER BUKIDNON, INC. (PBI) WITH PRAYER FOR PROVISIONAL AUTHORITY,

ERC CASE NO. 2016-088 RC

BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO) AND PEAK POWER BUKIDNON, INC. (PBI).

Applicants.

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DUCKETE #
Date: **AUG 25 2016**
By: **[Signature]**

ORDER

On 29 April 2016, the Bukidnon II Electric Cooperative, Inc. (BUSECO) and Peak Power Bukidnon, Inc. (PBI) filed a joint application for the approval of the power purchase and transfer agreement between BUSECO and PBI, with prayer for provisional authority.

In the said application, BUSECO and PBI alleged, among others, the following:

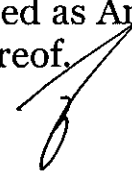
Parties to the Case

1. Applicant BUSECO 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 Manolo Fortich, Bukidnon. It has been granted a franchise by the National Electrification Administration (NEA) to distribute electric service in the Municipalities of Libona, Manolo Fortich, Sumilao, Baungon, Malibog, Talakag, Impasug-ong, Malaybalay, Lantapan and Cabanglasan, all in the Province of Bukidnon. A Copy of its NEA Certificate of Registration is attached to this application as Annex "A".

2. Applicant PBI is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at 3rd Floor Joy-Nostalq Center, ADB Ave., Ortigas Center, Pasig City. PBI is in the process of constructing and installing a 2 x 5.2 MW (Gross) Bunker/Diesel-fired power plant, which it shall own, operate, and maintain, for the duration of the Cooperation Period, located at Brgy. Alae, Manolo Fortich, Bukidon (the "Power Plant").
3. Copies of PBI's Certificate of Registration, Articles of Incorporation and latest General Information Sheet and Audited Financial Statements are attached to the application as Annexes "B", "C", "D" and "D-1" respectively and all made integral parts hereof;
4. A summary of the relevant technical characteristics of the Power Plant is attached to the application as Annex "E" and made an integral part hereof.
5. A summary/description of the relevant facilities necessary to connect the Power Plant directly to the distribution system/grid of BUSECO is attached as Annex "F" hereof.

Nature of the Application

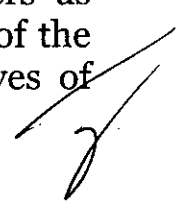
6. Pursuant to Rule 20 (B) of the Energy Regulatory Commission's Rules of Practice and Procedure (the "ERC Rules") and other pertinent rules and regulations, this Application is being submitted to this Commission for the approval of the Power Purchase and Transfer Agreement ("PPTA") entered into by and between Joint Applicants BUSECO and PBI. A copy of the PPTA is attached as Annex "G" of this application and made an integral part hereof.
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7. The subject PPTA was entered into by Joint Applicants in August 2014. Thus, in accordance with Resolution No. 1, Series of 2016 promulgated by the Honorable Commission last 15 March 2016, the EPPA is not yet covered by the requirement for a competitive selection process in the procurement of power supply for captive customers of distribution utilities.

Compliance with Pre-Filing Requirements

8. In compliance with the pre-filing requirements mandated under Rule 3, Section 4 (e) of the Implementing Rules and Regulations 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 Procedure, Joint Applicants furnished the legislative bodies of the local government units where they principally operate with a copy of the present Application together with all the annexes and accompanying documents. Copies of the Affidavits of Service on the Presiding Officer or Secretary or their duly authorized representatives, of the legislative bodies of the Province of Bukidnon and the Municipality of Manolo Fortich, where Applicants both principally operate, attesting to the fact of such service are attached to the application as Annexes "H" and "H-1".
9. In addition, Joint Applicants caused the publication of the instant Application in its entirety in a newspaper of general circulation within the Franchise Area of Applicant BUSECO. Copies of the newspaper where the publication of this Application appeared and the corresponding Affidavit of Publication from the publisher of such newspaper attesting to such publication are attached hereto as Annexes "I" and "I-1".

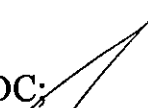
Statement of Facts and of the Case

10. Peakpower Energy, Inc. (PEI), the mother company of Applicant PBI sent a letter to the Board of Directors of BUSECO offering to build, operate and maintain an embedded power generation facility within the franchise area of BUSECO which would be aimed at addressing the adverse effects of the current power crisis in Mindanao and to supply the peaking power requirements of BUSECO. BUSECO received and evaluated other power supply offers from other potential suppliers as discussed further below. In the course of the evaluation of the different power supply offers received, the representatives of
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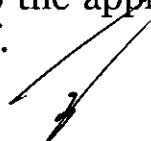
PBI made a presentation to the Board of Directors of BUSECO on their power supply offer.

11. As will be discussed further below, BUSECO thereafter determined that the power supply offer of PEI/PBI was the most advantageous due to the reasons cited below. Thereafter, Joint Applicants commenced negotiations for the execution of the PPTA. Applicant BUSECO considered the need to address, at the soonest possible time, the need for additional generating capacity due to the current Mindanao power crisis as well as the security of the long term power supply requirements of the consumers in its franchise area which was projected to increase yearly from 2014 and onwards. The power supply of BUSECO has been adversely affected by the continued decrease of the contracted capacity allocated under the Transition Supply Contract/Contract for the Supply of Electric Energy (TSC/CSEE) by the National Power Corporation/Power Sector Assets and Liabilities Management Corp. (NPC/PSALM) to BUSECO.

**BUSECO DEMAND-SUPPLY
SITUATION AND PROJECTIONS**

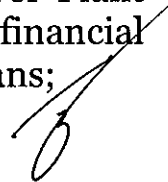
12. The franchise area of BUSECO has a total peak power demand of 30.84 MW in 2016. Currently, BUSECO sources its electric power requirements from the following suppliers:
 - a) 6 MW from NPC/PSALM under a TSC/CSEE until 2018;
 - b) 2MW from Therma South Inc. (TSI)
 - c) 5 MW from the Therma Marine Inc., (TMI) under a Power Supply Contract until 2018;
 - d) 10 MW from FDC Misamis, (FDCUC) under a Power Supply Contract which will be reduced to 8MW by 2019;
 - e) 0.60 MW from Sure ECO biomass under a Power Supply Contract until 2017;
 - f) 0.22MW from GREI;
 - g) 0.18MW from Nebo Green EDC;
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13. Thus, in 2016, BUSECO is already in need of an additional 6MW of power supply. This assumes that power from the NPC/PSALM is fully available. BUSECO immediately needs an additional 6 MW of power just to ensure that it will have enough contracted capacity to meet the requirements of its franchise area. Further, Applicant BUSECO projects that the demand within its franchise area will grow by at 4.87 % a year from 2016. This is without the projected large loads that will enter the franchise area of BUSECO. A portion of this deficiency and the projected load growth of BUSECO and the eventual expiration of the NPC/PSALM supply contract is what is sought to be supplied under the PPTA by PBI. This is consistent with the Distribution Development Plan of BUSECO a copy of which with its average load curve, demand supply scenario and forecasts is attached to this Application as Annex "J" and made an integral part hereof;
14. The Department of Energy (DOE) has projected that the Mindanao Grid will have a projected deficit of 120 to 280 MW in generating capacity by 2015 and a further deficit of 50-200MW onwards to 2020. A copy of the Mindanao supply demand projections for 2013 to 2020 as projected by the DOE in the draft 2013 Power Development Plan (PDP), is attached hereto as Annex "K" and made an integral part hereof.
15. Currently, NPC/PSALM is only able to supply 6 MW and this is projected to decrease further especially during the summer months when the water level in the hydroelectric plants of NPC is low.
16. Thus, there is no assurance that BUSECO can rely on the supply of power from NPC/PSALM at the contracted levels in their TSC/CSEE. This will result in the unpredictability of the supply to the consumers of BUSECO and may expose BUSECO to the high prices of electricity in the interim spot market.
17. A copy of the Certification from PSALM that it cannot supply the additional requirements of BUSECO beyond the contracted energy and equivalent demand under their TSC/CSEE is attached to the application as Annex "L" and made an integral part hereof.



**Details on the Procurement
Process undertaken by BUSECO**

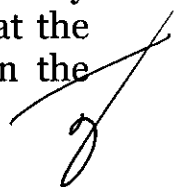
18. Details on the procurement process undertaken by Joint Applicant BUSECO is attached as Annex "M" and made an integral part hereof;
19. After evaluation, Applicant BUSECO determined that the offer of PEI/PBI was the most advantageous among the offers it received since:
 - a) PBI would finance and build a brand new power plant that would use less expensive bunker fuel;
 - b) The power plant would be available at the soonest time to address the power supply deficiency in the franchise area of BUSECO as PBI was obligated to construct the Power Plant within one year from the issuance of the required Environmental Compliance Certificate (ECC) by the DENR;
 - c) PBI would guarantee the operational efficiency of the power plant in terms of fuel consumption and availability;
 - d) There is no requirement for a minimum energy off-take under the proposed PPTA of PBI;
 - e) Further, since PBI proposed to construct the Power Plant within the franchise area of BUSECO and connect it directly to the latter's distribution system, it will not be subject to transmission charges and will not be susceptible to outages in the transmission grid.
 - f) At the end of the Cooperation Period, PBI will transfer the Power Plant to BUSECO for no consideration.
 - g) BUSECO would obtain ownership of the Power Plant within its franchise area without any outright financial outlays and without need for obtaining any loans;



20. Due to the foregoing determinations, Applicant BUSELCO entered into the subject PPTA with PBI on 22 August 2014, after a series of negotiations, with the aim of ensuring the security, affordability and reliability of its supply of power for its consumers at the soonest possible time and to meet the demand growth in its franchise area in the future and to avoid the potential exposure to spot market price volatility.
21. After the execution of the PPTA, Applicant PBI immediately applied for the ECC for the Power Plant project. On 21 September 2015, the DENR issued ECC No. ECC-R10-1509-0226 for the Power Plant of PBI. Copies of the said ECC are attached to the application as Annex "N" and made an integral part hereof.
22. A Copy of the Letter from the DOE dated 15 April 2016 stating that the PBI Power Plant Project is classified as a "Committed Power Generation Project" is attached to the application as Annex "O" and made an integral part hereof.

**EXECUTIVE SUMMARY AND ABSTRACT OF THE
ELECTRIC POWER PURCHASE AGREEMENT**

23. Executive Summary. Under the PPTA, PBI undertakes finance, construct, operate, maintain and eventually transfer a brand new, complete Wartsilla bunker fired power plant with a gross capacity of 2x5.2MW in Brgy. Alae, Manolo Fortich, Bukidnon which is adjacent to BUSECO's Sumilao Substation and BUSECO undertakes to take and pay for the capacity and electricity supplied by PBI, at a contracted capacity of 10 MW (the "Contracted Capacity").
24. Contracted Capacity and Energy. The agreed monthly contracted capacity under the PPTA is 10MW. There is no minimum contracted energy under the PPTA between Applicants PBI and BUSECO. BUSECO need only pay for the fuel and variable O&M fees for the electricity it actually orders PBI to generate from the Power Plant.
25. Delivery Point. The Contracted Capacity and required electricity shall be delivered by PBI to BUSECO at the delivery point which is the High Voltage side of the transformer at the Power Plant as designated in the PPTA (Schedule 7) on the



Initial Delivery Date. PBI shall deliver or cause the delivery of such electricity in accordance with good utility practice and in compliance with appropriate rules and regulations such as the Grid Code and the Distribution Code.

26. Initial Delivery Date. The Initial Delivery Date under the PPTA was agreed to be one (1) year from the issuance of the ECC by the DENR for the Power Plant and not later than ninety (90) days thereafter.
27. Electricity Fees. The Electricity Fees under the PPTA are as follows:

SCHEDULE 8

ELECTRICITY FEES

Electricity fees = fixed fees + variable fees + actual fuel costs + actual lube costs

Where:

Fixed fees = fixed fees for Unit 1 + fixed fees for Unit 2

Fixed fees per Unit = Capacity Fees per Unit + Fixed O&M Fees per Unit

Capacity Fees Per Unit = Fixed Capacity Fee x Contracted Capacity per Unit

Fixed O&M Fees per Unit = [Fixed O&M Fees per Unit x iffOM] x Contracted Capacity per Unit

Fixed Capacity Fee = P1,360.00/kw/month

Fixed O&M Fees = P350.00/kw/month

Contracted Capacity per Unit = 10,000kw or 5,000kw per unit

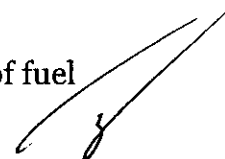
$$\text{iffOM} = 0.6 \times \left[\frac{\text{PhCPIc}}{\text{PhCPIb}} \right] + \left[0.4 \times \frac{\text{EUc} \times \text{FinPPIc}}{\text{EUb} \times \text{FinPPIb}} \right]$$

Variable Fees = energy fee x E

E = total electricity delivered for the billing month in kwh's

Energy Fee = P0.50/kwh

Actual Fuel costs = E x fuel consumption rate x price of fuel



Fuel consumption rate = 0.240 liters per kwh (guaranteed at 100% dispatch), escalated by 1.5% per year, or actual consumption whichever is lower

Price of fuel = actual delivered price of bunker fuel to SELLER for the billing month in pesos per liter and supported by the delivery invoices of the fuel supplier/s of SELLER.

Actual Lube Costs = E x lubricant consumption rate x price of lubricant

Lube consumption rate = 0.002 liters per kwh, escalated by 1.5% per year, or actual consumption whichever is lower, or actual consumption whichever is lower

Price of Lubricants = actual delivered price of lubricants to SELLER for the billing month in pesos per liter, supported by the delivery invoices of the lubricant supplier/s of SELLER

PhCPIc = Philippine CPI for the billing month for all items published by the NSO

PhCPIb = Base Philippine CPI as of December 2013

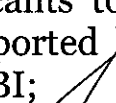
EUc = Euro Dollar – Philippine Peso exchange rate for the billing month, as published by the Banko Sentral ng Pilipinas

EUb = Base Euro Dollar – Philippine Peso exchange rate as of December 2013, as published by the Banko Sentral ng Pilipinas

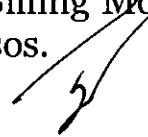
FinPPIc = Finland Producers Price Index for Manufacturing for the billing month, as published by the International Monetary Fund

FinPPIb = Base Finland Producers Price Index for Manufacturing, as of December 2013, as published by the International Monetary Fund

28. **Price Formula for Fuel and Lubricants.** In accordance with the previous decisions of the Honorable Commission, the fuel and lubricants costs under the PPTA will be on a pure pass through basis, subject only to the agreed consumption/efficiency cap of 0.24/liters of bunker fuel per kwh and 0.002 liters of lubricants per kwh of electricity generated by the Power Plant. Thus, the fuel costs under the PPTA is the actual delivered price of bunker fuel to PBI for the billing month in pesos per liter which shall be supported by the delivery invoices of the fuel supplier/s of PBI. Likewise, the cost of lubricants under the PPTA is the actual delivered price of lubricants to PBI for the billing month in pesos per liter and supported by the delivery invoices of the lubricant supplier/s of PBI;



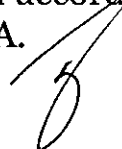
29. Details of the Fuel Procurement. The sworn statement on the details for the fuel procurement of Applicant PBI for the fuel requirements of the Power Plant are attached as Annex "P" and made an integral part of this Application.
30. Term. The PPTA shall have a term of Fifteen (15) years commencing on the Initial Delivery Date and ending on the fifteenth (15th) anniversary of such commencement date (the "Cooperation Period"), unless sooner terminated pursuant to the terms of the PPTA. The Initial Delivery Date is the date of the commencement of PBI's obligation to deliver to BUSECO, and for BUSECO, to purchase, the Contracted Capacity, provided the Honorable Commission has approved the PPTA.
31. Allowed Schedule of Outage. Under the EPPA, PBI is allowed a Scheduled Outage which shall not exceed Seven Hundred Twenty (720) hours year and an Allowed Unscheduled Outage period of Three Hundred Sixty (360) hours per calendar year. Any unutilized Allowed Scheduled Outage periods may be used for Allowed Unscheduled Outages and vice versa but any unutilized Allowed Scheduled and Unscheduled Outage allowances within a calendar year will not be accumulated for use during the succeeding years of the Cooperation Period.
32. Billing Month. A Billing Month under the PPTA means the period commencing on the first hour of the twenty sixth (26th) day of a calendar month and ending on the last hour of the twenty fifth (25th) day of the next calendar month. Within ten (10) working days after the end of each Billing Month, PBI shall deliver to BUSECO an invoice in respect of Electricity Fees payable for the previous Billing Month. The due dates for such invoice shall be fifteen (15) calendar days after receipt of such billing.
33. Prompt Payment Discount. In the event that the full and proper payment for the Electricity is made by BUSECO within seven (7) days from receipt of the invoice, PBI shall grant BUSECO a prompt payment discount equivalent to one percent (1%) of the CRF portion of the Electricity Fees (exclusive of, O&M fees, fuel cost and any applicable charges and taxes), corresponding to the Electricity Fees billed for such Billing Month. All payments under the PPTA shall be made in Pesos.



34. Charges, Expenses and Taxes. In relation to the supply of electricity by PBI to BUSELCO, any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by PBI or otherwise imposed by NGCP, any Governmental Authority, the market operator or any other third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the PPTA shall be paid by the BUSECO.
35. Payments on Termination. In the event that the PPTA is terminated by PBI upon the occurrence of any events of default under the PPTA, BUSECO shall be liable to pay liquidated damages in the form of a termination penalty amounting to Capacity Fees under the PPTA for the remainder of the Cooperation Period. In the event BUSECO is unable to pay the termination penalty, PBI may remove the Power Plant. In the event of termination of the PPTA in bad faith by PBI, it shall pay BUSECO liquidated damages in the form of a termination penalty amounting to the Capacity Fees as approved by the ERC for the remainder of the Cooperation Period but not to exceed three (3) years. Once PBI has paid the liquidated damages, it may thereafter remove the Power Plant.

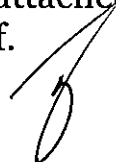
STAGES OF SUPPLY

36. Testing and Commissioning. During the testing and commissioning period, PBI will deliver to BUSECO on a non-firm basis, the electric power generated by the Power Plant in the course of testing and commissioning, subject to the payment by BUSECO of the Fuel and Lubricants costs and energy fees/variable O&M fees for actual energy taken computed in accordance with Schedule 8 of the PPTA. These fees shall be based only on the Actual Energy Delivered by PBI to BUSECO for the duration of the testing and commissioning period of the Power Plant.
37. Commercial Operation. During the commercial operations period which shall commence on the Initial Delivery Date, PBI will deliver to BUSECO on a firm basis, the Contracted Capacity from the Power Plant, subject to the payment of Electricity Fees by BUSECO computed in accordance with the formula specified in Schedule 8 of the PPTA.



IMPACT OF THE PPTA ON BUSECO GENERATION COSTS

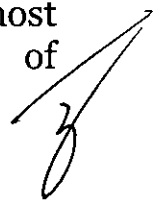
38. Should the Honorable Commission approve the Electricity Fees under the PPTA, there is a projected increase in the generation cost of BUSECO of PhP0.7598 per kWh on the Initial Delivery Date upon commercial operations of the Power Plant. A copy of the simulation of the impact of the PPTA on the generation costs of Applicant BUSECO is attached hereto as Annex "Q" and made an integral part of this Application;
39. The expected additional capacity from PBI even as early as the testing and commissioning and pre-commercial operations of the Power Plant will contribute greatly to the improvement of the quality, reliability and affordability of the electric power delivered to the consumers of BUSECO and the security of supply for its franchise area.
40. Under the terms of the PPTA, among the conditions precedent to the performance by BUSECO and PBI of their respective obligations thereunder is the approval by the Commission of this Application.
41. Thus, for PBI to be able to deliver and BUSECO to be able to receive power from the former as early as the testing and commissioning and the pre-commercial operations of the Power Plant, it is imperative that the Honorable Commission approve the PPTA.
42. Considering that the Power Plant is still to be constructed, it currently does not yet have a Certificate of Compliance (COC) from the Honorable Commission. Pursuant to ERC Resolution No.9, series of 2010, Joint Applicant PBI hereby undertakes that shall it shall file the necessary application for a COC not later than three (3) months prior to the commencement of commercial operations of the Power Plant.
43. Project Cost and EPC Contract. A summary of the relevant information on the project cost for the 2x5.2 MW bunker-fired power generation facility of PBI is provided in the Summary of Project Cost attached as Annex "R" hereto and made an integral part hereof.



44. Funding and Sources of Funds, Cash Flow and Basis for the Purchased Power Rate. The Project shall be funded through a loan from PNB and equity from the shareholders. Summaries of the relevant information on PBI's sources of funds for the Power Plant including the debt-equity ratio for the Project, cash flow and basis for the purchased power rate in the PPTA is attached to the application as Annexes "S", "T" and "U" respectively and made integral parts hereof.
45. Bank Certification. A Certification from Philippine National Bank on the financing for the PBI Power Plant, on the principal amount, term and interest of the loan agreement is attached hereto as Annex "V" and made an integral part hereof.
46. Rates Schedule. The Electricity Fees are computed and specified in Schedule 8 of the PPTA;
47. Capacity Fee of PhP1,360.00/kW/month. The Capacity Fee would allow Applicant PBI to recover the Project Cost for the Power Plant and have a reasonable return over the fifteen (15) year term of the PPTA. The recovery period is pegged on the term of the PPTA since upon the expiration Applicant of the said term, PBI is obligated to turn over the Power Plant to Applicant BUSECO for no further consideration.
48. Board Resolutions. A copy of the Board Resolution adopted by the Board of Directors of PBI authorizing the joint filing of the instant application with BUSECO, is attached hereto as Annex "W" and made an integral part hereof. Likewise, a copy of the Board Resolution passed by the Board of Directors BUSECO approving the execution of the PPTA with PBI and authorizing the joint filing of the instant Application, is attached to the application as Annex "W-1" and made an integral part hereof;

**ALLEGATIONS IN SUPPORT OF THE MOTION FOR
NON-DISCLOSURE OF CONFIDENTIAL INFORMATION**

49. Under Article 10 of the PPTA, the Joint Applicants agreed to keep in strict confidence all "Confidential Information" of PBI, to ensure that no Confidential Information of Applicant PBI is disclosed to third parties and that they shall use utmost efforts to prevent any unauthorized disclosure of

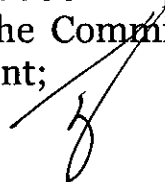


Confidential Information. Such Confidential Information includes any information relating to the operations, businesses, technology, practices, products, marketing, sales, services, finances or legal affairs of PBI, as well as actual or prospective customers, business partners, market opportunities, business, sales, marketing, technical, financial and legal plans, proposals and projections, product information, know-how, design rights, trade secrets, concepts, techniques, processes, methods, systems, designs, programs, codes, formula, research, experimental works and works in progress.

50. Joint Applicants respectfully request that pursuant to their agreement to maintain in strict confidence all confidential information of PBI, Annexes "P", "R", "S", "T", "U" and "V" which contain certain non-public information, data and calculations involving business operations and financial trade secrets reflecting PBI's investment and business calculations, be treated as confidential documents.
51. Under Rule 4 of the ERC Rules, the Honorable Commission may, upon request of a party and the determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential. Pursuant to such provision, Joint Applicants respectfully requests for the issuance of a protective order declaring the foregoing information, data and calculations contained in Annexes "P", "R", "S", "T", "U" and "V" as confidential information.
52. Further, in accordance with Section 1(b), Rule 4 of the ERC Rules, Joint Applicants hereby submit one (1) copy of Annexes "P", "R", "S", "T", "U" and "V" in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential".

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

53. One of the conditions in the Loan Agreement between PBI and PNB as lender for the Power Plant is that Joint Applicants must secure the approval of the PPTA by the Commission prior to commercial operations of the power plant;



54. PBI has already begun the construction of the Power Plant. PBI has already ordered the 2x5.2MW Brand new Wartsila Bunker Fired 12V32 Model Generating Units which are scheduled to be shipped from Finland by 9 May 2016 and will arrive in the Philippines by July 15, 2016. However, PBI must be able to draw on the loan from PNB in order to have the said units shipped to the Philippines and installed at the site at the soonest time to meet the implementation schedule for the Power Plant. Otherwise, the Power Plant will be delayed and PBI will not be able to meet its obligation to deliver electricity to BUSECO under the timeline stipulated in the PPTA. The Power Plant is projected to be ready for Commercial Operations approximately One Hundred and Twenty Days after the arrival of the units in the Philippines.
55. Thus, in order for the Power Plant to be ready on time, PBI must be able to draw on its loan from PNB at the soonest and in order for PBI to be able to do so, the provisional approval of the PPTA must be secured as there might be a difficulty in getting a final decision in such a short span of time due to the tremendous case load of the Commission;
56. Thus, in order for PBI to be able to comply with its obligations under the PPTA and complete the Power Plant and deliver the Contracted Capacity to BUSECO by the Initial Delivery Date and for the Power Plant to bring relief to the consumers within the franchise area of BUSECO and further to insulate BUSECO from any further power deficiencies brought about by any power shortage in the Mindanao Grid, it is imperative that a Provisional Authority/Approval be granted by the Honorable Commission pending consideration and approval of the Application. Otherwise, the construction and completion of the Power Plant might be delayed, to the detriment of the security of the power supply of the consumers of Applicant BUSECO. In compliance with the Rules of the Commission, attached as Annex "V" of this Application is the Affidavit of Roel Z. Castro, President of Applicant PBI, in support of the Prayer for Provisional Authority.
57. Applicants pray that the Commission:
- a. Issue an order treating Annexes "P", "R", "S", "T", "U" and "V" of the Application, as confidential documents and the information contained therein as confidential and directing



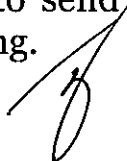
its non-disclosure pursuant to Rule 4, Section 1 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof;

- b. Pending hearing of the Application on the merits, issue a provisional approval approving the Electricity Fees agreed upon by the Applicants in the PPTA;
- c. After full proceedings on the merits, issue a decision approving the terms of the Power Purchase and Transfer Agreement between Joint Applicants PBI and BUSECO, thereby authorizing PBI to charge and collect from BUSECO the Electricity Fees corresponding to the (1) Testing and Commissioning Period, and (2) Initial Delivery Date as contained in the PPTA and authorizing BUSECO to pass the full amount thereof to its consumers.

Finding the said application 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 **22 September 2016 (Thursday) at two o'clock in the afternoon (2:00 P.M.)** at BUSECO's principal office at Manolo Fortich, Bukidnon.

BUSECO and PBI are hereby directed to cause the publication of the attached Notice of Public Hearing in two (2) newspapers of general circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, with the date of last publication made not later than ten (10) days before the date of the scheduled initial hearing. It is also directed to inform the consumers within its franchise area, by any other means available and appropriate, of the filing of the instant application, its 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.

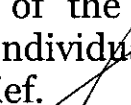


Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor and the Local Government Legislative Body of the province of Bukidnon, as well as the Mayors and the Local Government Legislative Body of Pasig City and the cities/municipalities within the franchise area of BUSECO for the appropriate posting thereof on their respective bulletin boards.

BUSECO and PBI 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, BUSECO and PBI must submit to the Commission its 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 afore-mentioned Governor, Mayors, and Local Government Legislative Body, 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.

BUSECO and PBI 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.
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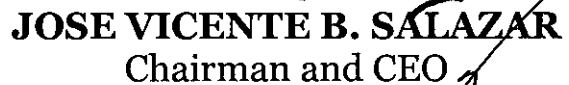
Failure of BUSECO and PBI to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

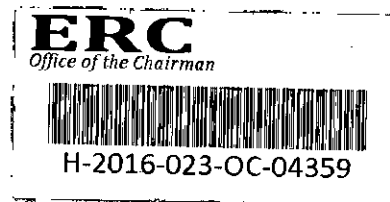
As part of the pre-trial conference, BUSECO and PBI must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other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

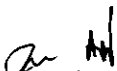
SO ORDERED.

Pasig City, 02 August 2016.

FOR AND BY AUTHORITY OF
THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO





MLMG/APV/IO_2016-088 RC Buseco PPI

Copy Furnished:

1. **Atty. Ferdinand V. Menguito**
Del Callar and Partners
Counsel for BUSECO and PBI
Unit 9D Belvedere Tower, San Miguel Ave.
Ortigas Center, Pasig City
2. **The Office of the Solicitor General**
234 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
3. **The Commission on Audit**
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
4. **The Committee on Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
5. **The Committee on Energy**
House of Representatives
Batasan Hills, Quezon City, Metro Manila
6. **Office of the President of PCCI**
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building, Sen. Gil Puyat Avenue
Makati City
7. **Office of the Municipal Mayor**
Libona, Bukidnon
8. **Office of the Local Government Legislative Body**
Libona, Bukidnon
9. **Office of the Municipal Mayor**
Municipality of Manolo Fortich
Province of Bukidnon
10. **Office of the Local Government Legislative Body**
Municipality of Manolo Fortich
Province of Bukidnon
11. **Office of the Municipal Mayor**
Municipality of Sumilao
Province of Bukidnon



12. **Office of the Local Government Legislative Body**
Municipality of Sumilao
Province of Bukidnon
 13. **Office of the Municipal Mayor**
Municipality of Baungon
Province of Bukidnon
 14. **Office of the Local Government Legislative Body**
Municipality of Baungon
Province of Bukidnon
 15. **Office of the Municipal Mayor**
Municipality of Malibog
Province of Bukidnon
 16. **Office of the Local Government Legislative Body**
Municipality of Malibog
Province of Bukidnon
 17. **Office of the Municipal Mayor**
Municipality of Talakag
Province of Bukidnon
 18. **Office of the Local Government Legislative Body**
Municipality of Talakag
Province of Bukidnon
 19. **Office of the Municipal Mayor**
Municipality of Impasug-ong
Province of Bukidnon
 20. **Office of the Local Government Legislative Body**
Municipality of Umpasug-ong
Province of Bukidnon
 21. **Office of the Municipal Mayor**
Municipality of Malaybalay
Province of Bukidnon
 22. **Office of the Local Government Legislative Body**
Municipality of Malaybalay
Province of Bukidnon
- 

23. **Office of the Municipal Mayor**
Municipality of Lantapan
Province of Bukidnon
24. **Office of the Local Government Legislative Body**
Municipality of Lantapan
Province of Bukidnon
25. **Office of the Municipal Mayor**
Municipality of Cabanglasan
Province of Bukidnon
26. **Office of the Local Government Legislative Body**
Municipality of Cabanglasan
Province of Bukidnon
27. **Office of the Mayor**
Pasig City
28. **Office of the Local Government Legislative Body**
Pasig City
29. **Office of the Governor**
Province of Bukidnon
30. **Office of the Local Government Legislative Body**
Province of Bukidnon
31. PSA-TWG Group 2

