

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)
ENTERED INTO BY AND
BETWEEN LA UNION
ELECTRIC COOPERATIVE,
INC. (LUELCO) AND
SUREPEP INC. (SUREPEP),
WITH MOTION FOR
CONFIDENTIAL TREATMENT
OF INFORMATION AND
MOTION FOR ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2016-066 RC

**LA UNION ELECTRIC
COOPERATIVE, INC.
(LUELCO) AND SUREPEP
INC. (SUREPEP),**

Applicants.

D O C K E T E D
Date: **SEP 29 2016**
By: **[Signature]**

X ----- X

ORDER

On 28 April 2016, the La Union Electric Cooperative, Inc. (LUELCO) and Surepep Inc. (SUREPEP) filed an Application dated 11 April 2016 for approval of the power supply agreement (PSA) with motion for confidential treatment of information and motion for issuance of provisional authority.

In the said Application, LUELCO and SUREPEP alleged the following:

1. LUELCO is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal offices at Brgy. Sta. Rita East, Aringay, La Union. It holds an exclusive franchise issued by the National Electrification Commission to operate an electric light and power distribution service in the City of San

[Signature]

Fernando and all the Municipalities in the Province of La Union, namely: Agoo, Aringay, Bacnotan, Bagulin, Balaoan, Bangar, Bauang, Burgos, Caba, Luna, Naguilian, Pugo, Rosario, Sto. Tomas, Tubao, San Gabriel, San Juan, Santol and Sudipen, as well as the Municipality of Sison, in the Province of Pangasinan.

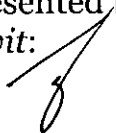
2. SUREPEP is a domestic corporation engaged in renewable energy/power generation, organized and existing under the laws of the Republic of the Philippines, with principal office at Unit 602 OMM Citra Building, San Miguel Avenue, Ortigas Center, Pasig City, Metro Manila.

NATURE OF THE APPLICATION

3. Pursuant to Rule 20 (B) of the ERC Rules of Practice and Procedure ("ERC Rules"), and other pertinent rules and regulations, this Application is being submitted to this Honorable Commission for its due consideration and approval of the Power Supply Agreement ("PSA") executed by between LUELCO and SUREPEP.

STATEMENT OF FACTS

4. LUELCO currently sources eighty-four percent (84%) of its electricity requirements for distribution to its customers from the GNPowder Mariveles Coal Plant Ltd. Co. (GNPower) and the remaining sixteen percent (16%) from the Wholesale Electricity Spot Market (WESM).
5. The volatility of the prices in the spot market unduly exposes LUELCO to higher generation cost.
6. LUELCO has entered into power supply contracts with the Tubao Mini Hydro Electric Corporation (TMHEC) and AES, Phils. Inc., but the latter's supplies are expected to commence only by December 2017 and 2019, respectively.
7. Further, it is expected that the energy requirements of LUELCO's customers will significantly increase in the next few years as demonstrated by its Distribution Development Plan (DDP). Presented below is LUELCO's supply-demand scenario, *to wit:*

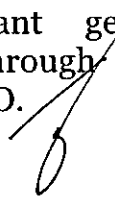


	Historical			Forecasted				
	2013	2014	2015	2016	2017	2018	2019	2020
Peak Demand (MW)	32.95	34.60	37.75	37.95	41.05	44.42	48.01	51.80
Suppliers:								
GNPower (MW)	27.00	27.00	27.00	27.00	27.00	27.00	27.00	27.00
AES, Phils.							8.00	8.00
TMHEC					1.00	1.00	1.20	1.50
Total Supply (MW)	27.00	27.00	27.00	27.00	28.00	28.00	36.20	36.50
Deficit (MW)	5.95	7.60	10.75	10.95	13.05	16.42	11.81	15.30

8. SUREPEP, which was putting up a Biomass Combined Heat and Power Generation Facility within LUELCO's franchise area, offered to sell to LUELCO available energy to be generated from the plant.
9. Mindful of the volatile prices in the spot market, LUELCO's increasing load requirements and the need for additional power suppliers that could supply its requirements at the earliest possible time, LUELCO started negotiations with SUREPEP, and eventually accepted its offer.
10. Accordingly, on 01 July 2015, LUELCO and SUREPEP executed a Power Supply Agreement ("PSA"), subject of the instant Application.

THE POWER GENERATION FACILITY

11. In order to supply power under the PSA, SUREPEP has financed, built, constructed, developed and operates a Biomass Combined Heat and Power generation facility at Brgy. Udiao, Rosario, La Union, in partnership with the Pepsi Cola Products Philippines, Inc.
12. The Power Plant generation facility shall be interconnected through the 13.2 kV distribution line system of LUELCO.



**SALIENT FEATURES OF
THE POWER SUPPLY AGREEMENT**

13. The PSA between LUELCO and SUREPEP has the following salient provisions, *to wit*:

**“ARTICLE 2
EFFECTIVE DATE AND COMMERCIAL
OPERATION DATE**

XXX

- 2.3 The target Commercial Operation Date (COD) is AUGUST 1, 2015, all the requirements under *Article 2.2 shall have* been met, and the Supplier shall have notified the Customer in writing of this date.

**ARTICLE 3
TERM**

- 3.1 The Term of this Agreement shall be fifteen (15) years from the Commercial Operation Date, unless extended or revised by mutual written agreement by the Parties.
- 3.2 This Agreement may be renewed by written agreement between the Parties not later than sixty (60) days prior to the expiration of the Term.

**ARTICLE 4
SUPPLY OF ELECTRIC POWER**

- 4.1 The Parties agree to the supply of electric power as indicated below:

Contracted Demand : 350 kW Average
Contracted Energy : 233,000 KWH/month
more or less, the Customer will take all the KWH generated by the Supplier within the Contracted Demand.

**ARTICLE 5
OUTAGE ALLOWANCE**

- 5.1 The Supplier shall have an Outage Allowance of eight hundred seventy six (876) hours per Contract Year during the term of this Contract.

XXX



ARTICLE 6
CHARGES AND ADJUSTMENT

- 6.1 The Generation Charge shall be **Five Pesos per kilowatt-hour (5.00Peso/kWh)**. Any disallowance of the generation charge or any component thereof, for recovery from end-users, shall be for the sole account of the Supplier and shall not prejudice the Customer.
- 6.2 Customer shall be liable for and pay (i) any taxes (including value-added tax, if any), fees, charges, levies (including but not limited to Universal Charge) and imposts imposed or assessed by any Governmental Authority on or in connection with the purchase and sale of electricity and/or payments due to Supplier hereunder, and (ii) any new taxes, fees, charges, levies and imposts (including any increase in the rate or amount thereof after but excluding income taxes) imposed on Supplier after Effective Date. That is if such taxes, fees, charges, levies and imposts are approved by ERC as pass on charges.
- 6.3 The Generation Charge shall be adjusted annually based on the Consumer Price Index or Inflation Rate declared by NEDA for the previous year. The price adjustment shall be effective on the first billing month of the succeeding year.”

RATE IMPACT

14. LUELCO considered the impact of the PSA on its effective rates taking into account the other suppliers of electricity in its franchise area. The Tables below summarize the rate impact of the PSA:

Table I. Combined Generation Rate from the projected load allocations (2017-2021) with current and prospective suppliers (kWh) without SUREPEP

Supplier	kW	Load Factor %	BCQ/WESM Purchased, kWh	Energy Cost, PhP	Basic Rate PhP/kWh
GNPower	27,000	56.00%	632,390,767.45	3,011,822,177.56	4.7626
TMHEC	1,500	3.11%	43,449,600.00	218,886,049.92	5.0377
AES	8,000	16.59%	210,240,000.00	788,294,880.00	3.7495
WESM	11,713	24.29%	243,149,377.55	1,328,133,171.59	5.4622
Total	48,213	100.00%	1,129,229,745.00	5,347,136,279.06	4.7352

Table II. Combined Generation Rate from the projected load allocations (2017-2021) with current and prospective suppliers (kWh) and SUREPEP

Supplier	kW	Load Factor %	BCQ/WESM Purchased, kWh	Energy Cost, PhP	Basic Rate PhP/kWh
GNPower	27,000	56.00%	632,390,767.45	3,011,822,177.56	4.7626
TMHEC	1,500	3.11%	43,449,600.00	218,886,049.92	5.0377
SUREPEP	350	0.73%	13,980,000.00	69,900,000.00	5.0000
AES	8,000	16.59%	210,240,000.00	788,294,880.00	3.7495
WESM	11,363	23.57%	229,169,377.55	1,251,771,463.71	5.4622
Total	48,213	100.00%	1,129,229,745.00	5,340,674,571.18	4.7295

15. Based on the computation, there will be a projected decrease in the generation rate of Php0.0057/kWh in case the PSA with SUREPEP is approved and the current and other prospective suppliers will be supplying power starting on 2017 to 2021.

RELATED INFORMATION

16. In support of the instant Application and in compliance with the documentary requirements of the Honorable Commission as provided under Article VI, Section 2 of the "Guidelines for the Recovery of Costs for the Generation Component by Distribution Utilities" as well as the pre-filing requirements mandated under Rule 6, Sections 2 to 4 of the ERC Rules of Practice and Procedure, Applicants are submitting the attached documents which are made integral parts hereof, as follows:

ANNEX	NATURE OF DOCUMENT
A to A-1	LUELCO's Articles of Incorporation and By-Laws
B	LUELCO's Certificate of Franchise issued by the National Electrification Commission
C	LUELCO's Certificate of Registration with the National Electrification Administration
D	SUREPEP Certificate of Registration with the SEC
E	SUREPEP Articles of Incorporation and By-Laws
F	SUREPEP Latest General Information Sheet
G	SUREPEP Latest Audited Financial Statements
H	SUREPEP Plant Description
I	BOI Registration for SUREPEP Power Plant
J	DENR Environmental Compliance Certificate (ECC) issued to SUREPEP
K	DOE Certificate of Endorsement issued to SUREPEP
L	Documents in relation to SUREPEP's pending application

	with the ERC for issuance of a Certificate of Compliance (COC)
M	Power Supply Agreement (PSA) between LUELCO and SUREPEP
N	LUELCO Board Resolution approving the PSA with SUREPEP
O	SUREPEP Board Resolution approving the PSA with LUELCO
P	SUREPEP's Project Cost
Q	SUREPEP's Cash Flow (Financial Projections) with Sources of Funds/Financial Plans (Page 1); Basis of Purchased Power Rates (Page 7); Loan Agreement with Financial Institution (All Confidential)
R	Sworn Statement on SUREPEP's Fuel Procurement Process
S	LUELCO's DDP Summary
T	LUELCO's Average Daily Load Curve
U	LUELCO's Procurement Process
V	LUELCO's Latest Audited Financial Statements
W	Transmission Service Agreement between LUELCO and NGCP
X	Alternative Demand Side Management program that could be implemented by LUELCO if approved by the ERC
Y	Rate Impact Analysis
Z	Judicial Affidavit in Support of the Motion for Issuance of a Provisional Authority
AA and series	Proof of furnishing copies of the Application to the concerned local legislative bodies in the applicants' franchise area/main office
BB and series	Publication of the Application in a newspaper of general circulation in LUELCO's franchise area or where it principally operates, with Affidavit of Publication

ALLEGATIONS IN SUPORT OF THE MOTION
FOR CONFIDENTIAL TREATMENT OF
INFORMATION

17. Invoking the provisions of Rule 4 of the ERC Rules of Practice and Procedure, SUREPEP respectfully moves for the confidential treatment of the information contained in Annex "Q" (SUREPEP's Cash Flow (Financial Projections) with Sources of Funds/Financial Plans (Page 1); Basis of Purchased Power Rates (Page 7) and Loan Agreement with Financial Institution).

18. SUREPEP is a company which considers the exploration of additional potential projects all over the Philippines for the operation, maintenance or administration of power plants similar to the plant involved in the instant application. As such, it has valuable proprietary interest



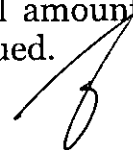
in securing the confidentiality of the foregoing information particularly from existing and potential competitors in the power generation sector. Public exposure of these sensitive information/data, particularly the full details thereof, could give these parties a competitive advantage over SUREPEP as they would have the opportunity and ability to utilize the ingenuity involved in the computations in arriving at the data/information sought to be protected.

**ALLEGATIONS IN SUPPORT OF THE MOTION FOR
ISSUANCE OF A PROVISIONAL AUTHORITY**

19. As stated above, sixteen percent (16%) of LUELCO's power requirements is currently being sourced from the Wholesale Electricity Spot Market (WESM).
20. The volatility of the prices in the sport market unduly exposes LUELCO to higher generation cost.
21. The power supply from SUREPEP will partly address the foregoing predicament, which could be immediately implemented once the Honorable Commission issues a provisional approval of the PSA while the instant application is pending, and LUELCO's customers shall, at the soonest possible time, benefit from the lower generation cost.
22. Hence, Applicants respectfully move for the provisional approval of the instant Application pursuant to Rule 14 of the ERC Rules of Practice and Procedure.

PRAYER

WHEREFORE, premises considered, Applicants LUELCO and SUREPEP most respectfully pray of the Honorable Commission, that:

1. Upon filing hereof, an Order be immediately issued (a) treating Annex "Q" and the information contained therein as confidential, (b) directing its non-disclosure pursuant to Rule 4 of the ERC Rules of Practice and Procedure, and (c) prescribing the guidelines for the protection thereof.
 2. Upon initial review of the Application and pending trial on the merits, a provisional approval of the PSA as well as a provisional authority to LUELCO to recover from its customers the full amount of the fees and charges under the PSA, be issued.
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3. After due notice and hearing, a Decision be issued approving the PSA between LUELCO and SUREPEP, and authorizing LUELCO to recover from its customers the full amount of the fees and charges under the PSA.

Applicants likewise pray for such other reliefs that may be just and equitable under the premises.

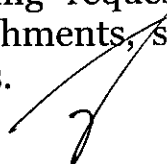
Finding the said Application sufficient in form and substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference, and presentation of evidence on **22 November 2016 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at LUELCO's Main Office in Barangay Sta. Rita East, Aringay, La Union.**

LUELCO and SUREPEP are hereby directed to cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at their 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. They are also directed to inform the consumers within the franchise area of LUELCO, 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 Provincial Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) Legislative Bodies within LUELCO's franchise area for the appropriate posting thereof on their respective bulletin boards.

LUELCO and SUREPEP 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.



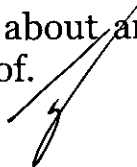
On the date of the initial hearing and Pre-trial Conference, LUELCO and SUREPEP must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU Legislative Bodies, or their duly authorized representatives, bearing the seals of their offices, and the affidavit 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.

LUELCO, SUREPEP, 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 therefor; 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 LUELCO and SUREPEP 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.

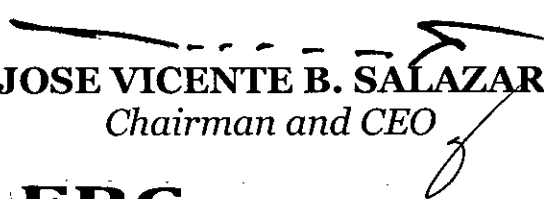
As part of the Pre-trial Conference, LUELCO and SUREPEP must also be prepared to make an Expository Presentation of their Application, aided by whatever communication medium they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.



SO ORDERED.

Pasig City, 22 August 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO

ERC
Office of the Chairman



I-2016-013-OC-04809

LS: /APV

Copy furnished:

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Counsel for Applicants LUELCO and SUREPEP
Units 1609-1610, Tycoon Centre
Pearl Drive, Ortigas Center, Pasig City 1605
2. **La Union Electric Cooperative, Inc.**
Brgy. Sta. Rita East, Aringay, La Union
3. **SUREPEP, Inc.**
Unit 602 OMM Citra Building,
San Miguel Ave., Ortigas Center, Pasig City
4. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila
5. **Commission on Audit**
Commonwealth Avenue
Quezon City, Metro Manila
6. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City, Metro Manila
7. **House Committee on Energy**
Batasan Hills
Quezon City, Metro Manila
8. **President**
Philippine Chamber of Commerce and Industry (PCCI)
McKinley Hill, Fort Bonifacio
Taguig
9. **Office of the Provincial Governor**
Province of La Union
10. **Office of the LGU Legislative Body**
Province of La Union
11. **Office of the City Mayor**
City of Pasig
12. **Office of the LGU Legislative Body**
City of Pasig
13. **Office of the Municipal Mayor**
Agoo, La Union
14. **Office of the LGU Legislative Body**
Agoo, La Union
15. **Office of the Municipal Mayor**
Aringay, La Union

16. **Office of the LGU Legislative Body**
Aringay, La Union
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Bacnotan, La Union
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Luna, La Union
33. **Office of the Municipal Mayor**
Naguilian, La Union



34. **Office of the LGU Legislative Body**
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Sudipen, La Union
50. **Office of the LGU Legislative Body**
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51. **Office of the Provincial Governor**
Province of Pangasinan



- 52. **Office of the LGU Legislative Body**
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