

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
BETWEEN OCCIDENTAL
MINDORO ELECTRIC
COOPERATIVE, INC.
(OMEKO) AND EMERGING
POWER, INC. (EPI), WITH
PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2014 – 102 RC

**OCCIDENTAL MINDORO
ELECTRIC COOPERATIVE,
INC. (OMEKO) AND
EMERGING POWER, INC.
(EPI) SUBSTITUTED BY
MINDORO GEOTHERMAL
POWER CORPORATION
(MGPC) AND OCCIDENTAL
MINDORO CONSOLIDATED
POWER CORPORATION
(OMCPC),**

Applicants.

X-----X

Promulgated:

January 13, 2022

ORDER

Before this Commission for resolution is the *Motion (For Issuance of a New Transition Period)* dated 23 November 2021 filed by Applicant Occidental Mindoro Electric Cooperative, Inc. (OMEKO) on 24 November 2021.

On 01 July 2014, applicants OMEKO and Emerging Power, Inc. (EPI)¹ filed a *Joint Application* dated 09 June 2014 (Joint Application)

¹ Occidental Mindoro Consolidated Power Corporation assumed the rights and obligations of EPI pertaining to the Back-up/Standby Bunker-Diesel Plant under its PSA with OMEKO pursuant to a *Deed of Assignment* dated 04 February 2015. In an *Order* dated 27 September 2018, the Commission allowed the substitution of OMCPC as a co-applicant in the instant case, in lieu of EPI, the relevant provisions of the *Order* reads, *to wit*:

for the approval of their Power Supply Agreement (PSA) with prayer for provisional authority.

On 03 November 2014, the Commission issued a *Decision* approving with modification the instant *Joint Application*, the dispositive portion of which reads, *to wit*:

WHEREFORE, the foregoing premises considered, the application filed by Occidental Mindoro Electric Cooperative, Inc. (OMECO) and Emerging Power, Incorporated (EPI) for approval of their Power Supply Agreement (PSA) is hereby **APPROVED WITH MODIFICATION** and subject to the following conditions:

1. The applicable generation rate for the 40 MW Geothermal Power Plant shall be:

Table 1. Applicable generation rate for the Geothermal Plant

Cost Component	Rate	
	Below 20 MW	Above 20 MW
Capital Recovery Fee (PhP/kW/month)	4,078.68	2,610.54
Fixed O&M Fee (PhP/kW/month)	797.86	
Variable O&M Fee (PhP/kWh)	0.7920	

2. The applicable generation rate for the 20 MW Bunker-fired Diesel Power Plant shall be:

Table 2. Applicable generation rate for the Bunker-Diesel Plant

Cost Component	Rate
Capital Recovery Fee (PhP/kW/month)	1,117.31
Fixed O&M Fee (PhP/kW/month)	280.03
Variable O&M Fee (PhP/kWh)	0.5000
Fuel Fee	Pass through subject to efficiency cap
Lube Oil Fee	Pass through subject to efficiency cap

3. The foregoing applicable generation rates shall be subject to adjustment based on economic indices provided in the PSA;
4. The Commissioning Fee (Commissioning Output Charge) is computed as follows:

x x x

Considering the above-cited provisions on their respective Deeds of Assignment, relevant provisions in the approved PSA, and applicable laws and jurisprudence, the Commission admits assignees MGPC and OMPC as co-applicants in the instant case, in lieu of assignor EPI. Therefore, assignees and MGPC and OMPC are now deemed subrogated into the rights and obligations of its assignor EPI under the PSA pursuant to the respective Deeds of Assignment issued in favor of MGPC and OMPC.

x x x

Table 3. Computation of the commissioning fee

Particulars	Geothermal Plant	Bunker-Diesel Plant
Variable O&M Fee	PhP0.7920/kW	PhP0.5000/kWh
Fuel Fee	-	Pass through subject to efficiency cap
Lube Oil Fee	-	Pass through subject to efficiency cap

Relative thereto, EPI is directed to submit its actual cost incurred during the Commissioning Period, audited and verified by an independent party;

5. OMECO shall charge its member-customers a rate equivalent to the approved Subsidized/Approved Generation Rate (SAGR);
6. EPI is allowed to recover the subsidy from the Commission-approved Universal Charge-Missionary Electrification (UC-ME) based on the petition filed by the National Power Corporation-Small Power Utilities Group (NPC-SPUG) and as set forth under the "*Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas*" promulgated on August 22, 2011. Likewise, EPI shall be entitled to the subsidy commencing from the date of its first delivery of energy to OMECO;
7. NPC-SPUG is directed to pay EPI the difference between the True Cost of Generation Rate (TCGR) and the SAGR;
8. The formula under the "Computation of the UC-ME Subsidy" is hereby modified such that NPC-SPUG shall only pay EPI the difference between the TCGR and the SAGR;

x x x

SO ORDERED.

On 15 November 2016, the Commission received a letter from Occidental Mindoro Consolidated Power Corporation (OMCPC) wherein it requested for a clarification regarding its eligibility to receive UC-ME (Universal Charge - Missionary Electrification) subsidy payments from the National Power Corporation (NPC).

On 19 December 2016, the said request was granted by the Commission when it issued an *Order* authorizing OMCPC to collect UC-ME subsidy payments from NPC for an interim period of six (6) months or until a final determination can be made, whichever comes earlier, in the amount corresponding to the plant in actual operation, but not exceeding the amounts authorized in the Commission's *Decision* dated 03 November 2014.

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On 19 April 2017, OMCPC commenced commercial operation of its Bunker-Diesel Plant and began supplying power to OMECO to meet the latter's energy requirements. Therefore, from 19 April 2017 to 18 October 2017, OMCPC was allowed to operate the Bunker-fired Diesel Plant for an interim period of six (6) months.

Thereafter, the Commission issued several *Orders* extending the operation of the Bunker-Diesel Plant, and consequently, authorizing OMCPC to collect UC-ME subsidy payments from NPC, *to wit*:

Table 4. Commission's issued Orders

Date	Order	Period Granted	Date of Coverage	Applicable Rate
19 December 2016	Authorizing OMCPC to collect UC-ME subsidy payments from NPC	Six (6) months	19 April 2017 – 18 October 2017	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated 03 November 2014
18 October 2017	Authorizing OMCPC to collect UC-ME subsidy payments from NPC	Six (6) months	18 October 2017 – 17 April 2018	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated 03 November 2014
17 April 2018	Authorizing OMCPC to collect UC-ME subsidy payments from NPC	Three (3) months	17 April 2018 – 16 July 2018	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated 03 November 2014
03 December 2018	Authorizing OMCPC to collect UC-ME subsidy payments from NPC and directing OMECO to:	N/A	17 July 2018 – 31 December 2018	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated

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Date	Order	Period Granted	Date of Coverage	Applicable Rate
	i. Remain vigilant in enforcing contractual obligations as stipulated in their PSA with EPI and its successors, Mindoro Geothermal Power Corporation (MGPC) and OMCPC;			03 November 2014
	ii. Undertake a Competitive Selection Process (CSP), taking into consideration the requirements which its existing supplier/s are not able to provide, to ensure security of supply; and iii. Forecast its demand requirements for the immediate medium term, and subject the same to CSP	N/A	01 January 2019 onwards	Applicable Rate of PhP9.9780 based on the Commission-recomputed combined generation cost of MGPC's Geothermal Plant and OMCPC's Bunker-Fired Diesel Plant, as discussed in the <i>Order</i> dated 03 December 2018
06 February 2019	Denying OMECO's <i>Urgent Motion to Defer</i> but allowing a Transition Period within which OMCPC is authorized to collect UC-ME subsidy payments from NPC based on the amounts computed from the approved Power Supply Agreement based on the Commission's	Transition Period	01 January 2019 – 30 June 2019	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated 03 November 2014

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Date	Order	Period Granted	Date of Coverage	Applicable Rate
	<p><i>Decision</i> dated 03 November 2014 and directing OMECO to:</p> <ul style="list-style-type: none"> i. Submit a monthly progress report beginning February 2019 to June 2019 showing the status of the CSP it is currently undertaking; ii. Submit its proposed timelines and decisive plan of action in relation to the conduct of its CSP; iii. Immediately complete all the necessary steps of its CSP in order to procure the necessary power supply – whether for its short-term or long-term contracts, taking into consideration the requirements which its existing supplier/s are not able to provide, to ensure the security of supply; iv. Invoke and enforce the contractual obligations of 			

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Date	Order	Period Granted	Date of Coverage	Applicable Rate
	<p>EPI and its successors, MGPC and OMPC, as stipulated in its PSA; and</p> <p>v. Exercise its rights under the said PSA.</p>			
26 June 2019	<p>Granting OMECO's <i>Manifestation (With Motion to Extend Transition Period)</i> and directing OMECO to:</p> <p>i. Abide by the representations and commitments it made in its letters dated 27 April 2019 and 17 June 2019;</p> <p>ii. Immediately proceed with the implementation of all the necessary steps of its CSP</p> <p>iii. Continue the submission of its monthly progress reports showing the status, proposed timelines, and plan of action in relation to the CSP it is currently undertaking; and</p> <p>iv. Explain why they should not be penalized for their failure to provide electricity in the least cost manner to the</p>	N/A	01 July 2019 – 20 December 2019	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated 03 November 2014

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Date	Order	Period Granted	Date of Coverage	Applicable Rate
	franchise area in accordance with the relevant provisions of the EPIRA and its IRR			
21 January 2020	<p>Granting with modification the <i>Joint Motion for Extension of Transition Period</i> dated 19 December 2019 filed by OMECO and OMPC – extending the Transition Period until 30 June 2020 and directing OMECO to:</p> <ul style="list-style-type: none"> i. Immediately proceed with the implementation of all the necessary steps of its CSP; ii. Continue the submission of its monthly progress reports showing the status, proposed timelines, and plan of action in relation to the CSP; 	N/A	21 December 2019 – 30 June 2020	PhP9.9780/kWh pursuant to the Commission <i>Order</i> dated 03 December 2018 net of OMECO's SAGR; OMECO's member-consumers shall remain to be charged only up to the SAGR, the difference between OMPC's actual generation rate (TCGR) PhP9.9780/kWh shall be solely shouldered by OMECO
26 May 2020	Denying the <i>Motion for Reconsideration</i> filed by OMECO. However, in light of the supervening event brought about by the COVID-19 pandemic, the implementation of the assailed <i>Order</i> (subject of the above MR) was deferred, thereby extending the effectivity of the	Extended Transition Period	Since the Commission had ruled that the implementation of the 21 January 2020 <i>Order</i> was deferred, the covered period for the applicable rate provided in this <i>Order</i> shall be	Amounts computed from the approved Power Supply Agreement based on the Commission's <i>Decision</i> dated 03 November 2014.

Date	Order	Period Granted	Date of Coverage	Applicable Rate
	Transition Period from 30 June 2020 to 31 December 2020 or until OMECO is able to procure the necessary power supply – whichever comes earlier. Lastly, the Commission ruled that it shall look into the propriety of imposing the applicable sanctions and penalties on OMECO for its failure to complete its CSP in a timely manner.		from 21 December 2019 to 31 December 2020 (which is the end of the extended Transition Period).	

In the foregoing *Orders*, the Commission had repeatedly asked OMECO to be vigilant in protecting the interest of its consumers and directed OMECO to provide: (1) updates as to the commercial operations date of the Main Geothermal Plant; and (2) updates and proposed timelines for the conduct of its CSP.

On 09 November 2021, the Commission received from OMECO a *Letter* with the attached OMECO Board Resolution No. 136, Series of 2021, wherein the latter requested the Commission to issue a new Transition Period (from 26 December 2021 to 26 June 2022) to authorize the Bunker Diesel Power Plant of OMCPC to continue supplying power to OMECO and to collect from the UCME Subsidy for the Period 26 December 2021 until 26 June 2022 to ensure continuous power supply in the province of Occidental Mindoro. In the said *Letter* and *Resolution*, the following were the grounds provided for the relief sought by OMECO, in summary:

1. While OMECO was able to complete the CSP for the procurement of 39MW Power Supply and Contracts have already been awarded to OMCPC, the draft PSAs and other pertinent documents have already been submitted to the NEA for final review through the EVOSS last 21 October 2021; follow-up letter was sent last 29 October 2021;
2. NEA has not yet issued the Notice to Proceed (NTP), thus, the PSAs cannot be finalized and executed; and

3. OMPCPC would still have to complete the documentary requirement for the construction of the power plants under the PSAs and would be needing at least six (6) months from the expiration of the effective PSAs on 26 December 2021.

According to OMECO, the circumstances explained above will more likely prevent OMPCPC from completing the construction of its power plants and commence operation of the same within the target Commercial Operations Date (COD) of 26 December 2021.

On 24 November 2021, Applicant OMECO filed a *Motion (For Issuance of a New Transition Period)* dated 23 November 2021. In the said *Motion*, OMECO sought the following reliefs, *to wit*:

WHEREFORE, it is respectfully prayed of this Honorable Commission that an Order be issued:

1. Granting a new Transition Period from 26 December 2021 until 26 June 2022 or until the issuance of provisional authority, whichever comes earlier, to enable OMPCPC to supply power from the existing Back-up/Standby Bunker Diesel Power Plant; and
2. Authorizing OMPCPC to continue collecting the amount of UCME subsidy during the new Transition Period based on the 3 November 2014 Decision as had been approved in the previous Orders granting and extending the Transition Period.

Similarly, and in support of the above *Motion*, Applicant OMPCPC filed its *Comment [Re: OMECO's Motion for Issuance of a New Transition Period]* dated 29 November 2021, wherein it manifested its concurrence and support to OMECO's *Motion*.

ISSUE

The issue for resolution is whether or not the Commission should GRANT the *Motion (For Issuance of a New Transition Period)* dated 23 November 2021 filed by Applicant Occidental Mindoro Electric Cooperative, Inc. (OMECO) on 24 November 2021.

THE COMMISSION'S RULING

The Commission **DENIES** the *Motion (For Issuance of a New Transition Period)* dated 23 November 2021 filed by Applicant

Occidental Mindoro Electric Cooperative, Inc. (OMECO) on 24 November 2021.

DISCUSSION

In the subject *Motion*, OMECO prayed for the issuance of an order granting a new Transition Period from 26 December 2021 until 26 June 2022, authorizing OMCPC's Back-up/Standby Bunker Diesel Power Plant to collect UC-ME Subsidy payments from NPC in the amount of the applicable rate provided in the *Decision* dated 03 November 2014. The grounds for the *Motion* can be summarized as follows:

1. The National Electrification Administration (NEA) has not yet issued the Notice to Proceed (NTPs) for the execution of the PSAs it intends to enter into, which was expected to address the demand requirements of OMECO starting 26 December 2021;
2. OMCPC is still in the process of completing the documentary requirements for the construction of the power plants from which the power supply under the PSAs would be sourced;
3. In connection with the above reasons, the entire process of CSP is not yet fully completed as the issuance by NEA of the NTPs to sign the PSAs is required for the signing of the PSAs; and
4. Even assuming that OMECO and OMCPC would be able to file the necessary PSA Applications before the Commission, it is uncertain if the provisional authorities would be issued by the Commission prior to the target COD of 26 December 2021.

In support of the subject *Motion*, Applicant OMCPC filed its *Comment*, wherein it raised the following additional supporting arguments, in summary:

1. The implementation of the Original PSA under ERC Case No. 2014-102 RC under a new Transition Period is valid and proper based on Article 21 of the subsequently executed EPSAs;
2. There is no other viable alternative solution beyond a new Transition Period because based on the provisions of the recent DOE Circular 2021-09-0030 which superseded DOE Circular No. 2018-02-0003, emergency procurement cannot involve any subsidy – without which OMCPC will not be able to operate; and

3. Currently, only the OM CPC Power Plant is of sufficient size and technical ability to supply OMECO the supply it requires within the limited time.

In addressing the issues raised in the instant *Motion*, the Commission's resolution of the same shall be discussed below.

The Commission resolves to DENY the instant Motion.

It must be recalled that the Original PSA between OMECO and EPI, approved by the Commission on 03 November 2014, provides that the Backup/Standby Bunker-fired Diesel Power Plant of OM CPC shall deliver power only in case of an allowed outage or upon request of OMECO. These are clear from the provisions of the subject PSA. However, records continue to show that the Commercial Operation of the Main Geothermal Plant, which is supposed to operate as the primary plant per the PSA, has been delayed for six (6) years, and to this date, there is still no certainty as to when the same will be operational.

The Commission is mindful of the importance of continuous power supply in the province of Occidental Mindoro. It is worthy to note that its current supplier, OM CPC, supplies around seventy percent (70%) of OMECO's total power requirement. Therefore, the expiration of its previous Emergency Power Supply Agreements (EPSAs) and the consequent cessation of OM CPC's operations will negatively impact the lives of the consumers of Occidental Mindoro as the same will result in massive blackouts within the province. However, it likewise recognizes that continued UC-ME dependency is not in accordance with EPIRA and relevant rules and resolutions. Additionally, such dependency results in an unwarranted burden to consumers as the UC-ME is also collected from all electricity end-users.

The Commission would like to point out that OMECO was already given more than two (2) years to complete the conduct of its CSP. It must be reiterated, as it has already been discussed in previous *Orders*, that the Commission has given more than enough time and opportunities for OMECO to comply with its directives. It must likewise be noted that the Commission has not been remiss in reminding OMECO of its duties as a distribution utility under the EPIRA.

Unfortunately, this delay in OMECO's conduct of a valid and complete CSP comes at a time when there is still an existing health crisis and global pandemic which has not only posed a significant threat to the life and health of all individuals, but has imposed additional restrictions on the mobility of goods, persons, services, etc.

Given these extraordinary circumstances, the Commission cannot turn a blind eye to the situation on the ground as it recognizes the necessity of a stable, reliable, and secure supply of electric power in ensuring the health, safety, economic growth, and development of a province, especially at these peculiar and unprecedented times. In the case of *Romeo Gerochi et al. v. Department of Energy (DOE) et al*³, the Supreme Court had occasion to rule on the matter, as it made the following pronouncements hereunder quoted below:

X X X

Electric power generation and distribution is a traditional instrument of economic growth that affects not only a few but the entire nation. It is an important factor in encouraging investment and promoting business. The engines of progress may come to a screeching halt if the delivery of electric power is impaired. Billions of pesos would be lost as a result of power outages or unreliable electric power services.

X X X

Significantly, in the above-cited case, the Supreme Court ruled that the Commission should be given sufficient leeway to exercise its police power with great flexibility, when the need arises⁴.

This flexibility was reiterated in *National Association of Electricity Consumers for Reforms v. Energy Regulatory Commission*⁵ where the Court held that the Commission, as regulator, should have sufficient power to respond in real time to changes wrought by multifarious factors affecting public utilities.

Moreover, the Commission relies on its legal mandate as enunciated in its enabling law, Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA). Particularly, Section 41 of the EPIRA states:

³ G.R. No. 159796, 17 July 2007;

⁴ *Id*;

⁵ G.R. No. 163935, 2 February 2006, 481 SCRA 480, 515-516, citing Freedom from Debt Coalition v. Energy Regulatory Commission;

Section. 41. Promotion of Consumer Interests. – The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.

OMECO must be reminded, however, that the third paragraph of Section 23 of the EPIRA states that it is the duty and obligation of a Distribution Utility (DU) to supply electricity in the least cost manner to its captive market. OMECO is legally mandated to supply electricity in the least cost manner that will benefit not only their captive market but also all the other electricity end-users – the performance of this duty is anchored on the conduct of a valid CSP. Moreover, Paragraph h, Section 4, Rule 7 of the EPIRA Implementing Rules and Regulations (EPIRA IRR) provide that a DU shall supply electricity in the least cost manner to the captive market within its franchise area, subject to the collection of Retail Rates duly approved by ERC.

Taking into consideration the existence of extraordinary circumstances and in the interest of promoting consumer welfare, and the EPIRA's policy towards ensuring an adequate and reliable supply of electric power⁶, the Commission finds that these constitute compelling reasons to allow OMECO to continue sourcing out its power requirements from OMPCPC in accordance with its duties under Section 23 of the EPIRA, for a limited period to be discussed below.

While the Commission resolved to allow OMECO to procure its power requirements from OMPCPC in accordance with Sec. 23 of the EPIRA and authorizing the latter to operate and avail of UC-ME subsidy, this authority granted by the Commission shall be subject to certain conditions and modifications.

As previously discussed, OMECO's current supplier, OMPCPC, supplies 20MW out of the 24MW it currently consumes, 4MW of which is sourced from NPC's remaining generation assets. That is around seventy percent (70%) of its demand requirement. Therefore, if OMPCPC ceases to operate, the member-consumers within OMECO's franchise area will suffer the lack of supply during these times of pandemic.

⁶ Section 2. Declaration of Policy –

x x x

(b) to ensure the quality, reliability, security and affordability of the supply of electric power
x x x.

During the virtual conference held on 23 November 2021, wherein both OMECO and OMCPC were in attendance, the Commission inquired as to its justification for seeking the instant relief from the Commission under the instant PSA Application. According to OMECO, upon the review of all available alternative solutions, seeking relief from the Commission is the only viable option considering that the request for the issuance of a new Certificate of Exemption from CSP from the DOE would preclude its only capable and willing supplier, OMCPC from availing of the UC-ME subsidy payments from the NPC, pursuant to DOE Circular No. 2021-09-0030. The relevant provisions of the aforementioned DOE Circular provides, *to wit*:

Section 1. Section 2 (Coverage) of DC2018-02-0003 shall be revised to be read as follows:

x x x

Section 2.2.1.2. x x x Provided also, that the procurement of emergency power supply shall not be entitled to any form of subsidy. x x x

OMCPC likewise echoed the sentiments manifested by OMECO during the said meeting and the same was reiterated in its *Comment* wherein it argued that, should their collection of UC-ME subsidy payments be disallowed, it would not be able to purchase fuel for the operation of its Bunker Diesel Power Plant.

Therefore, in balancing the interests of missionary or off-grid DUs and all other consumers, the Commission notes that OMECO cannot repeatedly be allowed to indeterminately collect from the UC-ME Subsidy due to its continued failure to carry out its legal mandate as an EC and conduct a valid CSP. As already ruled by the Commission numerous times in its previous Orders, OMECO's continued reliance on the UC-ME Subsidy, especially when the same is to the detriment of all electricity end-users at large, runs afoul to the spirit and state policy behind pertinent laws, rules and regulations.

In relation thereto, the Commission finds that the consequences of OMECO's continued inefficiency and failure to comply with its own commitments and representations should not result in imposing any additional burden on electricity end-users at large who contribute to the UC-ME. Thus, the Commission resolves that the cost of the delay in the conduct of CSP should be on account of OMECO.

WHEREFORE, in view of the foregoing, the *Motion (For Issuance of a New Transition Period)* dated 23 November 2021 filed by Applicant Occidental Mindoro Electric Cooperative, Inc. (OMECECO) on 24 November 2021 is hereby **DENIED**. However, in light of the existence of extraordinary circumstances with the spread of the Coronavirus (COVID-19) and the declaration of a global pandemic involving the same, which constitutes a supervening event as it is defined by applicable law and jurisprudence, and after due deliberation and thorough evaluation of the documents submitted and information gathered by the Commission pursuant to its regulatory powers, the Commission hereby **RESOLVES** the following

1. Applicant Occidental Mindoro Electric Cooperative, Inc. (OMECECO) is hereby **DIRECTED** to source out power from Occidental Mindoro Consolidated Power Corporation (OMCPC), to ensure the continuous and unhampered supply of power within its franchise area, guided by the relevant provisions of the EPIRA, particularly Section 23 which provides that a distribution utility shall have the obligation to supply electricity in the least cost manner to its captive market;
2. The applicable generation rate for the power to be procured by OMECECO from OMCPC shall be limited to the **lowest True Cost of Generation Rate (TCGR) approved by the Commission for Bunker-fired Power Plants**, particularly, that which was approved in ERC Case No. 2012-018 RC⁷ in its *Decision* dated 17 December 2012, the pertinent portions of which are quoted below, *to wit*:

WHEREFORE, the foregoing premises considered, the application for approval of the Power Supply Agreement (PSA), as revised, filed by the Province of Siquijor Electric Cooperative, Incorporated (PROSIELCO) and S.I. Power Corporation (SIPCOR) is hereby **APPROVED WITH MODIFICATION**, subject to the following conditions:

- a. The applicable base tariff shall be as follows:

Particulars	Approved Rates
Capital Recovery Rate	PhP991.22/kW-month
Fixed O&M	PhP94.68/kW-month

⁷ ERC Case No. 2012-018 RC entitled: *In the Matter of the Application for Approval of the Power Supply Agreement as Revised, Between Province of Siquijor Electric Cooperative, Inc. (PROSIELCO) and S. I. Power Corporation (SIPCOR)*;

Variable O&M	PhPo.5699/kWh
Fuel Cost	Pass-through cost subject to efficiency cap
Lube Oil Cost	Pass-through cost subject to 0.0168 li./kWh

- b. The Fixed O&M, the Variable O&M, the Fuel Cost and the Lube Oil Cost shall be subject to adjustments based on the economic indices provided in the PSA.

The Capital Recovery Rate (CRR) shall be subject to Foreign Exchange (Forex) adjustment only.

- c. The pass-through fuel cost shall be subject to the following fuel consumption cap or actual, whichever is lower:

Plant Load Factor (PLF)	Specific Fuel Oil Consumption Rate Ceiling (liters/kWh)
80% and above	0.2460
65% to 79%	0.2618
50% to 64%	0.2695
49% and below	0.2762

X X X

3. Inasmuch as OMECO is within the area served by the National Power Corporation-Small Power Utilities Group (NPC-SPUG), OMCPC shall be allowed to recover the difference between the previously approved TCGR in ERC Case No. 2012-018 RC and the Subsidized-Approved Generation Rate (SAGR) for OMECO from the Commission-approved Universal Charge Missionary Electrification (UC-ME) Subsidy.
4. The applicable period for this directive shall be for a period of **ninety (90) days** from 26 December 2021, or until 26 March 2022, or until such time as OMECO is able to secure sufficient supply to address its total load requirement, whichever comes earlier.
5. OMECO is likewise directed to immediately proceed with the implementation of all the necessary steps for the completion of its CSP and **SUBMIT** to the Commission, within fifteen (15) days from receipt of

this Order, monthly progress reports showing the status, proposed timelines, and plan of action in relation to the CSP it is currently undertaking, especially those that pertain to the issuance of the required Notice to Proceed (NTP) from the National Electrification Administration (NEA).


SO ORDERED.

Pasig City, 16 December 2021.


AGNES VST DEVANADERA
Chairperson and CEO


ALEXIS M. LUMBATAN
Commissioner

(took no part)
CATHERINE P. MACEDA
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMFO L. FUENTES
Commissioner


LS: MCE/MCCG


ROS: EVTR/FPG/AJMO/LLG

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