

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) AND FIRST
(1ST) SUPPLEMENTAL
AGREEMENT (SA) BETWEEN
TABLAS ISLAND ELECTRIC
COOPERATIVE, INCORPORATED
(TIELCO) AND SUNWEST WATER
AND ELECTRIC COMPANY
(SUWECO), WITH PRAYER FOR
THE ISSUANCE OF PROVISIONAL
AUTHORITY

ERC CASE NO. 2014-150 RC

TABLAS ISLAND ELECTRIC
COOPERATIVE, INCORPORATED
(TIELCO) AND SUNWEST WATER
AND ELECTRIC COMPANY
(SUWECO),

Applicants.

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DOCKETED
Date: JAN 22 2015
By: [Signature]

ORDER

On October 3, 2014, Tablas Island Electric Cooperative, Incorporated (TIELCO) and Sunwest Water and Electric Company (SUWECO) filed an application for approval of their Power Supply Agreement (PSA) and First (1st) Supplemental Agreement (SA), with prayer for the issuance of provisional authority.

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

The Applicants

1. TIELCO is a non-stock, non-profit rural electric cooperative duly organized and existing by virtue of Presidential Decree No. 269, as amended, with principal

office at Odiongan, Romblon. It is a holder of an exclusive franchise issued by the National Electrification Commission (NEC) to operate an electric light and power service in the Municipalities of Odiongan, Ferrol, Looc, Sta. Fe, Alcantara, San Agustin, Calatrava, San Andres and Sta. Maria (originally a Barangay of San Agustin), all in the Province of Romblon (Franchise Area). A copy of its Certificate of Franchise is attached to the application;

2. SUWECO is a corporation duly organized and existing under the Philippine laws with office address at Unit 1208 West Tower, Philippine Stock Exchange, Ortigas Center, Pasig City. Copies of its Amended Articles of Incorporation (AOI), Certificate of Filing of Amended AOI and General Information Sheet (GIS) for the year 2013 are, likewise, attached to the application;

Nature and Scope of the Application

3. They are jointly filing the instant application for approval of their PSA and 1st SA (Agreements) with a prayer for the issuance of provisional authority pursuant to Rules 14 and 20 (B) of the ERC Rules of Practice and Procedure, copies of which are attached to the application;
4. Their Agreements provide for the development of a Power Station to be operated as the principal power source for the Island Grid of Tablas:
 - a. The Power Station shall have a minimum rated capacity of 7.5 MW plus N-1 and a Guaranteed Dependable Capacity (GDC) of 7,500 kW, pursuant to Section 2.9 of the 1st SA:

Generating Unit	Fuel Type	Installed Capacity, MW	Dependable Capacity, MW
1	HFO	2.58	2.45
2	HFO	2.58	2.45
3	HFO	2.58	2.45
4	Hydro	0.72	0.58
5	Hydro	0.70	0.52
6	Hydro	0.60	0.48
7	Hydro	0.85	0.68

* Specifications may be subject to change

- b. Since it will take some time to order, manufacture, construct, install and complete the Bunker/Hydro Hybrid Power Plant, they agreed to install an Interim Diesel Plant to address the frequent brownouts and worsening power shortage in TIELCO's franchise area. Section 2.8 of the 1st SA provides for the installation and commissioning of eight (8) units 1.1 MW Cummins Modular Diesel Engine KTA50;
4. The instant application only pertains to the Interim Diesel Plant, due to the urgency and necessity for approval of the same. They are however reserving the right to file a separate application for approval of the Bunker/Hydro Hybrid Power Plant at a later date;

**Compliance with Pre-Filing Requirements – Rule 6,
ERC Rules**

5. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, they have furnished the legislative bodies of each of the local government units where they principally operate with copies of the present application and all its annexes and accompanying documents. Proofs of receipt by the legislative bodies of the City of Pasig, the Municipality of Odiongan and the Province of Romblon, are attached to the application;
6. Furthermore, they have caused the publication of the present application in its entirety in a newspaper of general circulation within the franchise area. Copies of the newspaper and corresponding affidavit of publication are, likewise, attached to the application;

Preliminary Facts

7. Pursuant to state policy towards the privatization of power generation mandated by Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA, as early as year 2005, TIELCO conducted a Competitive Selection Process (CSP) that failed due to the continuing breach of the winning bidder;

8. This earlier contract was deemed terminated by TIELCO per its Board Resolution No. 34-2010 dated July 24, 2010. Consequently, a new CSP was approved per its Resolution No. 30-2011, a copy of which is attached to the application;
9. SUWECO was declared as a qualified bidder by TIELCO's Technical Working Group (TWG) in the new CSP, as indicated in the Evaluation Report of TIELCO's Special Pre-qualification Bids and Awards Committee (TSPBAC), a copy of which is, likewise, attached to the application;
10. SUWECO was subsequently declared as the winning bidder in this CSP, which was certified by the Department of Energy (DOE) as compliant with its Department Circular No. 2004-01-002 in its letter dated February 19, 2014. A copy of the said DOE certification letter is attached to the application;
11. Subsequently, they executed a fifteen (15)-year PSA in May 2013 wherein it was agreed that SUWECO will use a combination of Bunker C (HFO Power Plant) and Hydropower with a GDC of 7.5 MW to supply the energy requirements of TIELCO. If SUWECO will commence operation, the National Power Corporation-Small Power Utilities Group (NPC-SPUG) at Tablas Island will cease supplying power to TIELCO-Tablas, as per tripartite agreement between and among the NPC-SPUG, TIELCO and SUWECO;
12. In the meantime however, in light of the extensive period without the expected New Power Provider (NPP) as well as the economic and commercial growth in TIELCO's franchise area, the supply of power from NPC has become inadequate. This has led to average daily brownouts of four (4) to five (5) hours even with the generating facilities in Tablas Island operating at full capacity. A copy of TIELCO's Demand/Supply Scenario is, likewise, attached to the application;

13. Due to this urgent need for additional capacity in Tablas Island, they agreed to install an eight (8) MW Interim Diesel Plant to immediately address the power supply problem while the engines for the planned HFO Power Plant and the turbines for the planned Hydropower Plant are being manufactured by foreign suppliers;
14. The additional energy to be sourced from the said eight (8) MW Interim Diesel Plant is projected to alleviate the daily brownouts within TIELCO's franchise area which is currently causing substantial economic losses and severe disruptions in the day-to-day activities of its member-consumers;
15. There will be no increase in the rates currently charge to TIELCO's member-consumers as a result of the operation of the Interim Diesel Plant because electricity fees to be charged to it under the Agreements will remain to be the Subsidized Approved Generation Rate (SAGR);
16. There is however a projected increase on the Missionary Electrification Universal Charge (UC-ME) Subsidy for Tablas Island, Romblon as SUWECO's True Cost Generation Rate (TCGR) is higher than the SAGR for Tablas Island;

Abstract of the Agreements and Related Information

17. They desired to clarify, modify or extend the terms provided in the PSA and thus entered into a 1st SA executed on April 24, 2014;
18. **Commencement of Commercial Operations Period.** Under Section 2.6 of the 1st SA, they agreed to work together to commence the Commercial Operations Period not later than one hundred twenty (120) days for the Interim Diesel Plant, and forty-eight (48) months for the Bunker Fired Plant, from Effective Date (Target Commercial Operations Date). Failure to meet the Target Commercial Operations Date shall be governed by the provisions of Section 4.4 of the PSA;

19. **Performance Bond.** Under Section 2.3.5 of the 1st SA, the Supplier shall have furnished the Off-taker with a copy of a Performance Bond on terms and conditions acceptable to the Off-taker in the amount of Eighteen Million Pesos (PhP18,000,000.00) and shall be in effect from Effective Date until the issuance of a Joint Declaration of Commercial Operations by them;
20. **Total Electricity Fees for the Eight (8) MW Interim Diesel Plant.** The Total Electricity Fees to be paid by TIELCO for the supply of power by SUWECO shall be PhP3.400/kWh, which is the sum of the Capacity Fee (CF) and both Local and Foreign Operation and Maintenance (O&M) Fees less Prompt Payment Discount (PPD), exclusive of the Lube Oil Charge and the Fuel Charge:

$$TEF = CF + \text{Local O\&M Fee} + \text{Foreign O\&M Fee} + \text{Lube Oil Charge} + \text{Fuel Charge} - PPD$$

- a. **Capacity Fee.** The monthly Capacity Fee shall be PhP2.00/kWh of Delivered Energy per month during the entire cooperation period subject to adjustment from time to time upon agreement of the parties and approval of the Commission;
- b. **Local O&M Fee.** The monthly Local O&M Fee shall be PhP0.7000/kWh of Delivered Energy per month during the entire cooperation period subject to adjustment from time to time upon agreement of the parties and approval of the Commission;
- c. **Foreign O&M Fee.** The monthly Foreign O&M Fee shall be computed in accordance with the following formula:

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

Where:

$$FOMF = \text{Foreign O\&M Fee}$$

FOMR	=	Foreign O&M Rate of PhP0.7000/kWh
DE	=	Delivered Energy
CPI current	=	Consumer Price Index (CPI), as published by the National Statistics Office (NSO) applicable during the Billing Period
CPI base	=	The Philippine CPI, as published by the NSO for the month at the time of PSA signing

- d. **Lube Oil Charge.** The monthly Lube Oil Charge to be shall be computed in accordance with the following formula:

$$\begin{aligned} \text{LOC} &= \text{DE} \times \text{LOC/kWh} \\ \text{LOC/kWh} &= \text{GLOR} \times \text{ALOC} \end{aligned}$$

Where:

LOC	=	Lube Oil Charge
LOC/kWh	=	Lube Oil Charge per kWh
DE	=	Delivered Energy
GLOR	=	Guaranteed Lube Oil Rate of 0.001 liter/kWh
ALOC	=	Actual Lube Oil Cost, initially at PhP135.00/liter

- e. **Fuel Charge.** The monthly Fuel Charge shall be computed in accordance with the following formula:

$$\begin{aligned} \text{FC} &= \text{DE} \times \text{FC/kWh} \\ \text{FC/kWh} &= \text{GFCR} \times \text{AFC} \end{aligned}$$

Where:

FC	=	Fuel Charge
FC/kWh	=	Fuel Charge per kWh
DE	=	Delivered Energy
GFCR	=	Guaranteed Fuel Consumption Rate of 0.285 liter/kWh

AFC = Average Actual Fuel Cost in Pesos per liter, initially at PhP47.00/liter

21. **Debt-Equity Ratio and Weighted Average Cost of Capital (WACC).** The eight (8) MW Interim Diesel Plant will be funded through loans and equity. The indicative debt-equity ratio for the project is 70:30 and the Pre-tax WACC is 11.83571%. A copy of the Loan Amortization Schedule, Asia United Bank (AUB) Indicative Loan Terms and the computation of WACC are attached to the application;
22. **Project Cost.** The total capital cost of the eight (8) MW Interim Diesel Plant is estimated at PhP224,216,151.48. A copy of its detailed breakdown is, likewise, attached to the application. Based on this estimated project cost, they were able to derive the projected CF and both Local and Foreign O&M Fees, copies of which are attached to the application;
23. **Working Capital.** The working capital allotted for sixty (60) days of operation for the eight (8) MW Interim Diesel Plant is PhP60,861,628.49. A copy of the detailed computation of the said working capital is, likewise, attached to the application;
24. **Interim Diesel Plant.** The Interim Diesel Plant will consist of eight (8) KTA50-G3 Diesel Engines. Copies of the General Plant Description, Supplemental Plant Description, Single Line Diagram of the Interim Diesel Plant, Specifications of the KTA50-G3 Diesel Engine, KTA50-G3 RP Connect Price Quotation and KTA50-G3 Bussbarr Corporation Price Quotation are attached to the application;
25. SUWECO has filed an application for the issuance of the Environmental Compliance Certificate (ECC) with the Department of Environment Natural Resources (DENR) in relation to the planned eight (8) MW Interim Diesel Plant as well as the 7.5 MW Bunker/Hydro Hybrid Power Plant. A copy of the letter from SUWECO is, likewise, attached to the application. SUWECO also has filed an application

for the issuance of Certificate of Compliance (COC) with the Commission in connection with the aforementioned power plants, a copy of which is attached to the application;

Allegations in Support of the Prayer for Provisional Authority

26. They replead the foregoing allegations and further state, that:

26.1 There is a paramount relevance and urgent need for additional generating capacity in Tablas Island due to the current power supply problem, which resulted in daily brownouts. Thus, the urgent need to implement the Agreements;

26.2 To prevent delay in the implementation of the Agreements, a provisional authority is prayed for. An affidavit of merit in support of the prayer for provisional authority is attached to the application; and

26.3 Clearly, therefore, public interest compels the immediate issuance of a provisional authority, subject to any provisional or final authority that may be subsequently issued by the Commission; and

Prayer

27. Thus, they pray, that:

27.1 Upon filing of the instant application and pending hearing thereon, an Order be issued: a) granting provisional authority to them for the implementation of the provisions of their Agreements pertaining to the Interim Diesel Plant; and b) directing the NPC-SPUG to pay the difference between the approved rate and the amount billed to TIELCO; and

- 27.2 After hearing on the merits, a Decision be rendered:
- a) issuing a permanent approval of the said Agreements, including the rates set forth therein, pertaining to the Interim Diesel Plant; and
 - b) directing the NPC-SPUG to pay the difference between the approved rate and the amount billed to TIELCO.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **February 18, 2015 (Wednesday) at nine o'clock in the morning (9:00 A.M.) at TIELCO's Main Office, Odiongan, Romblon.**

TIELCO and SUWECO are hereby directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing. They are also directed to inform TIELCO's member-consumers, by any other means available and appropriate, of the filing of the instant application, their reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of the Municipalities within the franchise area of TIELCO and the Provincial Governor of Romblon for the appropriate posting thereof on their respective bulletin boards.

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

On the date of the initial hearing and pre-trial conference, TIELCO and SUWECO must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Mayors and Governor or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

TIELCO and SUWECO and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- (a) a summary of admitted facts and proposed stipulation of facts;
- (b) the issues to be tried or resolved;
- (c) the documents or exhibits to be presented, stating the purposes and proposed markings thereof; and
- (d) the number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

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

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

SO ORDERED.

Pasig City, January 20, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson 4

Copy Furnished:

1. **Atty. Zenon S. Suarez**
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2. **Layug Law Office**
Counsel for SUWECO
Unit 2904, One San Miguel Building,
San Miguel Avenue , Pasig City
3. **Tablas Island Electric Cooperative, Inc. (TIELCO)**
Odiongan, Romblon
4. **Sunwest Water and Electric Company (SUWECO)**
Unit 1208, West Tower, Philippine Stock Exchange,
Pasig City
5. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
6. **Office of the Commission on Audit**
Don Mariano Marcos Avenue, Diliman, Quezon City
7. **The Committee On Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City
8. **The Committee On Energy**
House of Representatives
Batasan Hills, Quezon City
9. **Office of the Municipal Mayor**
Alcantara, Romblon
10. **Office of the Municipal Mayor**
Calatrava, Romblon

11. **Office of the Municipal Mayor**
Ferrol, Romblon
12. **Office of the Municipal Mayor**
Looc, Romblon
13. **Office of the Municipal Mayor**
Odiongan, Romblon
14. **Office of the Municipal Mayor**
San Agustin, Romblon
15. **Office of the Municipal Mayor**
San Andres, Romblon
16. **Office of the Municipal Mayor**
Sta. Fe, Romblon
17. **Office of the Municipal Mayor**
Sta. Maria, Romblon
18. **Office of the Governor**
Province of Romblon
19. **Philippine Chamber of Commerce and Industry (PCCI)**
3rd Floor, ECC Bldg., 355 Sen. Gil Puyat Ave., Makati City
20. **National Power Corporation-Small Power Utilities
Group (NPC-SPUG)**
NPC Compound, Agham Road,
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