

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City



**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF POWER  
SUPPLY AGREEMENT  
BETWEEN PAMPANGA I  
ELECTRIC COOPERATIVE,  
INC. AND BAC-MAN  
GEOTHERMAL INC., WITH  
PRAYER FOR PROVISIONAL  
AUTHORITY AND MOTION  
FOR CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2021-034 RC**

**PAMPANGA I ELECTRIC  
COOPERATIVE, INC. (PELCO  
I) AND BAC-MAN  
GEOTHERMAL INC. (BGI),  
*Applicants.***

**Promulgated:**  
June 11, 2021

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**NOTICE OF VIRTUAL HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 11 May 2021, Pampanga I Electric Cooperative, Inc. (PELCO I) and Bac-Man Geothermal Inc. (BGI) filed a *Joint Application* dated 17 January 2021 for the approval of their Power Supply Agreement (PSA), with prayer for provisional authority and motion for confidential treatment of information.

The pertinent allegations in the said *Joint Application* are hereunder quoted as follows:

1. Applicant PELCO I is an electric cooperative duly organized, incorporated, and registered pursuant to Presidential Decree (“PD”) 269, as amended by PD 1645, and further amended by Republic Act (“RA”) 10531, with principal office at Sto. Domingo, Mexico, Pampanga 2021, Philippines, represented in this instance by its Officer-in-Charge General Manager, Engr.

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Allan E. David, of legal age, Filipino, with office address at Sto. Domingo, Mexico, Pampanga.

2. Applicant BGI is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at One Corporate Centre, Julia Vargas corner Meralco Avenues, Ortigas Center, Pasig City, 1605 Philippines, represented in this case by its Assistant Vice-President, Marvin Kenneth S. Bailon, of legal age, Filipino, with office address at the 9F Rockwell Business Center Tower 3, Ortigas Ave., Pasig City.
  - 2.1. BGI, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (“EPIRA”).
  - 2.2. Pursuant to the Honorable Commission’s Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, BGI has joined in this Application as a co-applicant.
  - 2.3. While BGI is a co-applicant, it manifests that this joint Application shall neither modify, diminish, nor constitute as a waiver of BGI’s rights nor expand its obligations and responsibilities as a generation company under the EPIRA.
3. Applicant PELCO I is the exclusive franchise holder of a Certificate of Franchise issued by the National Electrification Administration (“NEA”) to operate an electric light and power services in the municipalities in the Province of Pampanga, namely: 1) Arayat, 2) Candaba, 3) Magalang, 4) Mexico, 5) San Luis, and 6) Sta. Ana.
4. Applicant BGI is a wholly-owned subsidiary of EDC Geothermal, Inc., which in turn is wholly-owned by Energy Development Corporation. BGI owns and operates the Bacon-Manito Geothermal Power Plant (“Bac-Man Plant”) located in the provinces of Albay and Sorsogon, which was acquired via the privatization auction conducted by the Power Sector Assets and Liabilities Management Corporation (“PSALM”) as evidenced by the attached Joint Certificate of Turn-over dated 3 September 2010. When BGI took over the Bac-Man Plant facility, it embarked on a massive rehabilitation capital expenditure program and the ensuing repair works resulted to the dependable capacity being increased from 130 MW to 156 MW.
5. Applicant PELCO I is in need of a 15MW renewable energy power supply for ten (10) years. The primary source of PELCO I’s electricity requirements is the Masinloc Coal-Fired Thermal Power Plant being managed and controlled by Masinloc Power Partners Co. Ltd. and located in Masinloc, Zambales. To comply with the requirements of the Renewable Portfolio Standards for on-grid areas and to maintain an uninterrupted and reliable

power supply, due to an increasing demand by PELCO I's new and existing customers, as well as in anticipation of expiration of the power supply agreement with MPPCL in 2022, PELCO I decided to source the needed power at affordable and cheaper generation rates through the competitive selection process.

6. Pursuant to Department of Energy ("DOE") Circular No. 2018-02-003 and NEA Memorandum 2019-007, Applicant PELCO I had conducted a public bidding to solicit the most competitive offer/s for the 15MW renewable energy power supply. After careful evaluation and review of the terms of the bid offers, Applicant PELCO I deemed that the proposal of Applicant BGI is the most advantageous and beneficial for its end consumers. Therefore, Co-applicants executed a Power Supply Agreement ("PSA") on September 8, 2020.
7. Co-applicants come now to this Honorable Commission for the approval of the PSA, in compliance with the implementing rules and regulations ("IRR") of the EPIRA and the rules and guidelines issued by the Energy Regulatory Commission ("ERC").

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND RELATED INFORMATION**

8. **Executive Summary.**<sup>1</sup> Under the PSA, Seller BGI shall supply power to Buyer PELCO I for a term of ten (10) years. The Contract Capacity is 15MW.
  - 8.1. **Term of Agreement.** The rights and obligations of the Parties set out in Section 3.1 and Sections 1, 10, 11, 14, 15 and 16 of the PSA shall become effective on Effective Date, and all other terms and conditions of the PSA shall take effect on the Supply Commencement Date and shall continue and remain effective up to a period of 120 Billing Periods, unless earlier terminated in accordance with the PSA, subject to the Conditions Precedent of Section 3.1 of the PSA;
  - 8.2. **Supply of Energy.** Buyer PELCO I's Contract Capacity is fifteen thousand kilowatts (15,000 kW) for the duration of the PSA, as specified in Annex "B" of the PSA;
  - 8.3. **Availability of Energy.** Seller BGI shall Supply the Contracted Capacity from the Bac-Man Geothermal Power Plant, the wholesale electricity spot market (WESM), or any of the Suppliers or third-party sources, in accordance with prudent utility practice and in compliance with applicable law, rules and regulations;
  - 8.4. **Adjustment to the Fixed O&M Charge and Variable Charge.** The Fixed O&M Charge and the Variable O&M Charge portions of the Basic Energy

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the PSA.

Charge shall be adjusted annually at a rate equivalent to the actual increase (or decrease) in the Philippine Consumer Price Index for All Income Households in the Philippine Commodity Group published by the Philippine Statistics Authority or its legal successor, in psa.gov.ph or in its legal successor's official website, as the case may be, with base period calendar year 2012 = 100 for the twelve (12) calendar months of the current year ("CPI"). Such adjustment shall be determined in accordance with the formula provided in Annex "A" of the PSA.

- 8.5. **Basic Energy Charge.** The Basic Energy Charge is composed of the Capital Recovery Charge, Fixed Operations and Maintenance Charge, and Variable Operations and Maintenance Charge all on a peso per kilowatt hour basis, to wit:

**ANNEX A of the PSA**  
**Schedule of Basic Energy Charge**

<b>Component</b>	<b>P/kWh</b>
Capital Recovery Charge	2.02
Fixed O&M Charge	1.48
Variable O&M Charge	1.32
<b>Basic Energy Charge</b>	<b>4.82</b>

The Contracted Capacity shall be charged at the prevailing Basic Energy Charge. The complete schedule of Basic Energy Charge is attached as Annex "A" of the PSA.

- 8.6. **Prompt Payment Discount.** A Prompt Payment Discount may be extended by Seller to Buyer as set out in Annex "A" of the PSA, provided that (i) payment of the Monthly Fee is made in full within five Business Days from Buyer's receipt of the invoice, and (ii) Buyer has no disputed amounts or invoices, other outstanding amounts due, or unpaid invoices or debit memos for any charge, penalty, or interest and has submitted the BIR certificate of tax withheld on or before prescribed submission date.
9. The charges, discounts and adjustments under Annex "A" of the PSA will result to lower generation cost charges of PELCO I. Below is an analysis of the rate impact:

**RATE IMPACT ANALYSIS**

Actual 2019 Generation Rate

2019	<b>Without BGI</b>	<b>With BGI</b>	Equivalent Rate Reduction (P/kWh)
	Blended Average Rate (Php/kWh)	Blended Average Rate (Php/kWh)	
January	5.68	5.57	0.11
February	5.68	5.58	0.10
March	5.68	5.53	0.15
April	5.40	5.28	0.12
May	5.40	5.28	0.12
June	5.40	5.29	0.11

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July	5.04	5.03	0.01
August	5.04	5.03	0.01
September	5.04	5.03	0.01
October	4.76	4.81	(0.06)
November	4.76	4.80	(0.04)
December	4.76	4.79	(0.04)
<b>Total</b>	<b>5.21</b>	<b>5.16</b>	<b>0.05</b>

The above blended average rate (Php/kWh) with MPPCL and WESM shows the PELCO I's actual generation charge for its 2019 power bills.

Also, the rate simulation shows the blended average rate (Php/kWh) with the entry of BGI to PELCO I's generation charge with MPPCL and WESM in 2019. The rate simulation, specifically in the computation of the Capital Recovery Fee (CRF) fee, and the Fixed and Variable O&M fees, was based on the rates proposed by PELCO I and BGI in their PSA.

As can be gleaned from the 2019 simulation, BGI's entry as one of PELCO I's power suppliers would result to a net decrease in the generation cost for PELCO I, which would in turn redound to the benefit of PELCO I's consumers.

**Projected 2021-2030 Generation Rate**

Year	Without BGI	With BGI	Equivalent Rate Reduction (Php/kWh)
	Blended Average Rate (Php/kWh)	Blended Average Rate (Php/kWh)	
2021	5.21	5.17	0.04
2022	5.21	5.19	0.02
2023	5.70	5.34	0.36
2024	5.71	5.39	0.32
2025	5.71	5.45	0.26
2026	5.72	5.52	0.20
2027	5.73	5.58	0.15
2028	5.73	5.64	0.09
2029	5.74	5.69	0.05
2030	5.74	5.73	0.01
<b>Total 2021-2030</b>	<b>5.64</b>	<b>5.50</b>	<b>0.14</b>

The PELCO I and MPPCL contract will expire in 2022. The rate computation in this contract is indexed to coal price, US Consumer Price Index (CPI), and US foreign exchange (Forex). With the variability of these indices, PELCO I adopted the 2019 indices and actual generation charges in the simulation of rates for the contract years 2021-2022.

PELCO I will secure 36MW baseload as replacement to MPPCL contract after its expiration. For simulation purposes, PELCO I assumed to secure a similar base contract with MPPCL, thus the 2019 MPPCL generation rates including the indices were adopted. The WESM prices at PELCO I's trading nodes in 2019 were used in the simulation. The computed

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projected blended net rate (Php/kWh), subject to applicable VAT, are summarized above.

The above projected 2021-2030 blended average rate (Php/kWh) with and without BGI are shown above. The rate simulation was based on the 2019 rates of MPPCL and WESM, and the projected 3% annual escalation on the Fixed and Variable O&M of BGI. As can be gleaned from the projected 2021-2030 annual rates, BGI's entry as one of PELCO I's power suppliers would result to a net decrease in the generation cost for PELCO I.

The analysis of the rate impact reveals that the resultant generation charge ("GC") is lower, thus, offers the best competitive and affordable price. Lower GC translates to the same passed-on charges to the benefit and interest of Applicant PELCO I's end consumers. Therefore, the approval for the implementation of the PSA is imperative and essential because of the lower GC that will redound to the cooperative's stakeholders.

**OTHER RELATED DOCUMENTS**

10. In further support of the instant application, Co-applicants most respectfully submit to the Honorable Commission the following documents:

<b>ANNEX</b>	<b>DOCUMENTS</b>
A	Articles of Incorporation of PELCO I
B	Amended By-Laws of PELCO I
C	List of PELCO I Directors
D	Amended Articles of Incorporation of BGI
E	By-Laws of BGI
F	Securities and Exchange Commission (SEC) Certificate of Registration of BGI
G	Latest General Information Sheet of BGI
H	Document showing information related to the Ultimate Parent Company of BGI
I	Board of Investment (BOI) Certificate of Registration
J	Certificate of Franchise of PELCO I
K	Joint Certificate of Turn-over dated 3 September 2010
L	Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR)
M	ERC Certificate of Compliance (COC) of BGI
N	DOE Certificate of Registration
O	Geothermal Renewable Energy Service Contract Operating Contract
P	Demand Side Management Program
Q	Transition Supply Contract
R	Distribution Development Plan
S	Supply and Demand Scenario and Average Daily Load Curve
T – series*	PELCO I Competitive Selection Process (CSP) and Supporting Documents

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<b>ANNEX</b>	<b>DOCUMENTS</b>
U	Power Supply Agreement (“PSA”) between PELCO I and BGI dated September 8, 2020
V	Transmission Service Agreement
W	Executive Summary of the PSA
X*	Sources of Funds/Financial Plans (Debt/Equity Ratio, Project Cost, Computation of Return on Investment/WACC, Life of Asset versus Term of Loan)
Y*	True Cost of Generation
Z	PELCO I Rate Impact Simulation and Analysis
AA*	Description of Power Plant (including relevant technical and economic characteristics of the generation capacity)
BB	Latest AFS of BGI
CC	Sworn Statement on Fuel Procurement
DD*	Steam Sales Agreement
EE	Summary – Other Requirements
FF	Certification of Receipt from Sangguniang Panlalawigan of Pampanga
GG	Certification of Receipt from Sangguniang Bayan of Mexico
HH	Certification of Receipt from Sangguniang Panlungsod of Pasig
II	Certification of Receipt from Sangguniang Bayan of Manito
JJ	Certification of Receipt from Sangguniang Panlungsod of Sorsogon
KK	Certification of Receipt from Sangguniang Panlalawigan of Albay
LL	Certification of Receipt from Sangguniang Panlalawigan of Sorsogon
MM	Affidavit of Publication
NN	Complete Copy of Newspaper Publication
OO	Affidavit in support of the Provisional Authority

*\*Subject to Motion for Confidential Treatment of Information*

**COMPLIANCE WITH PRE-FILING REQUIREMENTS**

11. In Compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the legislative bodies of the municipality and province wherein the principal place of business of PELCO I is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the certifications of receipt from the Presiding Officer or Secretary of the legislative bodies of the municipality of Mexico, Pampanga and the Province of Pampanga, or from their duly authorized representatives, attesting to the fact of service are attached hereto as **Annexes “GG” and “FF”**, respectively.
  
12. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where BGI’s principal place of business is located. Copy of the certification of receipt from the Presiding Officer or Secretary of the legislative body of the City of Pasig, or from their duly authorized representatives attesting to the fact of service are attached hereto as **Annex “HH”**.

13. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of PELCO I. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as **Annexes “MM” and “NN”**, respectively.

**REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION**

14. Co-applicants respectfully request that the information in the following documents be treated as confidential in nature:

T – series*	PELCO I Competitive Selection Process (CSP) and Supporting Documents
X*	Sources of Funds/Financial Plans (Debt/Equity Ratio, Project Cost, Computation of Return on Investment/WACC, Life of Asset versus Term of Loan)
Y*	True Cost of Generation
AA*	Description of Power Plant (including relevant technical and economic characteristics of the generation capacity)
DD*	Steam Sales Agreement

15. Co-applicants treat other documents in the competitive selection process, such as the other bid proposals of generation companies, related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting BGI’s investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.
16. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

**MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY**

17. As can be gleaned from the Rate Impact Analysis, clearly and without iota of doubt, the contracted capacity as specified in the PSA, with the actual 2019 average resultant reduction of Php 0.05 per kWh, will generally benefit the consumers of PELCO I as it will reduce the GC significantly from the existing Php 5.21 per kWh to Php 5.16 per kWh. Likewise, with the 10 years average resultant reduction of Php 0.14 per kWh, will generally benefit the consumers of PELCO I as it will reduce the GC significantly from the existing Php 5.64 per kWh to Php 5.50 per kWh, as the case may be.



18. PELCO I relies for its remaining energy demand requirements on the WESM and Masinloc Coal-Fired Thermal Power Plant, the PSA of which will be expiring in 2022. With the increasing demand of PELCO I from its new and current customers, as well as in consideration of the volatility of WESM prices, the supply of PELCO I, the current generation charge (GC) of PELCO I will consequently be adversely affected to the prejudice of its end-users. The implementation of the PSA with BGI will enable PELCO I to continuously provide the end-users a stable, uninterrupted and reliable power supply at an affordable rate.
19. Thus, in view of the urgency above-mentioned, PELCO I respectfully moves for the issuance of a provisional authority (PA) in this instant case in order to immediately proceed in implementing the PSA, and for the lower rate and benefits derived therein can immediately be enjoyed by the customers of PELCO I. In support of the Motion for Issuance of Provisional Authority, PELCO I has prepared the Affidavit of Engr. Oliver S. Vergara<sup>2</sup>, **Annex “OO”** of the instant Application.
20. PELCO I understands that whatever rate that may be fixed and approved by the Honorable Commission under the PA shall be without prejudice to whatever rights and legal remedies which BGI may have under the law and the PSA, and the implementation of the PA shall be conditioned upon the acceptance by the Parties of the terms thereof.
21. Finally, PELCO I would like to emphasize that should a PA be issued and accepted by the Parties, and the PSA is provisionally implemented, Section 3 of the PSA will accordingly be amended to the effect that the PSA becomes effective already between the Parties. Consequently, the Terms of the PSA will be deemed amended to the effect that the term shall start from the first day of delivery of power by BGI to PELCO I under the PA.

#### **PRAYER**

**WHEREFORE**, premises considered, applicants Pampanga I Electric Cooperative, Inc. (PELCO I) and Bac-man Geothermal Inc. (BGI) respectfully pray of this Honorable Commission the following:

- a. Immediately issue a Provisional Authority, authorizing BGI and PELCO I to implement the PSA, including the rates;
- b. Treat the documents, and the information therein, duly marked as Annexes “T-series”, “X”, “Y”, “AA”, and “DD” as confidential; and

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<sup>2</sup> This final version has been prepared and reviewed by the Applicants. A notarized version shall later on be attached to the instant Application prior to the filing of the instant Application.

c. After due notice and hearing and consideration, the Provisional Authority be made permanent.

Other reliefs, just and equitable, are likewise prayed for.

The Commission has set the instant *Joint Application* for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,<sup>3</sup> dated 24 September 2020:

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>16 July 2021</b> (Friday) at two o'clock in the afternoon (2:00 PM)	<b>Microsoft Teams Application</b>	Determination of compliance with the jurisdictional requirements and Expository Presentation
<b>23 July 2021</b> (Friday) at two o'clock in the afternoon (2:00 PM)		Pre-trial Conference and presentation of evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (e-mail) at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any person who has an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail address;

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<sup>3</sup> A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

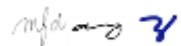
Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

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**WITNESS**, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 31<sup>st</sup> day of May 2021 in Pasig City.

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS: MFD/ARG/MCCG

