

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF
APPLICATION FOR
APPROVAL OF THE
ELECTRIC POWER
PURCHASE AGREEMENT
BETWEEN THE CITY
GOVERNMENT OF
LAMITAN AND BASILAN
ELECTRIC COOPERATIVE
INC., WITH PRAYER FOR
ISSUANCE OF A
PROVISIONAL AUTHORITY
AND MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2021-072 RC

**CITY GOVERNMENT OF
LAMITAN AND BASILAN
ELECTRIC COOPERATIVE,
INC.,**

Promulgated:
September 20, 2021

Joint Applicants.

X-----X

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 03 September 2021, City Government of Lamitan (LAMITAN) and Basilan Electric Cooperative, Inc. (BASELCO) filed a *Joint Application* dated 06 February 2021, seeking the Commission's approval of their Electric Power Purchase Agreement (EPPA), with prayer for issuance of a provisional authority and motion for confidential treatment of information.

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

1. Applicant LAMITAN is a local government unit duly organized and existing under the laws of the Republic of the Philippines,

with address at Rizal Avenue, Lamitan City, Basilan, Philippines, herein represented by its Mayor, Hon. Rosita U. Furigay. A copy of her authorization through Resolution No. 2020-309, dated December 16, 2020 is hereto attached and marked as ANNEX “A” hereof;

- 1.1. A copy of Republic Act No. 939 which created Lamitan’s City Charter and latest Audited Financial statements are hereto attached and marked as ANNEXES “B” and “C,” respectively;
 - 1.2. LAMITAN had finished constructing and has installed a four (4) units 1,250 KW (*sic*) Rose Diesel Power Plant (The Power Plant,) which it shall own, operate and maintain. The project is located at Sitio Baroy Highway, Barangay Sengalm, Lamitan City, Basilan;
 - 1.3. The summary of the relevant technical characteristics of the Power Plant (General Plant Description) is hereto attached as ANNEX “D” hereof while the summary of the transmission projects or grid connection projects (Distribution Impact) necessary to complement the Power Plant is hereto attached and marked as ANNEX “E” hereof;
2. Applicant BASELCO is an electric distribution utility organized and existing under the laws of the Republic of the Philippines, with principal office address at Barangay Binuangan, Isabela City, Basilan, represented hereto by its President, Mr. Nick O. Acdalin. A copy of his authorization embodied in its Board Resolution No. 12, Series of 2021 and adopted on February 20, 2021 is hereto attached and marked as ANNEX “F” hereof;
 - 2.1. BASELCO’s Certificate of Franchise is hereto attached and marked as ANNEX “G” hereof;
 - 2.2. BASELCO’s Articles of Incorporation and By-Laws and Certification containing its List of Board of Directors are hereto attached and marked as ANNEXES “H,” “H-1,” and “H-2,” respectively;

NATURE OF THE APPLICATION

3. Pursuant to Rule 20 (B) of the Energy Regulatory Commission’s 2006 Rules of Practice and Procedure (the ERC Rules,) and other pertinent rules and regulations, the instant Joint Application is being submitted to this Honorable Commission for its due consideration and approval of the Power Supply Agreement on the Sale of Electricity (PSA) executed by and between LAMITAN and BASELCO on June 10, 2020. A copy of the said PSA is hereto attached and marked as ANNEX “I” hereof;
4. The subject PSA was entered into pursuant to Section 70 of Republic Act No. 9136 and Section 3.a. of Rule 13 of the Implementing Rules and Regulation (IRR) of Republic Act No. 9136, the Small Power Utilities Group (SPUG) of the National

Power Corporation (NPC), who is responsible for providing power generator and its associated power delivery system in areas that are not connected to the transmission system;

5. On the other hand, LAMITAN is located and will be providing electricity generation in a Missionary Area. Thus, it is entitled to receive subsidy from the Universal Charge-Missionary Electrification pursuant to ERC Resolution No. 21, Series of 2011 otherwise known as Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas but with an exception that states: “where good cause appears, the ERC may allow exception from any provision of the Rules if such exception is found to be for public interest and is not contrary to law or any related rules and regulations.”

COMPLIANCE WITH THE PRE-FILING REQUIREMENTS

6. In compliance with the pre-filing requirements mandated under Rule 3, Section 4 (e) of the Implementing Rules and Regulations of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA law and Rule 6 of the ERC Rules, Joint Applicants herein furnished the legislative bodies of the local government units where they principally operate with a copy of the instant application, together with all the annexes. Copies of the Affidavit of Service on the Presiding Officer or Secretary or their duly authorized representative, of the legislative bodies of the Province of Basilan and the City of Isabela, where applicants principally operate are hereto attached and marked as ANNEXES “J” and “K” hereto;
7. In addition, Joint Applicants caused the publication of the instant Application sans its annexes in a newspaper of general circulation within the franchise area of applicant BASELCO. Copies of the newspaper where the publication of this Joint Application appeared and the corresponding Affidavit of Publication are hereto attached and marked as ANNEXS “L” and “L-1;”

STATEMENT OF FACTS AND OF THE CASE

8. The economy of the City of Lamitan in the Province of Basilan failed to take off because of unreliable and high cost of electricity. Electricity is not available for 24 hours per day due to lack of supply and line faults. Electricity rate is more than Php10.00 per KWh (*sic*) despite the same is already subsidized. Some consumers in Lamitan City resorted to connecting to private genset operator and paying Php40 per KWh (*sic*) just to ensure 24-hour supply of electricity. Being one of the missionary areas, electricity is supplied by the National Power Corporation-Small Power Utilities Group (NPC-SPUG) and distributed by applicant BASELCO;
9. The worsening situation opens opportunity for private investment in the generation sector Missionary areas. In response thereto, the Province of Basilan was included in the first

ERC CASE NO. 2021-072 RC
NOTICE OF VIRTUAL HEARING/10 September 2021
PAGE 5 OF 15

| | | | | | | | | | | | |
|------|-------|---------|---|--------|-------|-------|-------|---|-----|---|--------|
| 2005 | 6.17 | 22,247 | 0 | 17,764 | 0 | 0 | 0 | 0 | 0 | 0 | 4,483 |
| 2006 | 6.50 | 22,719 | 0 | 17,998 | 0 | 0 | 0 | 0 | 0 | 0 | 4,720 |
| 2007 | 6.60 | 27,096 | 0 | 14,210 | 3,412 | 1,245 | 1,711 | 0 | 88 | 0 | 6,431 |
| 2008 | 7.20 | 27,631 | 0 | 14,281 | 3,572 | 1,300 | 2,079 | 0 | 153 | 0 | 6,246 |
| 2009 | 7.95 | 30,191 | 0 | 14,976 | 3,778 | 1,441 | 2,709 | 0 | 134 | 0 | 7,153 |
| 2010 | 8.00 | 32,788 | 0 | 16,181 | 3,871 | 1,702 | 2,826 | 0 | 153 | 0 | 8,055 |
| 2011 | 8.30 | 32,895 | 0 | 15,522 | 3,871 | 1,730 | 2,669 | 0 | 166 | 0 | 8,937 |
| 2012 | 8.30 | 33,538 | 0 | 16,415 | 3,878 | 1,383 | 2,800 | 0 | 233 | 0 | 8,829 |
| 2013 | 8.45 | 34,259 | 0 | 16,097 | 4,007 | 1,086 | 2,529 | 0 | 290 | 0 | 10,250 |
| 2014 | 8.50 | 35,330 | 0 | 16,006 | 3,889 | 1,049 | 3,024 | 0 | 286 | 0 | 11,076 |
| 2015 | 9.00 | 37,144 | 0 | 17,240 | 4,002 | 1,079 | 3,347 | 0 | 250 | 0 | 11,226 |
| 2016 | 9.18 | 39,651 | 0 | 18,755 | 4,072 | 740 | 3,515 | 0 | 280 | 0 | 12,289 |
| 2017 | 9.49 | 43,695 | 0 | 20,476 | 4,302 | 857 | 3,588 | 0 | 357 | 0 | 14,114 |
| 2018 | 10.40 | 47,555 | 0 | 22,484 | 4,560 | 883 | 3,742 | 0 | 308 | 0 | 15,579 |
| 2019 | 11.32 | 56,654 | 0 | 27,155 | 5,035 | 978 | 3,979 | 0 | 317 | 0 | 19,191 |
| 2020 | 11.75 | 55,948 | 0 | 30,750 | 4,874 | 1,070 | 3,960 | 0 | 409 | 0 | 14,884 |
| 2021 | 12.50 | 59,183 | 0 | 34,705 | 5,073 | 1,170 | 4,097 | 0 | 442 | 0 | 13,696 |
| 2022 | 13.31 | 66,019 | 0 | 39,085 | 5,270 | 1,276 | 4,248 | 0 | 477 | 0 | 15,663 |
| 2023 | 14.16 | 72,674 | 0 | 43,890 | 5,465 | 1,388 | 4,411 | 0 | 512 | 0 | 17,008 |
| 2024 | 15.06 | 79,612 | 0 | 49,117 | 5,657 | 1,505 | 4,586 | 0 | 548 | 0 | 18,198 |
| 2025 | 15.99 | 86,853 | 0 | 54,767 | 5,847 | 1,628 | 4,772 | 0 | 584 | 0 | 19,254 |
| 2026 | 16.94 | 94,016 | 0 | 60,839 | 5,847 | 1,628 | 4,968 | 0 | 620 | 0 | 20,114 |
| 2027 | 17.93 | 101,962 | 0 | 67,332 | 6,215 | 1,892 | 5,174 | 0 | 656 | 0 | 20,693 |
| 2028 | 18.93 | 108,224 | 0 | 74,246 | 6,394 | 2,033 | 5,387 | 0 | 692 | 0 | 19,472 |
| 2029 | 19.94 | 114,390 | 0 | 81,851 | 6,570 | 2,180 | 5,608 | 0 | 727 | 0 | 17,724 |

15.1. The above table is a consolidation of consumption data for all Sectors, namely Residential, Commercial, Industrial, Public Building and Streetlights. The largest Sector is Residential which accounts for around 47.93% of the MWh Offtake.

15.2. A portion of this demand growth is what is sought to be supplied by LAMITAN with the execution of PSA with the latter. This is consistent with the Distribution Development Plan of BASELCO.

Historical Reliability Indices

| Year | SAIFI | MAIFI | SAIDI (h) | CAIDI (h) |
|------|-------|-------|-----------|-----------|
| 2019 | 1.019 | 0.00 | 11.684 | 11.466 |

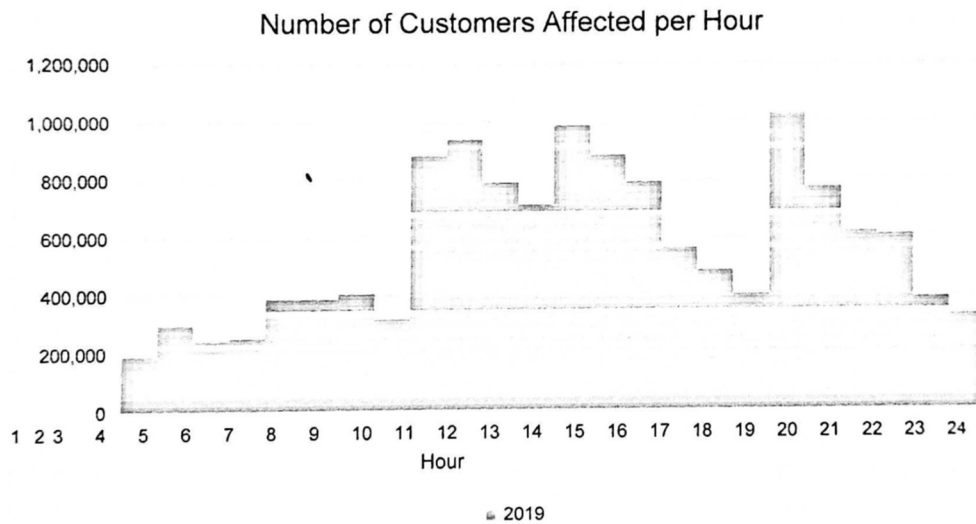
For "Power Supplier" outages, the indices are all within the NEA Standard.

| Year | SAIFI | MAIFI | SAIDI (h) | CAIDI (h) |
|------|-------|-------|-----------|-----------|
| 2019 | 1.464 | 0.00 | 340.738 | 232.698 |

For "Scheduled" outages, the indices are all within the NEA Standard.

| Year | SAIFI | MAIFI | SAIDI (h) | CAIDI (h) |
|------|--------|-------|-----------|-----------|
| 2019 | 32.645 | 0.00 | 3582.792 | 109.751 |

For all other outages, the indices are not within the NEA Standard. The frequency of power interruption is very high because of line faults due to vegetation problem



The largest number of customer interruptions occurred on hour 19 which does coincide with the peak period. The second largest number of customer interruptions occurred on hour 13 which does not coincide with the peak period.

A copy of the aforementioned study is hereto attached and marked as ANNEX “N” while the comparative study for the years 2019 to 2025 is hereto attached and marked as ANNEX “N-1” hereof.

16. As it is, the power supply given to the City of Lamitan is not enough, coupled with the projected increase in the power demand of BASELCO’s customers will result in a bigger power shortage which the City of Lamitan is bound to suffer;
17. Thus, Applicant LAMITAN deemed it appropriate to build, own and operate the 5MW Lamitan Diesel Power Plant itself to provide efficient and reliable power supply to BASELCO and ultimately to its constituents. On the other hand, Applicant BASELCO wishes to have a stable, reliable and adequate supply of energy, sourced from a different power supplier in order to mitigate the impact of power inadequacy during supply disruptions from its existing suppliers;

COMPETITIVE SELECTION PROCESS

18. It is understood that LAMITAN will not take over the supply function of NPC-SPUG but instead augment the existing power supply. It is due to this condition that the Competitive Selection Process for Private Sector Participation (PSP) is not necessary. Attached for ready reference are copies of the Department of Energy approval of BASELCO’s request for exception and Certification issued by the latter dated March 19, 2020 and marked hereto as ANNEXES “O” and “O-1;”
19. The Department of Environment and Natural Resources issued an Environmental Compliance Certificate (ECC ARMM2016-1213-38-207) in favor of Lamitan and hereto attached and marked as ANNEX “P” hereof while the Project Assessment Planning Tool and Permit to Operate are hereto marked as ANNEX “P-1” and “P-2,” respectively;

20. A copy of the Certificate of Endorsement No. 2017-06-002 issued by the DOE dated July 20, 2017 is likewise attached hereto and marked as ANNEX "Q" to show that DOE certified that Applicant LAMITAN's Power Plant Project is consistent with the DOE Power Development Plan;
21. With the completion of LAMITAN's Power Plant project and its on-going application for Certificate of Compliance pending with this Honorable Commission, the growing power requirements of BASELCO customers will be addressed and BASELCO customers will be assured of a stable and reliable power supply. Attached for ready reference is a Certification issued by Sharon O. Montañer, Director III, Market Operations Service of this Honorable Commission and marked as ANNEX "R;"
22. Further, since LAMITAN's Power Plant is located also in Lamitan City, the power that it will supply to BASELCO will not be as costly since there is no need to pass through any submarine cables and therefore will not be vulnerable to line congestion charges or outages of such cables;
23. It is of judicial notice that there is no other new base-load power plant project with an ECC that was programmed and committed to come on line in the Province of Basilan at any time except that of Applicant LAMITAN's Power Plant. Hence, the PSA between the Joint Applicants herein to ensure the security, affordability and reliability of its power supply to meet the demand growth in BASELCO's franchise area;

**EXECUTIVE SUMMARY AND THE ABSTRACT OF THE
POWER SUPPLY AGREEMENT**

24. Contracted Capacity and Energy: On June 10, 2020, The Joint Applicants BASELCO and Lamitan entered into a supply and deliver agreement at a contract demand of 2,500 kW and contract energy of 3,650 MWh for a period of 1 year. These contract demand and contract energy cannot be increased or decreased by either party except in cases allowed in the PSA such as scheduled outage (*sic*), unscheduled outage (*sic*) and force majeure;
25. Delivery Point: The contracted capacity and electricity shall be delivered by LAMITAN to BASELCO in Lamitan City with a delivery voltage of 13.2 KV (*sic*). The Rose power plant has an installed capacity of 5MW, comprising of four (4) units of 1250KW (*sic*) Diesel Generator connected in parallel with two (2) unit 3.5MVA Distribution Transformer as setup transformer from 480Volts to 13,200Volts. Both are also connected in parallel and being Synchronize at the 13.2KV (*sic*);
26. From the 13.2 bus of the Rose power plant, a switch was built with three (3) sets of bypasses to be able to operate the power plant on an island mode and as peaking plant of the BASELCO;
27. The switchyard is 120 Meters from the distribution line of BASELCO where a Double cat 13.2KV (*sic*) Line has been

ERC CASE NO. 2021-072 RC
NOTICE OF VIRTUAL HEARING/10 September 2021
PAGE 8 OF 15

constructed, intended for Isabela feeder and for Lamitan feeder. The double circuit line is made of 4/0 ACSR conductor with a maximum carrying capacity of 5MVA and the line hardware are made of silicon rubber installed in a 45-footer concrete pole;

28. LAMITAN shall deliver or cause the delivery of such electricity in accordance with good utility practice and in compliance with appropriate rules and regulations such as the Grid Code and the Distribution Code, the WESM Rules and the Open Access Transmission Service Rules;
29. Initial Delivery Date: The initial delivery date shall be on such date as may be provided by LAMITAN after compliance with the following conditions, to wit:
- a. Receipt by LAMITAN of the Certification from the Payment Account Bank, Land Bank of the Philippines, Isabela City Branch, that a Payment Account has been opened by BASELCO;
 - b. That this Honorable Commission has issued an approval, either provisional or permanent of the PSA, including the pricing structure thereto;
 - c. LAMITAN, BASELCO and NPC will execute the Subsidy Agreement upon the approval of the PSA and the order of this Honorable Commission is in effect;
30. Electricity Fees. The electricity fees under the PSA are quoted as follows:

| Particulars | Rates |
|---------------------------|---|
| Capital Recovery Fee (CF) | PhP2.70/kWh |
| Fixed O&M Fee | PhP2.95/kwh (<i>sic</i>) |
| Variable O&M Fee | PhP0.55/kWh |
| Fuel Fee | Pass thru cost subject to the consumption cap of 0.283 liter/kWh for diesel and lube oil consumption cap of 0.00133 liter/kWh, or actual whichever is lower |

31. BASELCO is entitled to Missionary Electrification Subsidy. BASELCO shall be billed by LAMITAN and pay for energy delivered, strictly in accordance with the rate fixed in the CERTIFICATE OF EXEMPTION which provide that it “Shall not be higher than the latest ERC approved tariff for the same or similar technology in the area” which is 5.1157 pesos per kilowatt hour as the Subsidized Approved Generation Rate (SAGR) for the Province of Basilan;
32. The difference between the Lamitan’s True Cost of Generation Rate (TCGR) of PhP17.69 and SAGR of PhP5.1167 shall be collected or recovered from the NPC-SPUG through the Universal

Charge-Missionary Electrification Fund (UC-ME) which is to be collected from all electricity end-users;

33. Computation of Fuel and Lube Oil Rate: The details of the computation are specified in ANNEX “I” of the PSA which are made an integral part of this Application;

IMPACT OF PSA ON LAMITAN’S GENERATION COST

34. Should the Honorable Commission approve the Electricity Fees under the PSA, the table below shows the calculation on the rate impact to the consumers of BASELCO and possible effect of the Increase/(Decrease) in Subsidy Requirement if the power shall be sourced from Lamitan;

| | TCGR (PhP/kWh (a)) | BASELCO’s SAGR PhP/kWh (b) | Subsidy Rate (PhP/kWh (c=a-b)) | Energy Generation kWh (d) | Total Required Subsidy PhP (e=c*d) |
|---|--------------------------|-------------------------------------|---|------------------------------------|---|
| If source from NPC | 16.81 | 5.1167 | 11.69 | 3,600,000 | 42,082,200.00 |
| If source from Lamitan | 17.69 | 5.1167 | 12.58 | 3,600,000 | 45,273,469.96 |
| Increase/(Decrease) in Subsidy Requirement by sourcing from Lamitan | | | | | 3,191,269.96 |
| Philippine Forecasted Energy Sales, kWh (for 2019) | | | | | 91,414,712,438 |
| Rate impact on UC-ME Rate, PhP/kWh | | | | | 0.0000349 |

35. Considering that BASELCO is located in one of the Missionary areas, it is entitled for Missionary Electrification subsidy. The generation rate to be charged by BASELCO to its member-consumer shall be the ERC approved Subsidized Approved Generation Rate (SAGR) of PhP4.8024/kWh for Basilan;
36. The expected additional capacity from LAMITAN even as early as the testing and commissioning and pre-commercial operations of the Power Plant will contribute greatly to the improvement of the quality, reliability and affordability of electric power delivered to the customers of BASELCO and the security of supply and stability of Basilan power grid;
37. As stated above, the terms of the PSA expressly states that the performance by LAMITAN and BASELCO of their respective obligations is conditioned on the approval by this Honorable Commission of this Joint Application;
38. It is therefore imperative, with all due respect, that in order for LAMITAN to deliver and for BASILAN to be able to receive power from the former as early as the testing and commissioning and the pre-commercial operations of the Power Plant for this Honorable Commission to issue a Provisional Authority and after a full hearing on the merits, a final approval for the PSA be approved;
39. CERTIFICATE OF COMPLIANCE: As stated above, Applicant LAMITAN has already applied with this Honorable Commission for the issuance of a Certificate of Compliance (COC) that will allow it to generate electricity from its Power Plant. A copy of the

ERC CASE NO. 2021-072 RC
NOTICE OF VIRTUAL HEARING/10 September 2021
PAGE 10 OF 15

Certification from the Market Operations Service of this Honorable Commission certifying that Applicant LAMITAN has filed an application for a COC on October 28, 2020 is already attached and marked as ANNEX “R” above;

40. PROJECT COST: The Project Cost Breakdown is:

| PARTICULARS | PROJECT COST |
|-------------------------|-----------------------------|
| Land Acquisition | 1,000,000 |
| Other Land Improvements | 9,389,660 |
| Power Supply System | 127,1509,700 (<i>sic</i>) |
| Buildings | 21,370,981 |
| Others | 2,124,065 |
| Total | 161,035,406 |
| Annual kWh generation | 3,650,000 |
| Cost per MW (in Php) | 32,207,081 |

The detailed information on the project cost as shown in the Pre-Closing Trial Balance as of December 31, 2020 is hereto attached and marked as ANNEX “S” hereof;

41. Funding and Sources of Funds, Cash Flow and Basis for the Purchased Power Rate: The Project shall be funded through loans from the Land Bank of the Philippines, Zamboanga Lending Center, equity coming from the local funds and other sources of funds for the Power Plant including the debt-equity ratio for the Project, cash flow and basis for the purchased power rate in the PSA is hereto attached as ANNEXES “T” (Power Supply Procurement Plan) “T-1,” (Project Cost Breakdown) “T-2” (Distribution Impact Study) and “T-3” (Certification of Compliance issued by BASELCO,) respectively;
42. Bank Certification: The Certification from the Land Bank of the Philippines, Zamboanga Lending Center and the amortization schedule, term and interest of the loan is hereto attached and marked as ANNEXES “U” and “U-1” hereof;
43. Rate Schedule: The Electricity Fees upon Commercial Operation of the Power Plant are specified in and shall be computed in accordance with ANNEX “B” of the PSA (ANNEX “I”) as showed in Section 28 above;
44. Capital Recovery: The Project Cost for the Power Plant is provided in Section 28 of the PSA. The City Government of Lamitan fully intends to enter into a long –term power supply agreement with BASELCO to recover the cost of the capital investments;
45. BOI Certificate: LAMITAN has no plans to apply and avail of the Board of Investment (BOI) Incentives. Hence, no Certificate of Registration with attached Terms and Condition will be provided;
46. Renewable Energy Service/Operating Contract from DOE: The said Contract with DOE cannot be provided as the same is not

applicable because of the nature of the Power Plant Project, which is a diesel plant;

47. Certificate of Registration or Certificate of Confirmation of Commerciality: This document is not applicable in the instant Joint Application because the COC is still pending with the ERC;
48. Demand Side Management (DSM): BASELCO is not undertaking any DSM as required by this Honorable Commission. This is because almost seventy percent (70%) of its consumers within the franchise area are residential type with the minimal large loads considering that it is an island electric cooperative with less industrial load;

OTHER DOCUMENTS

49. In support of the instant Application, the herein Applicants submits to this Honorable Commission the following documents:

I. GOVERNMENT REQUIREMENTS:

For BASELCO

- a. Articles of Incorporation ANNEX "H" above
- b. By-Laws ANNEX "H-1" above
- c. Certificate of List of Board of Directors and Board Members ANNEX "H-2" above

For LAMITAM (*sic*)

- a. Republic Act No. 9393 ANNEX "B" above
- b. 2019 Audited Financial Statement ANNEX "C" above

- II. Further, pursuant to the Pre-Filing Requirements by this Honorable Commission pursuant to Resolution No. 38, Series of 2006, Rule 20 B section 2 of ERC Guidelines for the Recovery of Cost for the Generation Component of the Distribution Utilities' Rate, Resolution No. 13, Series of 2015 and Resolution No. 1, Series of 2016, the following are not applicable:

- A. Demand Side Management
- B. Competitive Selection Process
- C. BOI Certificate
- D. Renewable Energy Service/Operating Contract from DOE; and
- E. Certificate of Registration or Certificate of Confirmation of Commerciality.

The written justification thereto has already been explained above.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

50. The Lamitan Power Plant is now 100% complete and is scheduled to begin testing and commissioning;

51. As stated above, under the PSA between the Joint Applicants, in order for LAMITAN to be able to deliver and BASELCO to be able to receive power from the former as early as the testing and commissioning and the pre-commercial operations of the Power Plant, the Honorable Commission with all due respect, must approved the PSA;
52. Thus, a provisional approval with the indicative rate by this Honorable Commission will allow the Joint Applicants herein to comply with their respective obligations under the PSA;
53. The issuance of a provisional authority will allow LAMITAN to charge and collect the respective fees embodied in the PSA. More importantly, it will realize the very reason why the Joint Applicant entered into PSA, which is to serve the customers/constituents of BASELCO and the City of Lamitan, respectively;
54. Pursuant to ERC Rules and Regulations, it is authorized to exercise its discretion to approve the requested provisional authority subject to the conditions that this Honorable Commission may impose, in the interest of justice;

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

55. Pursuant it (*sic*) Rule 4 of ERC Rules of Practice and Procedure, This Honorable Commission may, upon the request of a party and after determination of the conditions to warrant such confidentiality, treat such information as confidential;
56. Joint Applicants respectfully request that ANNEXES “N” and “T-3” which contain non-public information, data and calculations involving business operations and financial trade secrets reflecting LAMITAN’s investment and business calculations, be treated as confidential documents;
57. Pursuant to Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure, Joint Applicants hereby submit one (1) copy of ANNEXES “N” and “T-3” in a sealed envelope, with the envelope and each page of the document stamped with the word “CONFIDENTIAL.”

PRAYER

WHEREFORE, premises considered, Joint Applicants respectfully prayed from the Honorable Commission:

1. To issue an Order treating ANNEXES “N” and “T-3” of this Joint Application as confidential documents and the information contained therein as confidential and to direct its non-disclosure pursuant to Rule 4, Section 1 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof;

ERC CASE NO. 2021-072 RC
NOTICE OF VIRTUAL HEARING/10 September 2021
PAGE 13 OF 15

2. Pending hearing of the instant application on the merits, issue a provisional approval of the PSA between the herein Joint Applicants and to approve the Electricity Fees agreed upon by the Joint Applicants in the PSA; and
3. After hearing on the merits, issue a Decision approving the terms and conditions of the Purchase Supply Agreement on the Sale of Electricity dated June 10, 2020 entered into between the herein Joint Applicants, thereby authorizing LAMITAN to charge and collect from BASELCO the Electric Fees corresponding to the:
 - a. Testing and Commissioning Period;
 - b. Pre Commercial Operation Period; and
 - c. Commercial Operations Date as contained in the PSA and authorizing BASELCO to pass the full amount thereof to its consumers.

Other reliefs which may be just and equitable are likewise prayed for.

The Commission hereby sets 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 2020¹ dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)²:

| Date | Platform | Activity |
|--|------------------------|--|
| 22 October 2021 (Friday) at two o'clock in the afternoon (2:00 PM) | Microsoft Teams | Determination of compliance with the jurisdictional requirements and expository presentation |
| 29 October 2021 (Friday) at two o'clock in the afternoon (2:00 PM) | Microsoft Teams | Pre-trial Conference and presentation of evidence |

Accordingly, LAMITAN and BASELCO are hereby directed to host the virtual hearing at **BASELCO's Principal Office located at Brgy. Binuangan, Isabela City, Basilan**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times.

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Moreover, LAMITAN and BASELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, copy furnish the Legal Service through 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 persons who have 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, copy furnish the Legal Service through 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;
- 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 likewise file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through 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.

Finally, all interested persons may be allowed to join the scheduled initial virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, with 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.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 10th day of September 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO


LS:VMA/LSP/MCCG

ERC
Office of the Chairperson

AVSTD-2021-09-510-0034