

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



IN THE MATTER OF THE
APPLICATION FOR THE APPROVAL
OF THE POWER SUPPLY
AGREEMENT BETWEEN MISAMIS
OCCIDENTAL II ELECTRIC
COOPERATIVE, INC. (MOELCI II) AND
KING ENERGY GENERATION, INC.
(KEGI) WITH MOTION FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY

ERC CASE NO. 2014-078 RC

MISAMIS OCCIDENTAL II ELECTRIC
COOPERATIVE, INC. (MOELCI II) AND
KING ENERGY GENERATION, INC.
(KEGI),

Applicants.

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DOCKETED
Date: JUL 08 2014
By: *[Signature]*

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on June 6, 2014, Misamis Occidental II Electric Cooperative, Inc. (MOELCI II) filed an application for the approval of its Power Supply Agreement (PSA) with King Energy Generation, Inc. (KEGI), with motion for the issuance of provisional authority.

In the said application, MOELCI II alleged, among others, that:

1. It is a non-stock, non-profit, service oriented electric cooperative organized and existing under and by virtue of the National Electrification Administration Act (R.A. 6038), as amended by Presidential Decree No. 269, with office address at Circumferential Road, Bitoon, Ozamis City;
2. It has an exclusive franchise to distribute electricity in its area of coverage in the Province of Misamis Occidental, which encompasses Ozamis City, Tangub City, Bonifacio, Jimenez, Sinacaban, Clarin, Panaon and Tudela;

3. KEGI is a generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines. It has its principal office at the G/F Divine Savior Building, 102 Juan Luna St., Davao City;
4. It is filing the instant Application for the approval of their PSA with a Motion for Provisional Authority pursuant to Rules 20 (B) and 14 of the ERC Rules of Practice and Procedure;

**COMPLIANCE WITH THE PRE-FILING REQUIREMENTS
RULE 6, ERC RULES**

5. In compliance with Rule 6 of the Commission's Rules of Practice and Procedure (ERCPP), it has furnished the legislative bodies of each of the local government units where it principally operates a copy of the instant application with all its annexes and accompanying documents. Proofs of receipt by the legislative bodies of Ozamis City and the Province of Misamis Occidental are attached to the instant application;
6. It caused the publication of the present application in its entirety in a newspaper of general circulation within the Franchise Area;

STATEMENT OF THE FACTS

7. The power supply environment in Mindanao, specifically within its franchise area, is in critical condition and this situation persists up to the present;
 8. This predicament is expected to worsen because Republic Act No. 9136 mandates the privatization of National Power Corporation's (NPC) generation assets and prohibits NPC from investing in new generation capacity. This is the underlying cause for the failure of the Power Sector Assets and Liabilities Corporation (PSALM) to supply its additional power requirements;
 9. Aggravating said dire situation, is the impending termination of the PSA it executed with TMI AND NPC/PSALM in the years 2015 and 2016, respectively. Copy of its Power Supply Outlook, Power Supply Outlook together with KEGI, Ten (10) years forecasted data and Historical Data are attached to the instant application;
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Where:

BC= Billing Capacity in KW

FC= Fixed charge per month in PhP

VC= Variable charge per month in PhP

ED= Energy delivered in kWh

CEF= Contract Energy Fee in PhP

VOM= Variable charge per month in PhP/kWh

CF= Capacity Fee in PhP/kW/month

FOM=Fixed O&M Fee in PhP/kW/month

IFf= Inflation factor fixed

IFv=Inflation factor variable

FL=Fuel and Lube oil in PhP/kWh (Pass through subject to heat rate schedule)

17. The basic electricity fees shall cover an operation of up to eight (8) hours per day. In excess of that, an Additional Energy Fee shall be charged.

$$\begin{aligned} \text{AEF} &= \text{AC} \times \text{BC} \times h + (\text{VOM} + \text{FL}) \times \text{EE} \\ &= 0.78 \times \text{BC} \times h + (\text{VOM} + \text{FL}) \times \text{EE} \end{aligned}$$

Where:

AEF= Additional Energy Fees in PhP

BC= Billing Capacity, as previously defined

h = Excess hours per day

VOM= Variable O&M, as previously defined

FL= Fuel and Lube oil, as previously defined (pass on to consumers)

EE= Energy delivered in excess of eight (8) hours per day

AC= Additional cost (0.78PhP/kw/h) in excess of eight (8) running hours per day

Copy of the Computation of the Additional Energy Fee in Excess of Eight (8) Running Hours per day is attached to the instant application;

18. **Plant Description.** KEGI will be constructing a 15.6 MW Power Plant in Brgy. Map-an, Panaon, Misamis Occidental which will run on two (2) 18V32 diesel engines. Copy of the General Plant Description is attached to the instant application;
19. **Return on Investment (ROI).** KEGI will be investing PhP1,326,220,069.79 with an ROI of 15.85% and Weighted Average Cost of Capital (WACC) of 15%. Copy of the Project Detailed Cost, Projected Financial and Economic Analysis, Power Plant Economic Feasibility Study and Cash Flow,

Operation and Maintenance Cost Analysis and Wartsila Proposal for Operations and Maintenance Services are attached to the instant application;

20. **Debt-Equity Ratio.** The project will be funded through loans and equity. The indicative debt-equity ratio for the project is 30:70 representing debt of PhP397,866,021 and equity of PhP928,354,049;
21. **Amortization.** The loan will be amortized at an interest rate of 9% per annum. A copy of the computation and the Banco de Oro letter is attached to the instant application;
22. **Security Deposit.** A security deposit at an amount equivalent to one month of the sum of the average monthly Capacity fee, Fixed and Variable O&M Fees and Fuel Cost Recovery Fee of the buyer shall be posted by the CUSTOMER in the form of a (1) manager's check or (2) cashier's check from a bank or other financial institutions acceptable to the SUPPLIER on or prior to the Closing Date. CUSTOMER may, if it chooses to do so, furnish a Security Deposit in the form of cash;
23. **Environmental Compliance Certificate.** The proposed power plant was issued ECC No. ECC-R10-1310-0249 on November 13, 2013. A copy of said ECC is attached to the instant application;
24. **Rate Impact.** The rate impact of the instant PSA on its blended cost would be an increase of PhP1.7383/kWh. Copy of the Sample Computation of the Purchase Power Rate and Rate Impact are attached to the instant application;

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY**

It re-pleads the foregoing allegations and further state that:

25. Due to the present power supply situation in Mindanao, specifically within its franchise area, there is paramount relevance and urgent need for additional energy and generating capacity;
26. To prevent delay in the implementation of the PSA, a provisional authority is prayed for considering that it is necessary to address the immediate need for additional power supply within its franchise area;

27. An affidavit of merit in support of the prayer for provisional authority is attached to the instant application;
28. Public interest therefore compels the immediate issuance of a provisional authority, subject to a final authority that may be subsequently issued by the Commission; and
29. Thus, it prays that:
 - a. Upon filing of the instant Application, and pending hearing thereon, an Order be issued: (1) granting **PROVISIONAL AUTHORITY** for the urgent implementation of the provisions of the PSA; and
 - b. After hearing on the merits, a Decision be rendered issuing a **PERMANENT APPROVAL** of the said PSA, including the rates set forth therein.

On June 10, 2014, KEGI filed a "Motion to Join King Energy Generation, Inc. as Co-applicant in the Instant Application for Approval of Power Supply Agreement with Entry of Appearance".

The Commission has set the instant application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **July 31, 2014 (Thursday) at ten o' clock in the morning (10:00 A.M.) at the MOELCI II's Principal Office, Circumferential Road, Bitoon, Ozamis City.**


All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and the title of the proceeding and stating: (1) the petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicants conclude the presentation of their evidence. No particular form of opposition or comment is required, but the document, letter or writing

should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicants, prior to the date of the initial hearing, that they be furnished with copy of the application. The applicants are hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENAIDA G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, Energy Regulatory Commission, this 30th day of June 2014 at Pasig City.


ATTY. NOEL J. SALVANERA
Director III, Legal Service