

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



**IN THE MATTER OF THE
APPLICATION FOR APPROVAL
OF THE ELECTRIC POWER
PURCHASE AGREEMENT (EPPA)
BETWEEN CEBU III ELECTRIC
COOPERATIVE, INCORPORATED
(CEBECO III) AND TOLEDO
POWER COMPANY (TPC), WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2015-003 RC

**CEBU III ELECTRIC
COOPERATIVE, INCORPORATED
(CEBECO III) AND TOLEDO
POWER COMPANY (TPC),**

Applicants.

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DOCKETED
Date: JAN 22 2015
w: M

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on January 12, 2015, Cebu III Electric Cooperative, Incorporated (CEBECO III) and Toledo Power Company (TPC) filed an application for approval of their Electric Power Purchase Agreement (EPPA), with prayer for provisional authority.

In the said application, CEBECO III and TPC alleged, among others, that:

Parties to the Case

1. CEBECO III is an electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Luray II, Toledo City, Cebu. It is a franchised electric utility servicing its member-consumers in the mid-western part

of the Province of Cebu, specifically, the Municipalities of Aloguinsan, Asturias, Balamban and Pinamungajan, and the City of Toledo;

2. TPC is a partnership duly organized and existing under the laws of the Republic of the Philippines with principal office address at Barangay Daanlungsod, Toledo City, Cebu. It owns and operates a 52 MW coal-fired power plant located in Barangay Daanlungsod, Toledo City, Cebu and a new 1 x 82 MW coal-fired expansion power plant (TPC 1A) in the same location;

Statement of Facts and of the Case

3. Pursuant to Rule 20 (B) of the 2006 Rules of Practice and Procedure, the instant application is submitted to the Commission for its review and approval of the EPPA dated September 24, 2014 entered into by and between CEBECO III as the Buyer and TPC as the Seller;
4. Under the said EPPA, TPC agreed to supply and deliver, and CEBECO III agreed to take and pay for electricity supplied by the former under the terms and conditions stated therein. The salient features of the EPPA are as follows:

4.1. Contracted Capacity.

Under the EPPA, the contracted capacity shall mean a capacity of 17 MW reserved by the Seller for the Buyer during the Cooperation Period, including any additional capacity that may be available, pursuant to Article 3.1 (Supply of Electricity);

4.2. Term.

The term of supply and purchase of electricity under the EPPA shall be twenty-five (25) years commencing on the 26th day of February 2015 and ending on the 25th anniversary of such commencement date, unless sooner terminated pursuant to the terms thereof; and

ERC Case No. 2015-003 RC
NOTICE OF PUBLIC HEARING/January 20, 2015
Page 3 of 8

4.3. Condition Precedent.

The Commission's approval of the EPPA or the rates under the same, as applicable, shall be a condition precedent to the performance by CEBECO III of its obligations under the said EPPA;

5. CEBECO III shall pay the Electricity Fees to TPC at one hundred percent (100%) load factor, computed as follows:

TOLEDO POWER COMPANY 1A (TPC 1A)
 Offer to CEBECO 3

ANNEX B

Base Prices

Capital Recovery Fee	PhP	2.4160
Peso O&M Charge	PhP	0.3992
USD O&M Charge	\$	0.0097

At100% Load Factor

$$\begin{aligned} \text{Electricity Fees} &= \text{Tariff Fees} + \text{Fuel Cost} \\ \text{Tariff Fees} &= \left(\text{CRF} + \text{O\&M Fee} \right) \times E \\ \text{O\&M Fee} &= \left(\text{PHP O\&M} \times \frac{\text{PhCPIc}}{\text{PHCPIb}} \right) + \left(\text{USD O\&M} \times \frac{\text{USCPIc}}{\text{USCPIb}} \times \text{Forex} \right) \\ \text{Fuel Cost} &= \text{Cost of Coal} \times \text{Consumption Rate} \times E_n \end{aligned}$$

Where:

CRF	=	Capital Recovery Fee	=	2.4160	Php per kWh
PHP O&M	=	Peso-based O&M Fee	=	0.3992	Php per kWh
PhCPIc	=	Philippine Consumer Price Index for all items for the Current Month as published by the National Statistical Coordination Board, www.nscb.org.ph			
PHCPIb	=	Base Philippine CPI	=	137.70	En-14
USD O&M	=	US Dollar-based O&M Fee	=	0.0097	USD per kWh
USCPI _c	=	U.S. Consumer Price Index for all items for the Current Month as published by the U.S. Bureau of Labor Statistics, www.bls.gov			
USCPI _b	=	Base U.S. CPI	=	234.93	En-14
E	=	Actual energy delivered or MCE for the period, whichever is higher (in kWh)			
Cost of Coal	=	Landed cost of coal (in PHP per metric ton) to include FOB costs, freight, insurance, duties, taxes, and other charges			
Consumption Rate	=	0.7kg per kWh, escalated at a rate of 1.5% per annum			
E _n	=	Actual energy delivered in kWh			

6. The Contracted Capacity shall be delivered to CEBECO III at the delivery points designated in the EPPA (Schedule 3 of the EPPA) beginning February 26, 2015. The power to be supplied will be sourced from TPC's 1 x 82 MW Coal-Fired Power Plant Expansion Project (TPC Expansion);
7. By this date (February 26, 2015), the existing EPPA between CEBECO III and TPC for power supplied and delivered from the latter's existing 52 MW Coal-Fired Power Plant (TPC Sangi) will have already been expired;
8. CEBECO III currently has no other power supplier nor has it contracted with other power suppliers except with TPC. The TPC Sangi, however, has not been reliable with one of its generating units not being operational. As such, they are not able to renew their EPPA for supply of power coming from the TPC Sangi;
9. CEBECO III's power demand for the next fifteen (15) years is shown below:

Load Forecast (kW) 2015-2029

Description	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Captive with AFC	21,827	22,419	23,374	24,288	25,162	25,993	26,784	27,534	28,242	28,909	29,535
CCC	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
BEZ	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000
Total	29,842	30,435	31,391	32,306	33,181	34,013	34,805	35,556	36,265	36,933	37,560

Description	2027	2028	2029
Captive with AFC	30,737	31,302	31,824
CCC	2,000	2,000	2,000
BEZ	4,000	4,000	4,000
Total	38,764	39,330	39,853

10. Should the Commission approve the Electricity Fees under the EPPA, the generation cost of CEBECO III will be at PhP5.15/kWh beginning February 26, 2015, resulting to an increase of PhP1.1655/kWh from the Electricity Fees under their expiring EPPA;
11. While there is a resulting increase, the generation cost of PhP5.15/kWh for power supplied from the TPC

Expansion is considered beneficial and reasonable considering the absence of any other generator with a new power plant offering a better rate:

11.1 Pursuant to the competitive procurement process conducted by CEBECO III, other offers made were as follows, both of which were higher by PhP0.12/kWh than TPC's rate:

Supplier	Offer (PhP/kWh)	Variance (PhP/kWh)
Palm Conception Power Corp. (PCPC)	5.27	0.12
Therma Visayas, Incorporated (TVI)	5.27	0.12

11.2 It should be noted further that TPC is an embedded generator to CEBECO III. Thus, if CEBECO III opted to contract with other power plants, the resulting increase in charges to its member-consumers would be even higher as it will also pay additional charges such as Power Delivery System (PDS) charges, which will be passed on to its member-consumers;

Allegations in Support of the Prayer for Provisional Authority

12. As mentioned above, CEBECO III has an EPPA with TPC, which will expire on February 25, 2015, for power supplied and delivered from the TPC Sangi. This power plant, however, has not been reliable. As such, they are not able to renew their EPPA;
13. Given this approaching expiration of their EPPA for supply coming from the TPC Sangi, it is imperative that CEBECO III obtain approval of its EPPA with TPC for supply coming from the TPC Expansion beginning February 26, 2015. With the supply of power coming from the TPC Expansion, it is expected that the supply of power to CEBECO III will be more reliable;
14. Under the terms of the EPPA, among the conditions precedent to the performance by CEBECO III and TPC of

their respective obligations thereunder is the approval of the instant application by the Commission;

15. Thus, for TPC to be able to deliver and CEBECO III to be able to receive power from the former, it is imperative that a provisional authority be granted for the EPPA to allow TPC to deliver and CEBECO III to receive power on the commencement date intended by them;

Compliance with Pre-filing Requirements

16. They manifest their compliance with the pre-filing requirements mandated under Rule 3, Section 4(e) of the Implementing Rules and Regulations (IRR) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA and Rule 6 of the 2006 ERC Rules of Practice and Procedures, as evidenced by the following attachments:
 - 16.1 Affidavit of Service re: Service of the Application with Annexes to the *Sangguniang Panlungsod* of the City of Toledo;
 - 16.2 Affidavit of Service re: Service of the Application with Annexes to the *Sangguniang Panlalawigan* of the Province of Cebu;
 - 16.3 Affidavit of Publication stating that the instant application had been published in a newspaper of general circulation;
 - 16.4 Newspaper issue where the instant application appeared, as published;
 - 16.5 A copy of the Board Resolution authorizing CEBECO III to jointly file the instant application with TPC;
 - 16.6 A copy of the Board Resolution authorizing TPC to jointly file the instant application with CEBECO III; and

16.7 Proof of payment of filing fees; and

Prayer

17. Thus, they pray, that the Commission:

17.1 Upon initial review of the instant application and pending trial on the merits, issue a provisional authority for the terms of the EPPA between CEBECO III and TPC, thereby authorizing TPC to charge and collect from CEBECO III the Electricity Fees set out in the said EPPA, and authorizing CEBECO III to pass-on the full amount thereof to its member-consumers; and

17.2 After trial on the merits, issue a permanent approval of the terms of the EPPA between CEBECO III and TPC, thereby authorizing TPC to charge and collect from CEBECO III the Electricity Fees set out in the said EPPA, and authorizing CEBECO III to pass-on the full amount thereof to its member-consumers.

The Commission has set the application for initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **February 12, 2015 (Thursday) at nine-thirty in the morning (9:30 A.M.) at CEBECO III's Main Office, Luray II, Toledo City, Cebu.**

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 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 a 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**, and **GLORIA VICTORIA C. YAP-TARUC**, Energy Regulatory Commission, this 20th day of January, 2015 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III