

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



IN THE MATTER OF THE JOINT
APPLICATION FOR APPROVAL
OF THE ELECTRIC POWER
PURCHASE AGREEMENT (EPPA)
ENTERED INTO BY AND
BETWEEN DAVAO DEL NORTE
ELECTRIC COOPERATIVE,
INCORPORATED (DANECO) AND
FDC MISAMIS POWER
CORPORATION (FDC MISAMIS)

ERC CASE NO. 2015-075 RC

DAVAO DEL NORTE ELECTRIC
COOPERATIVE, INCORPORATED
(DANECO) AND FDC MISAMIS
POWER CORPORATION (FDC
MISAMIS),

DOCKETED
Date: JUN 11 2015
BY: _____

Applicants.

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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on April 24, 2015, Davao del Norte Electric Cooperative, Incorporated (DANECO) and FDC Misamis Power Corporation (FDC MISAMIS) filed an application for approval of their Electric Power Purchase Agreement (EPPA).

In the said application, DANECO and FDC MISAMIS alleged, among others, that:

The Nature of the Application

1. The instant application is submitted to the Commission for its due consideration and approval of the EPPA executed by and between DANECO and FDC MISAMIS, pursuant to Rule 20(B) of the Commission's Rules of Practice and Procedure (ERC Rules)¹ and other pertinent rules and regulations;

The Applicants

2. DANECO was created pursuant to the provisions of the National Electrification Administration Act (R.A. 6038), as amended by Presidential Decree No. 269. Pursuant to this decree, it was incorporated and registered on September 24, 1971 with principal office at Montevista, Compostela Valley. It serves the power requirements of Tagum City, Island Garden City of Samal, Asuncion, Kapalong, New Corella, San Isidro and Talaingod, all in the Province of Davao del Norte, and Compostela, Laak, Mabini, Maco, Maragusan, Mawab, Monkayo, Montevista, Nabunturan, New Bataan and Pantukan, all in the Province of Compostela Valley;
3. FDC MISAMIS is a corporation duly organized and existing under the Philippine Laws, with principal office address at 23rd Floor, PBCom Tower, 6795 Ayala Avenue corner V.A. Rufino St., Makati City. It was formerly known and registered under the names Green Renewable Power Holdings, Incorporated and Strong Field Energy Corporation. It is a wholly-owned subsidiary of FDC Utilities, Incorporated;

¹ ERC Resolution No. 38, Series of 2006

Compliance with Pre-filing Requirements

4. In compliance with Rule 6 of the ERC Rules and in support of the instant application for approval of the EPPA, copies of the instant application (including Annexes) were furnished to the respective legislative bodies of the Municipality of Montevista, and the Province of Compostela Valley, where DANECO principally operates;
5. Likewise, a copy of the instant application (including Annexes) was furnished to the Legislative Body of the City of Makati where FDC MISAMIS principally operates;
6. The entire application, excluding the Annexes, was published in a newspaper of general circulation within the franchise area or area where DANECO and FDC MISAMIS principally operate;

DANECO Power Situation

7. Since 2010, the Mindanao Grid has been experiencing a significant shortfall in power supply causing widespread power interruption. The existing capacity in the Island is composed of more than fifty percent (50%) hydroelectric power plant which is dependent on the availability of water and affected by weather conditions. Based on the 2012-2030 Supply – Demand Outlook issued by the Department of Energy (DOE), a total of 1,600 MW additional capacities are needed during the planning period to meet the electricity demand and the required reserve margin of the grid;
8. DANECO is requiring an annual energy of 131,4000,000 kWh and an annual demand of 15,000 kW for 2015. With the privatization of the Power Sector Assets and Liabilities Management Corporation (PSALM)/National Power Corporation (NPC) generation plants and coupled with the insufficiency of supply in Mindanao, it has become increasingly difficult for PSALM to sustain the demands of its Mindanao customers. As it is, PSALM can no longer supply the electric power requirements of its existing customers including DANECO. PSALM confirmed that it has insufficient capacity to supply the additional power

requirements of Mindanao distribution utilities beyond the contracted energy and equivalent demand in its existing Contracts for the Supply of Electric Energy (CSEEs);

9. Based on its actual and forecasted load data, DANECO's demand requirements for years 2014 to 2024 are increasing. In order for DANECO to comply with its obligations to its member-consumers [Sec. 1, Department of Energy (DOE) Department Circular No. 2003-12-011]² and ensuring that its requirements are fully covered by supply contracts (Sec. 4.3, DOE Department Circular No. 2010-03-0003)³, it should secure a power supply agreement of about 15,000 kW;
10. Based on its actual and forecasted load data, DANECO's demand requirement is expected to grow every year, from 78MW in 2014 to 107 MW in 2024;
11. Given its demand growth and in order to obtain a secure and adequate supply of electricity for its member-consumers during this time, DANECO sought out other generation companies and sources of electricity in the Mindanao Grid and solicited offers and/or expressions of interest from these power suppliers to supply its growing power requirements;
12. Among the offers that DANECO considered was from FDC MISAMIS which made an offer to supply its power requirements. FDC MISAMIS is committed to construct a 405 MW Coal-Fired Power Plant in the PHIVIDEC Industrial Estate in Misamis Oriental. The power plant is scheduled to be commissioned in 2016;
13. DANECO thoroughly evaluated all the offers/expressions of interest it received and determined that FDC MISAMIS's offer is the most advantageous to its member-consumers;

² All distribution utilities must henceforth take cognizance and assume full responsibility to forecast, assure and contract for the supply of electric power in their respective areas to meet their obligations as distribution utility (Sec. 1, DOE Department Circular No. 2003-12-011)

³ Ensure that the power requirements within their franchise areas are adequately covered by supply contracts or spot purchases from the WESM at all times

14. DANECO has forecasted and simulated the effect of the inclusion of the power supplied by FDC MISAMIS on its generation costs upon the commercial operation of the power plant, taking into consideration the reduced supply from PSALM and the expected commercial operation of FDC MISAMIS, to wit:

Increase in Blended Cost from Current

Without FDC MISAMIS (Diesel Fuel)	PhP5.81/kWh
With FDC MISAMIS Coal Power Plant	PhP5.12/kWh
Savings with FDC MISAMIS Coal Power Plant, kWh	PhP0.69/kWh

The EPPA

15. After extensive negotiations with FDC MISAMIS, DANECO signed on February 27, 2015, an EPPA with FDC MISAMIS for a contracted demand of 15 MW for twenty-five (25) years;

Executive Summary

16. The EPPA governs the relationship between Supplier and Customer for the sale of electric power. The electric power supply will be drawn from the 3 x 135 MW CFB Coal-fired power plant to be constructed, owned and operated by FDC MISAMIS. During plant outage, replacement power will be sourced from other facilities of the FDC MISAMIS, or of any third party, including the Wholesale Electricity Spot Market (WESM) or its equivalent. The commencement of the obligation of FDC MISAMIS to deliver of electric power to its customers is subject to the satisfaction of conditions precedent, including the declaration of the commercial operation of the power plant. Generation Charges for pre-commercial operation and during commercial operation are computed separately. The EPPA is subject to customer's security deposit, assignment, termination and buy-out;

Salient Features

17. The EPPA contains the following salient terms and conditions:

- a. Commercial Operation Date. The target Commercial Operation Date is thirty-six (36) calendar months after all the requirements (Conditions Precedent to Commercial Operation Date) have been met;
- b. Term. The Term of the EPPA shall be twenty-five (25) years from the Commercial Operation Date, unless extended: (a) by the grant of grace period; (b) due to Force Majeure; or (c) by mutual written agreement by the Parties;
- c. Service Specification. They agreed to the following service specifications:

Contracted Demand	15,000 kW
Contracted Energy	131,400,000 kWh
Customer Load Factor	100%
Customer's Minimum Demand	At least 40% of Customer's Contracted Demand
Delivery Point	Plant Gate – FDC MISAMIS's Power Plant
Voltage at the Plant Gate	138 kV

- d. Increase in Contracted Energy, Monthly Nominated Energy or Contracted Demand. Customer may request an increase to the Contracted Energy, monthly nominated energy or Contracted Demand of a particular Billing Period by delivery of written notice at least sixty (60) days before the date on which such adjustment is proposed to take effect, setting out the reasons therefor;
- e. Premium Charge for Excess Consumption. For consumption higher than the Contracted Energy and/or monthly nominated energy, Customer shall pay the Generation Charge applicable plus a Premium Charge of ten percent (10%);

- f. Replacement Power In Excess of Outage Allowance. The Supplier shall exert best efforts to procure Replacement Power beyond the Outage Allowance. Notwithstanding any provision in this Agreement to the contrary, the Supplier has the right to source Replacement Power for the Customer from other current or future facilities of the Supplier or of any third party, including the WESM or its equivalent, at the sole election of the Supplier;
- g. Generation Charge. DANECO shall pay the generation charge consisting of variable and fixed charges, subject to adjustments. The generation charges for pre-commercial operation and during commercial operation are computed based on the Base Energy Rate (BER) computation as follows:

$$BER = (FC_{base} + VC_{base})/Energy$$

$$FC_{base} = (CRF_{base}^{kW} + PHP\ O\&M_{base}^{kW} + US\ O\&M_{base}^{kW}) * CD$$

Where:

$$CRF_{base}^{kW} = \text{PhP}1,924.48/kW$$

$$PHP\ O\&M_{base}^{kW} = \text{PhP}474.75/kW$$

$$US\ O\&M_{base}^{kW} = \text{PhP}30.64/kW$$

$$VC_{base} = [DCP_{base}] * [Forex_{base}] * [MCR] * [Energy] / \text{Conversion Factor}$$

Where:

$$DCP_{base} = \text{US}\$72/MT$$

$$Forex_{base} = \text{PhP}41.12/US\$$$

$$MCR = 0.70\text{kg}/kWh$$

$$\text{Conversion Factor} = 1,000\text{ kg}/MT$$

- h. Customer Failure to Off-take Power. If the Customer off-takes power less than the Contracted Energy and/or Contracted Demand, the Customer shall still pay the full Generation Charge for the Contracted Energy and/or Contracted Demand, and all applicable fees, charges and costs;
- i. Transmission Fees, Ancillary Services Charges, Line Rental Charges, and WESM Costs. The Customer shall pay for Transmission Fees, Ancillary Services Charges, Line Rental Charges, and WESM Costs. All other transmission charges and market related fees/charges that are not part of the generation charge shall be for the account of Customer;
- j. Security Deposit. The Security Deposit shall be in an amount equivalent to one hundred percent (100%) of the projected highest monthly Power Bill for the first Contract Year of the Agreement;
- k. Assignment. In all cases of valid assignment, the assignee shall assume all the rights and obligations of the assignor under this Agreement; and
- l. Adjustments Due to Force Majeure. The Supplier shall have seventy-two (72) hours to restore interrupted supply counted from the time a Force Majeure Event prevented it from supplying electric power to the Customer. The Customer shall not be entitled to interruption adjustment during such period. On the other hand, the Customer shall have seventy-two (72) hours to resume taking electric power counted from the time a Force Majeure Event prevented it from fully taking its Contracted Energy;

Other Related Documents

18. In further support of the instant application, they submit to the Commission, the following documents:

Annex	Nature of Documents
A	EPPA between DANECO and FDC MISAMIS dated February 27, 2015
B	DANECO Certificate of Franchise No. 107
B-1	DANECO Certificate of Franchise No. 103
C	DANECO Certificate of Registration
E	FDC MISAMIS Certificate of Registration
E-1	Green Renewable Power Holdings, Incorporated's Certificate of Incorporation
E-2	Strong Field Energy Corporation's Certificate of Filing of Amended Articles of Incorporation
F	FDC MISAMIS General Information Sheet (GIS)
G	FDC MISAMIS latest Audited Financial Statements (AFS)
H	Certification from the Office of the Legislative Body of the Municipality of Montevista, Province of Compostela Valley for the receipt of instant joint application (including annexes)
H-1	Certification from the Office of the Legislative Body of the Province of Compostela Valley for the receipt of instant joint application (including annexes)
I	Certification from the Office of the Legislative Body of the City of Makati for the receipt of instant joint application (including annexes)
J	Copy of the Affidavit of Publication
J-1	Copies of newspaper publications of general circulation within the franchise area or area where DANECO and FDC MISAMIS principally operate
K	PSALM certification of insufficient capacity to supply Mindanao Distribution Utilities
L	DANECO Actual and Forecasted Load Data From 2008-2024
M	DANECO Procurement Process (in a sealed envelope)
N	DANECO Rate Impact Analysis
O	Sources of Funds/Financial Plans; Debt/Equity Ratio; Project Cost; and Computation of Return on Investment/Weighted Average Cost of Capital (WACC) (in a sealed envelope)

P	FDC MISAMIS Board of Investments (BOI) Certificate of Registration
Q	FDC MISAMIS Environmental Compliance Certificate (ECC)
R	FDC MISAMIS Fuel Procurement Process (in a sealed envelope)
S	Land Bank of the Philippines (LBP) Certification – Indicative Key Terms and Conditions (in a sealed envelope)

19. Pursuant to ERC Resolution No. 9, Series of 2010, FDC MISAMIS shall file the necessary application for a COC no later than (3) months prior to the commercial operations date of the 3 X 135 MW CFB coal-fired power plant;

Allegations in Support of the Motion for Confidential Treatment of Information

20. The Commission may, upon request of a party and determining that the disclosure of information requested to be treated as confidential information is justified, treat certain information submitted to it as confidential.⁴ DANECO and FDC MISAMIS are bound by confidentiality agreement prohibiting the disclosure of any business, technical, marketing, operational, organizational, financial or other information and trade secrets and other confidential documents, papers and information.⁵ Accordingly, they request before the Commission that Annexes "M", "O", "R", and "S" not be disclosed and be treated as confidential in accordance with Rule 4 of the ERC Rules. These Annexes contain confidential information critical to the business operation of FDC MISAMIS including trade secrets and business calculations, assumptions and projections; and

⁴ Rule 4 - Confidential Information, ERC Rules

⁵ Article 14 of the EPPA

Prayer

21. Thus, they pray that the Commission:
- a. Approve their duly negotiated EPPA;
 - b. Issue an Order: i) treating Annexes "M", "O", "R" and "S", and the information contained therein as confidential; ii) directing their non-disclosure pursuant to Rule 4 of ERC Rules; and iii) prescribing the guidelines for the protection thereof; and
 - c. After trial on the merits, issue a permanent approval of their EPPA which would authorize DANECO to charge and collect the fees under the same as well as pass on the full amount to its member-consumers.

The Commission has set the application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **June 30, 2015 (Tuesday) at eleven o'clock in the morning (11:00 A.M.) at DANECO's Principal Office, Montevista, Compostela Valley.**

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**, **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 8th day of June, 2015 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III