

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



IN THE MATTER OF THE APPLICATION
FOR AUTHORITY TO DONATE THE
OWNERSHIP OF THE POWER
GENERATION SETS OF THE TWELVE
(12) ENERGIZED ISLANDS, ALL WITHIN
THE COVERAGE AREA OF BOHECO I,
TO THE SMALL POWER UTILITIES
GROUP (SPUG) OF THE NATIONAL
POWER CORPORATION WITH PRAYER
FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2008-080 MC

BOHOL I ELECTRIC COOPERATIVE, INC.
(BOHECO I),

Applicant.

x-----x

D O C K E T E D

Date: FEB 09 2010

By: 

DECISION

On August 12, 2008, Bohol I Electric Cooperative, Inc. (BOHECO I) filed an application for authority to donate the ownership of the power generation sets of the twelve (12) energized islands, all within its coverage area, to the Small Power Utilities Group (SPUG) of the National Power Corporation (NPC), with prayer for provisional authority.

In the said application, BOHECO I alleged, among others, that:

1. It is a non-stock, non-profit electric cooperative duly organized under Republic Act No. 6038, with principal office address at Maca-as, Tubigon, 6329 Bohol. It has a franchise to operate an electric light and power distribution service in the twenty-six (26) Municipalities of Bohol Province, namely: Tubigon, Calape, Loon, Maribojoc, Cortes, Baclayon, Albuquerque, Loay, Lila, Dimiao, Loboc, Sevilla, Corella, Sikatuna, Daus, Panglao, Antequera, San Isidro, Catigbian, Balilihan, Clarin, Inabanga, Sagbayan, Carmen, Batuan and Bilar;



2. Pursuant to the requirement provided under Section 20 (e) and (g) of the Public Service Act (C.A. No. 146), it seeks authority to donate ownership of its power generation sets in favor of the SPUG, a functional unit of NPC. The said power generation sets provide electric power to barangays in the twelve (12) islands in Bohol, namely: (1) Cuaming of Inabanga; (2) Hambongan of Inabanga; (3) Bag-Ong Banwa; (4) Batasan; (5) Bilangbilangan; (6) Mocaboc; (7) Pangapasan; (8) Ubay of Tubigon; (9) Matata-o of Calape; (10) Cabilao of Loon; (11) Balicasag of Panglao; and (12) Pamilacan of Baclayon;
3. The true cost of generation it incurred for Cabilao and the eleven (11) islands in Bohol are as follows:

Date	Cabilao (PhP/kWh)	11 Islands (PhP/kWh)
Feb. 2008	14.5949	26.4549
Jan. 2008	12.3374	23.8699
Dec. 2007	12.8592	23.6342

4. If NPC-SPUG would take over the ownership, operation and maintenance of the subject power generation sets, the generation charge to the electric consumers within the twelve (12) islands of Bohol would go down to PhP5.6404/kWh which is the approved Subsidized Approved Generation Rate (SAGR) for NPC-SPUG supplying electric power to the missionary electrification areas; and
5. The approval of the instant application will benefit the electric consumers in Bohol insofar as the generation charge is concerned.

Having found said application sufficient in form and in substance, with the required fees having been paid, an Order and a Notice of Public Hearing, both dated August 14, 2008, were issued setting the same for initial hearing and preliminary conference on September 12, 2008.

In the same Order, BOHECO I was directed to cause the publication of the Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, at least ten (10) days before the date of the scheduled initial hearing. It was also directed to inform the consumers, within its franchise area, by any other means available and appropriate, of the filing of the instant application, its reasons therefor and of the scheduled hearing thereon.

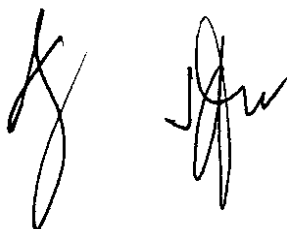
The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and the Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the initial hearing.

Likewise, the Offices of the Mayors of the Municipalities within the franchise area of BOHECO I were furnished with copies of the Order and the Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

On September 8, 2008, BOHECO I filed its "Pre-Trial Brief".

During the September 12, 2008 initial hearing of this case, only BOHECO I appeared. No intervenor/oppositor appeared nor was there any intervention/opposition registered.

At the said hearing, BOHECO I presented its proofs of compliance with the Commission's posting and publication of notice requirements together with other related documents which were duly marked as Exhibits "A" to "I", inclusive. Thereafter, it presented its sole witness, Engr. Virgilio C. Fortich, its Assistant General Manager (AGM), who testified, among others, on the nature of the application and on the true cost generation incurred by BOHECO I for Cabilao and the eleven (11) islands in Bohol. The direct examination having been terminated, the Commission propounded clarificatory questions.



On September 22, 2008, BOHECO I submitted its "Formal Offer of Evidence" which is hereby admitted for being relevant and material in the final resolution of the application.

DISCUSSION

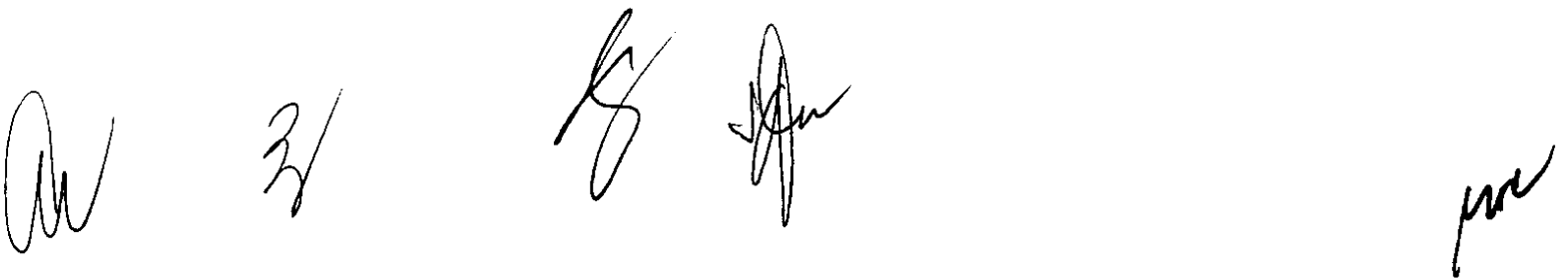
BOHECO I seeks authority to donate the ownership of its power generation sets supplying electric power to the following barangays in the twelve (12) islands in Bohol:

- | | |
|------------------------|----------------------------|
| 1. Cuaming, Inabanga | 7. Bag-Ong Banwa, Tubigon |
| 2. Hambongan, Inabanga | 8. Batasan, Tubigon |
| 3. Matata-o, Calape | 9. Bilangbilangan, Tubigon |
| 4. Cabilao, Loon | 10. Mocaboc, Tubigon |
| 5. Balicasag, Panglao | 11. Pangapasan, Tubigon |
| 6. Pamilacan, Baclayon | 12. Ubay, Tubigon |

The instant application was filed pursuant to Section 20 (g) of Commonwealth Act No. 146 or the Public Service Act, as amended, which provides that:

"Acts requiring the approval of the Commission. Subject to x x x, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had-

(g) To sell, alienate, mortgage, encumber or lease its property, franchises, certificates, privileges, or rights, or any part thereof; or x x x, with those of any other public service. The approval herein required shall be given, after notice to the public and after hearing the persons interested at a public hearing, x x x.



As a background, on February 9, 2002, the Board of Directors of BOHECO I signed Board Resolution No. 13-2002, approving the turn-over of power generation sets in the twelve (12) energized islands in Bohol, all within its coverage area, to NPC-SPUG.

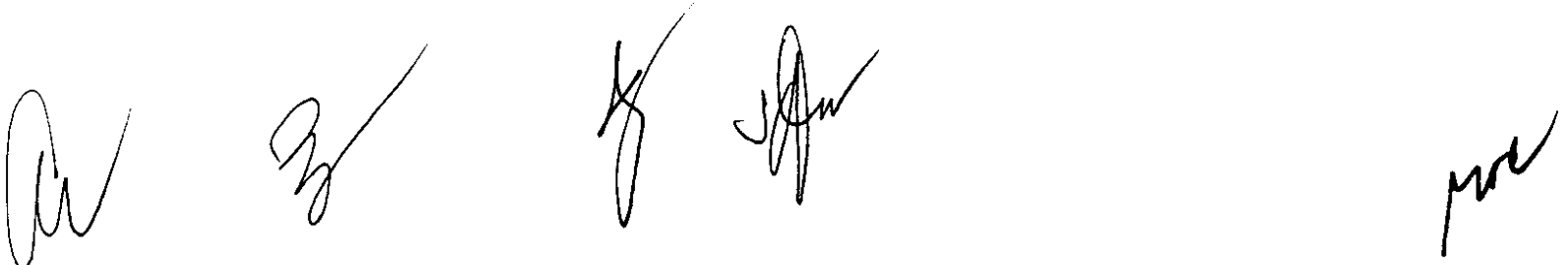
On March 29, 2008, during its 30th Annual General Membership Meeting, BOHECO I's Board of Directors passed Board Resolution No. 2, Series of 2008 ratifying Board Resolution No. 13-2002. On even date, Mr. Jeremias A. Boligao, BOHECO I Board President, signed a "Certificate of Ratification" certifying the approval and ratification of the said Resolution.

On July 29, 2008, BOHECO I and NPC-SPUG signed a "Memorandum of Agreement" (MOA) for the take-over of the facilities and operation of the twelve (12) islands in Bohol.

Salient Features of the MOA between NPC-SPUG and BOHECO I:

Responsibility of NPC-SPUG:

1. Conduct inventory of the facilities and thereafter, take-over the operation and ownership of the power plants and all related facilities, plant sites and improvements free of charge;
2. Operate, maintain and supply the needed fuel of the power plants;
3. Conduct periodic calibration of main kWh meters of the power plants;
4. Conduct the kWh meter reading in the presence of BOHECO I representative every 25th day of the month; and
5. Bill BOHECO I every 25th of the month for the electricity supplied.



Responsibility of BOHECO I:

1. Transfer to NPC-SPUG the ownership of the power plants of the twelve (12) islands and all related facilities, plant sites and improvements, free of charge;
2. Collect the electricity bill based on the following formula:

Monthly Consumption, PhP = (Subsidized Approved Generation Rate [SAGR] of **PhP5.6404/kWh*** plus Distribution Rate in PhP/kWh) Multiply by Monthly Use in kWh;

3. Pay NPC the SAGR as approved by ERC being collected from the consumers of BOHECO I which is currently at PhP5.6404/kWh; and
4. Continue to exclusively operate and maintain the distribution system in the above twelve (12) islands in Bohol province.

Interim Operation (Effective February 22, 2008):

Article III of the MOA provides that in order to facilitate the turn-over and to lower the cost of electricity, BOHECO I shall supply the fuel and manpower requirements in operating the plants.

1. As an interim measure to meet the operational requirements of the plants, the present manpower of BOHECO I shall be maintained by NPC and shall remain as employees of BOHECO I. However, NPC shall have functional supervision over the plant personnel and shall have the right to replace any incompetent personnel;
2. No employer-employee relationship shall exist between NPC and the plant personnel of BOHECO I and the present rates of its personnel must be maintained. Provided, however, that any mandatory adjustment of the wages/salaries of the personnel assigned to the plant by virtue of law, rules, or regulations shall be borne by NPC;
3. No personnel assigned by BOHECO I shall have any pre-emptive right to appointment to the position which may be assigned to him by NPC by virtue of the agreement;
4. BOHECO I shall bill NPC every month for the manpower and fuel requirements incurred in operating and maintaining the twelve (12) plants. Any and all amounts due to BOHECO I for such service shall be offset against its payables to NPC's monthly power bill; and



5. NPC shall reimburse to BOHECO I the monthly manpower and fuel expenses incurred in operating and maintaining the twelve (12) plants from February 22, 2008 until the full takeover of NPC-SPUG has taken place.

BOHECO I averred that it can no longer provide reliable and efficient electricity in the said areas due to the increasing prices of fuel as well as the operating and maintenance costs brought about by the frequent breakdown of its generating sets. It requested NPC to operate/take-over the plants due to the difficulty in subsidizing the operation and maintenance of the plants.

Pursuant to its mandate under existing laws to perform missionary electrification in the country, NPC-SPUG agreed to take over the operation of the diesel power plants in the twelve (12) islands in order to reduce the cost of electricity in the said areas.

It is worth mentioning that the approved unbundled rates of BOHECO I per ERC Case No. 2001-907 provide a different rate schedule per customer for the Mainland, Cabilao and the island barangays, as shown below:

Customer Classes Charges	Residential Mainland	Residential Cabilao	Residential Island Barangays
Generation Charges			
Generation System PhP/kWh	2.3368	5.9200	10.6500
Transmission Charges			
Demand PhP/kW	-	-	-
Transmission System PhP/kWh	1.0517	-	-
Distribution Charges			
Demand PhP/kW	-	-	-
Distribution System PhP/kWh	1.5334	1.5334	1.5334
Supply charges			
Retail Customer PhP/mo.	-	-	-
Supply System PhP/kWh	0.2361	0.2361	0.2361
Metering Charges			
Retail Customer PhP/mo.	5.00	5.00	5.00
Metering System PhP/kWh	0.4252	0.4252	0.4252
System Loss Charge PhP/kWh	0.3313	-	-
Cross Subsidy Credit PhP/kWh	(0.4428)	(0.4428)	(0.4428)
Universal Charges			
Missionary Electrification PhP/kWh	0.0373	0.0373	0.0373

Environmental PhP/kWh	0.0025	0.0025	0.0025
Lifeline Subsidy Charge	0.0527	0.0527	0.0527
Rate Reduction Due to the Condonation of Loans	(0.1026)	(0.1026)	(0.1026)
Mandated Rate Reduction	(0.2147)	-	-

Shown below are the true costs of generation incurred by BOHECO I for Cabilao and the eleven (11) islands in Bohol:

Months/Year	Cabilao (PhP/kWh)	11 islands (PhP/kWh)
February 2008	14.5949	26.4549
January 2008	12.3374	23.8699
December 2007	12.8592	23.6342

Note: these are the actual generation costs/charges imposed on the islands before the turn-over

Based on the MOA, NPC will charge BOHECO I the SAGR of PhP5.6404/kWh for the twelve (12) islands while BOHECO I will charge its approved Distribution Rate in PhP/kWh. However, it was determined that the approved SAGR for the fourteen (14) first wave areas in the Visayas grid is PhP6.2553/kWh. The PhP5.6404/kWh agreed rate refers to the approved unbundled rate of NPC-SPUG in the Visayas Grid (rates in other Visayas areas).

Based on sample bills, BOHECO I started billing the amount of PhP5.6404/kWh in the 12 areas in March 2008 (after the turn-over of the power plant to NPC-SPUG) without the Commission's prior approval.

The take-over by NPC-SPUG of the power plant will provide reliable and efficient supply of electricity to BOHECO I consumers. The economic benefit shall be the savings due to the reduction of the generation charge.

Shown below is the impact of the turn-over in BOHECO I's rates to its customers for the months of December 2007 to February 2008:

Months/Year	Cabilao (PhP/kWh)	11 Isalnds (PhP/kWh)	Rates After the Turn-over (PhP)	Rate Impact to Cabilao (PhP)	Rate Impact to 11 Islands (PhP)
December 2007	12.8592	23.6342	5.6404	7.2188	17.9938
January 2008	12.3374	23.8699	5.6404	6.6970	18.2295
February 2008	14.5949	26.4549	5.6404	8.9545	20.8145

The impact of the turn-over is a decrease in the rates to BOHECO I's customers by PhP8.9545/kWh in Cabilao and PhP20.8145/kWh in the eleven (11) islands for the month of February 2008. For the months of December 2007 and January 2008, a decrease of PhP7.2188/kWh and PhP6.6970/kWh, respectively in Cabilao and PhP17.9938/kWh and PhP18.2295/kWh, respectively in the eleven (11) islands.

The turn-over of the power generation sets of the twelve (12) islands will have an impact on the UC-ME by PhP0.00014/kWh for CY 2009 (NPC SPUG's simulation) which has been included in NPC-SPUG's petition for UC-ME under ERC Case No. 2009-028:

No. of Islands	CY 2008 kWh Sales (kWh)	Estimated Levy (PhP)	Impact on the UC-ME (PhP/kWh)
12	58,195,499.00	8,118,191.25	0.00014

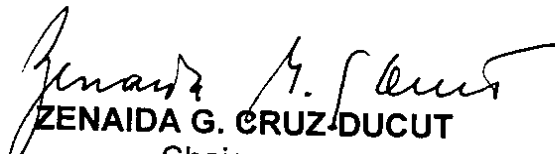
A perusal of the evidence presented herein showed that the donation of the power generation sets by BOHECO I to NPC-SPUG will redound to the benefit of the BOHECO I's customers in terms of reduced generation rate.

WHEREFORE, the foregoing premises considered, the application for authority to donate the ownership of the power generation sets of the twelve (12) energized islands, all within the coverage area of BOHECO I, to the Small Power

Utilities Group (SPUG) of the National Power Corporation (NPC), with prayer for provisional authority, filed by Bohol I Electric Cooperative, Inc. (BOHECO I), is hereby **APPROVED**.


SO ORDERED.


Pasig City, December 14, 2009.


ZENAIDA G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner


MARIA TERESA A.R. CASTAÑEDA
Commissioner


JOSE C. REYES
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Maribojoc, Bohol
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Cortes, Bohol
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Loboc, Bohol
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Sevilla, Bohol
14. The Municipal Mayor
Corella, Bohol
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Sikatuna, Bohol
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