

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

**IN THE MATTER OF THE APPLICATION FOR  
APPROVAL OF THE ELECTRIC POWER  
SUPPLY AGREEMENT BETWEEN DAVAO  
LIGHT AND POWER COMPANY, INC. AND  
HYDRO ELECTRIC DEVELOPMENT  
CORPORATION, WITH PRAYER FOR  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2005-002 RC**

**DAVAO LIGHT AND POWER COMPANY,  
INC. (DLPC),**

Applicant.

X- - - - - X

**DECISION**

On January 12, 2005, Davao Light and Power Company, Inc. (DLPC), a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, filed an application for approval of its Electric Power Supply Agreement (EPSA) with Hydro Electric Development Corporation (HEDCOR), with prayer for provisional authority.,

Having found said application sufficient in form and substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated January 28, 2005, were issued setting the case for hearing on March 7, 2005.

DLPC was directed to cause the publication of the Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of nationwide circulation, with the last date of publication to be made not later

than two (2) weeks before the scheduled date of initial hearing. In compliance with the said directive, DLPC published the Notice of Public Hearing both in the People's Monitor National Weekly Newspaper and Mid Day Monitor News National Weekly Newspaper on February 7 and 14, 2005.

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 aforesaid initial hearing.

Likewise, the Offices of the Mayors of the City of Davao and the Municipalities of Carmen, Duhali and Sto. Tomas, all in the province of Davao del Norte, were furnished with copies of the Order and the Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards.

During the hearing on March 7, 2005, DLPC presented: (1) proofs of its compliance with the Commission's posting and publication of notice requirements; (2) its witnesses; and (3) several documents as evidence. Thereafter, on March 22, 2005, DLPC submitted its "Formal Offer of Exhibits".

On April 11, 2005, the Commission issued an Order setting this case for another hearing on April 19, 2005 at the ERC Mindanao Field Office (MFO), Mintrade Building, Davao City.

However, upon review of the documents submitted by DLPC, the Commission found that DLPC failed to comply with the requirements of Section 1(d), Article VI

of the "Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rates", particularly the details of the procurement process it used in selecting HEDCOR as its supplier. Hence, an Order was issued dated July 4, 2005 directing DLPC to submit the written proposals of the other generation companies that manifested their intentions to supply power to DLPC.

On July 22, 2005, DLPC filed its "Compliance" containing the written proposals of Aggreko International Projects Limited (Aggreko) and Marubeni Energy Services Corporation (Marubeni).

### **DISCUSSION**

In its application, DLPC alleged, among others, that its power consumption within its franchise area has been increasing. In addition thereto, DLPC has been experiencing low voltage power supply because of: (1) lack of power sources located in Southern Mindanao; (2) inadequate transmission capacity in Northern Mindanao; and (3) an impending shortage of power supply in Mindanao by year 2008 as forecasted by the National Power Corporation (NPC)<sup>1</sup>. In the light of this, DLPC entered a new power supply agreement with HEDCOR as its supplier in order to meet this increasing demand and the future power requirements of its customers.

DLPC conducted a procurement process and received proposals from three (3) private generation companies, namely: (a) Aggreko International Projects Limited (Aggreko) (b) Marubeni Energy Services Corporation (Marubeni) and (c) Hydro Electric Development Corporation (HEDCOR).

---

<sup>1</sup> Letter dated June 12, 2003 of NPC President Rogelio Murga

After a thorough evaluation of the said proposals, DLPC considered HEDCOR's proposal as the most efficient, cost-effective, reliable and environmentally friendly source of power and energy. Unlike the proposals of Agrekko and Marubeni, HEDCOR was willing to supply power to DLPC at the rate essentially equal to those charged by NPC and committed to further invest in the improvement of the capacity, efficiency and reliability of its hydroelectric power plants previously known as the NPC Talomo. It is significant to note that DLPC has been procuring power from NPC Talomo and the continued supply of power from said delivery point is essential to stabilize power voltage in the affected area. NPC Talomo is located within the franchise area of DLPC and capable of feeding power directly into its grid. Thus, there are no additional costs required for the delivery of power to DLPC.

In the said power supply agreement, HEDCOR will supply and deliver to DLPC all the electric power and energy generated by NPC Talomo. On the other hand, DLPC will purchase and accept all the electric power and energy produced and generated by NPC Talomo under the following conditions:

- a) Cooperation Period - Fifteen (15) years to be reckoned from the approval of the contract by the Commission.
- b) Electricity Price - Equal to the average cost of electricity procured, delivered and accepted by DLPC at the time and day of delivery of the hydro plants from NPC inclusive of transmission and connection charges as evidenced by the monthly billings paid by DLPC, including all entitlement by DLPC of any technical and financial discounts.

HEDCOR offered the same discounts at the same prevailing rates as those offered by NPC which include power factor and prompt payment discount.

If the power from one or more of the hydro plants is wheeled through a third party,

DLPC shall have the option of paying such transmission fees, provided that the costs of power and energy from HEDCOR are reduced accordingly.

In the event NPC sells less than 51% of the energy requirements of DLPC for six (6) consecutive months, the price of electricity generated and delivered shall be the weighted average of all sources of energy and capacity other than: (a) HEDCOR Upper Talomo Plant; (b) Emergency or back-up power sources (such as Bajada Power Plant); and (c) sources whose power price are indexed to that of NPC.

c) Late Payment Penalty - Three (3%) percent per month (fraction of a month to be considered one month).

d) Plant Capacity and Annual Generation (Per the table below):

	Plant 2A	Plant 2B	Plant 2	Plant 3	Total
<b>Capacity</b>					
Rated (kW)	650	300	600	1,920	3,740
Actual (kW)	450	250	540	1,100	2,340
Annual Generation (GWh)	4.732	2.540	4.451	13.121	24.844

Comparison was made with other Independent Power Producers (IPPs) in Mindanao using the actual power bills for the billing period July 26, 2005 to August 25, 2005, to wit:

	NPC and TRANSCO to DLPC (PhP/kWh)	HEDCOR to DLPC (PhP/kWh)	Bubunawan Power Company (BPC) to CEPALCO (PhP/kWh)	Difference (PhP/kWh)
Average rate	3.0544	3.0544	3.1897	(0.1353)

The above table shows that the HEDCOR rate of PhP3.0544/kWh is lower compared to the Bubunawan Power Company (BPC) rate of PhP3.1897/kWh and equal to NPC's and TRANSCO's rates charged to DLPC.

In support of its application, DLPC claimed that the rate charged by HEDCOR has no incremental cost to its customers. The contract is based on the alternative cost and it is the same power that NPC was supplying to DLPC with the same cost to the customer on delivery basis. In addition, HEDCOR's Talomo Plants, being located within DLPC's franchise area, are capable of directly supplying power to DLPC where no additional lines or connection costs will be required. This will likewise alleviate the low voltage power supply within DLPC's franchise area.

DLPC's procurement of power from HEDCOR (Talomo Hydro Plants) reduces the amount of energy that DLPC's Bajada plant has to generate, as well as the attendant costs thereto. DLPC's Bajada Diesel Power Plant serves as its backup in the event of power outages and low voltage. Due to the technical constraints of the existing transmission lines delivering power from North Mindanao to Davao, DLPC's Bajada power plant often operates during early evenings to stabilize voltage in its franchise area. The cost of generation of the Bajada power plant is approximately PhP5.84/kWh.

**WHEREFORE**, premises considered, the application for the approval of the Electric Power Supply Agreement entered into by and between Hydro Electric Development Corporation (HEDCOR) and Davao Light and Power Company, Inc. (DLPC) is hereby APPROVED. However, in the event that the NPC rate is no longer applicable due to the on-going privatization of NPC, as well as the impending open access and wholesale competition, HEDCOR and DLPC may renegotiate the pricing

scheme of this contract to reflect the true cost of generation subject to the approval of the Commission. The parties should take into consideration the dynamics of a competitive market place augured by the privatization of NPC's generating assets, the implementation of Open Access and Transmission Service (OATS), as well as the operation of the Wholesale Electricity Spot Market (WESM).

SO ORDERED.

Pasig City, February 13, 2006.

(On Leave)

**RODOLFO B. ALBANO, JR.**

Chairman

**OLIVER B. BUTALID**

Commissioner

**JESUS N. ALCORDO**

Commissioner

**RAUF A. TAN**

Commissioner

**ALEJANDRO Z. BARIN**

Commissioner

Copy furnished:

1. **Atty. Edgar Ryan C. San Juan**  
Counsel for Applicant  
12<sup>th</sup> Floor, East Tower  
Philippine Stock Exchange Center  
Exchange Road, Ortigas Center  
Pasig City
2. **Davao Light and Power Company, Inc.**  
Aboitiz Corporate Center, Banilad, Cebu City
3. **Office of the Solicitor General**  
134 Amorsolo Street, Legaspi Village  
Makati City, Metro Manila
4. **Commission on Audit**  
Commonwealth Avenue  
Quezon City, Metro Manila
5. **Senate Committee on Energy**  
GSIS Bldg., Roxas Blvd., Pasay City  
Metro Manila
6. **House Committee on Energy**  
Batasan Hills, Quezon City, Metro Manila
7. **The City Mayor**  
**Davao City**
8. **The City Mayor**  
Panabo City  
Davao Del Norte
9. **The Municipal Mayor**  
Municipality of Sto. Tomas  
Davao del Norte
10. **The Municipal Mayor**  
Municipality of Dujali  
Province of Davao del Norte
11. **The Municipal Mayor**  
Municipality of Carmen  
Province of Davao del Norte