

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
SAN MIGUEL AVENUE, PASIG CITY

IN THE MATTER OF THE APPLICATION
FOR APPROVAL OF THE POWER SUPPLY
AGREEMENT BETWEEN FIRST
FARMERS HOLDING CORPORATION
(FFHC) AND NEGROS OCCIDENTAL
ELECTRIC COOPERATIVE, INC.
(NOCECO), WITH MOTION FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY,

ERC Case No. 2010-008RC

FIRST FARMERS HOLDING
CORPORATION (FFHC) AND NEGROS
OCCIDENTAL ELECTRIC
COOPERATIVE, INC. (NOCECO),

Applicants.

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**APPLICATION FOR THE APPROVAL OF
POWER SUPPLY AGREEMENT
(WITH MOTION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY)**

Applicants First Farmers Holding Corporation (“FFHC” for brevity) and
Negros Occidental Electric Cooperative, Inc. (“NOCECO” for brevity), through
the undersigned counsel, respectfully state:

THE APPLICANTS

1. FFHC is a corporation organized and existing under the laws of the
Republic of the Philippines with principal office at First Farmers Building,
Mabini corner Filipina Streets, Talisay City, Negros Occidental. It is the owner
and operator of a sugar mill with a private 21 MW Co-generation power plant in
Brgy. Dos Hermanas, Talisay City, Negros Occidental with Certificate of
Compliance No. 04-GN-33-16640 issued by this honorable Commission.

Copies of FFHC's Certificate of Incorporation, Articles of Incorporation and latest General Information Sheet are attached hereto as **Annexes "A," "B" and "C"**, respectively.

A copy of FFHC's ERC Certificate of Compliance No. 04-GN-33-16640 is attached hereto as **Annex "D"**.

2. Applicant NOCECO is an electric cooperative organized and existing under the laws of the Republic of the Philippines with principal office at Naga Binicuil, Kabankalan City, Negros Occidental. It has been granted a franchise by the National Electrification Administration ("NEA") to distribute electric service in the following cities and municipalities: Pulpandan, Valladolid, San Enrique, Pontevedra, La Carlota city, La Castellana, Moises Padilla, Isabela, Hinigaran, Binalbagan, Himamaylan City, Kabankalan City, Ilog, Cauayan, Candoni, Sipalay City, and Hinoba-an, all in the province of Negros Occidental (the "Franchise Area").

Copies of NOCECO's Articles of Incorporation and Certificate of Franchise are attached hereto as **Annexes "E" and "F"**, respectively.

3. The Parties may be served with orders and other processes through the undersigned counsel.

NATURE OF THE APPLICATION

4. Pursuant to Rule 20 (B) of the ERC Rules of Practice and Procedure, approved by this Honorable Commission on June 22, 2006 in Resolution No. 38, Series of 2006, this Application is submitted to the Honorable Commission for the approval of applicants' Power Supply Agreement ("PSA" for brevity).

A copy of the PSA is attached hereto as **Annex "G"**.

5. Moreover, Applicants' Motion for the Issuance of Provisional Authority is made pursuant to Rule 14 of the same Rules of Practice and Procedure mentioned above.

COMPLIANCE WITH PRE-FILING REQUIREMENTS

6. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, applicants have furnished the respective legislative bodies of the Local Government Units of all the cities and municipalities of the franchise area with a copy of the present application with all its annexes and accompanying documents. Copies of the certificates of postings from the Presiding Officer or Secretary of the legislative bodies of La Carlota City, Himamaylan City, Kabankalan City and Sipalay City and the municipalities of Pulpandan, Valladolid, San Enrique, Pontevedra, La Castellana, Moises Padilla, Isabela, Hinigaran, Binalbagan, Ilog, Cauayan, Candoni and Hinoba-an, as well as the Province of Negros Occidental, or their duly authorized representatives, are attached hereto as **Annexes "H, H-1 and H-17,"** respectively.

7. Furthermore, applicants have caused the publication of the present application in its entirety in the Visayan Daily Star, a newspaper of general circulation within the franchise area of NOCECO. Copies of the corresponding Affidavit of Publication and the newspaper are attached as **Annexes "I" and "I-1,"** respectively.

STATEMENT OF FACTS

8. Since August 2009, applicant NOCECO and the rest of the Distribution Utilities in Negros and Panay have been experiencing daily brown-outs due to system low voltage and insufficiency of the supply.

9. On a daily basis, applicant NOCECO and the other distribution utilities are being “load shed” at an average of 2 to 3.5 MW. Considering that there are no new sources of power where the Distribution Utilities can buy electricity, applicant NOCECO expects the energy shortage problem to continue and to worsen until 2011, which is the expected date that the new power plants being constructed in the Visayas will be able to supply the much needed energy.

10. In the meantime, however, applicant NOCECO is in urgent need to find temporary source of energy to mitigate the existing energy crisis in its franchise area. To this end, applicant NOCECO negotiated with applicant FFHC for whatever energy that the latter may provide at the rate that is acceptable with this honorable Commission.

11. Applicant FFHC is the owner and operator of a sugar mill with a private 21 MW Co-generation power plant.

12. As a qualified provider of renewable energy resources under Republic Act 9513, otherwise known as the s from “Renewable Energy Act of 2008”, applicant FFHC is entitled to priority purchase transmission and payments for the electricity generated and dispatched to the grid.

13. Applicant FFHC has an excess power of at least 10MW which is now available and can be dispatched to the grid anytime. FFHC has already acquired the necessary permits/certificates from this honorable Commission as an independent power producer. FFHC’s Environmental Compliance Certificate is attached hereto as **Annex “J”**.

14. On October 22, 2009, applicants entered into a Power Supply Agreement under a “non-firm” or “as-available basis” arrangement.

**ABSTRACT OF THE POWER SUPPLY AGREEMENT
AND RELATED INFORMATION**

15. **Executive Summary.** The Power Supply Agreement between applicants NOCECO and FFHC is on a “non-firm” or “as-available basis”. Applicant FFHC shall supply the Contract Quantity in accordance with good utility practices and in compliance with appropriate rules and regulations such as the Grid Code and the Distribution Code, the WESM Rules and the OATS Rules.

16. **Term.** The PSA has a term of ten (10) years from the Effective Date, subject to renewal as may be agreed by the parties, and is applicable only during the milling period of applicant FFHC which starts either in August or September and ends in March or April of the following year.

17. **Project Cost.** Applicant FFHC’s total project cost amounted to Php651,950,000 with estimated economic life of 25 years.

18. **Weighted Average Cost of Capital.** Applicant FFHC’s weighted average cost of capital or WACC is 12.23%.

19. **Debt to Equity Ratio.** Applicant FFHC’s Debt to Equity Ratio is 72:28.

20. **Return of Investment.** Applicant FFHC’s rate of return on investment is 15.45%.

21. **FFHC Rate.** The price per kilowatt hour of electricity to be delivered by applicant FFHC to applicant NOCECO shall be Php4.1920/kWh, effective January 1, 2011.

22. **Provisional Rate.** Subject to the approval of this honorable Commission through herein motion for the issuance of provisional authority,

prior to January 1, 2011 and during the pendency of the instant application before this honorable Commission, the provisional rate of one percent (1%) lower than the weighted net average discounted generation charges before application of Prompt Payment Discount paid by applicant NOCECO with all of its existing and operating bilateral contract will apply.

23. **Sources of Funds.** Applicant FFHC's sources of funds are as follows:

SOURCE OF FUNDS	AMOUNT (Php)	PERCENTAGE
Equity	181,372,400	28%
DBP Loan Tranche A	168,726,000	26%
DBP Loan Tranche B	55,840,000	9%
DBP Loan Tranche C	69,612,000	11%
DBP Loan Tranche D	26,399,600	4%
RCBC	150,000,000	23%
TOTAL	651,950,000	100%

24. **Transmission Connection.** Both applicants shall be responsible for the connection of its facilities to the Grid, in accordance with the Philippine Grid Code and the Distribution Code. Each Party shall bear its own fees, costs and expenses incurred for such connection.

25. **Transmission Services.** Applicants NOCECO and FFHC shall separately enter into a Transmission Services Agreement ("TSA") with the National Grid Corporation of the Philippines (NGCP), in accordance with the Open Access Transmission Service Rules. All fees, costs and expenses, including but not limited to, power delivery services, system operator charges, and supply and metering charges, in relation to the TSA between Transco and NOCECO ("Transmission Costs") shall be for the account of NOCECO. All transmission costs in relation to the TSA between NGCP and FFHC shall be for the account of FFHC.

26. **Ancillary Services.** Applicants NOCECO and FFHC shall separately procure their respective applicable Ancillary Services from NGCP,

WESM or any alternative ancillary service providers, in accordance with the relevant laws, rules or regulations.

27. **Electrical Characteristics.** FFHC shall supply the Hourly Quantity to NOCECO in accordance with good utility practice and in compliance with appropriate rules and regulations such as the Philippine Grid Code and Distribution Code, the WESM Rules and the Open Access Transmission Service Rules.

28. FFHC shall supply electricity at the 69KV side of the Substation Transformer at 69KV, 60Hertz. FFHC shall supply active power output within the system frequency range of 59.7 to 60.3 hertz and a reactive power output under steady state conditions within the voltage range + 5% of nominal value at the connection point.

29. **Contract Quantity.** The Contract Quantity to be supplied by FFHC to NOCECO shall be "NON-FIRM" and on "AS AVAILABLE" basis.

PLANT DESCRIPTION

30. **Plant Capacity and Specification.** Applicant FFHC's plant steam generator is a single pass, membrane type water wall, pin holes grates furnace multifired boiler that can generate 145 tons of steam per hour at 850 psig pressure at 850°F steam temperature and is equipped with air heater, economizer, feed water heater, Induced Draft Fan and Forced Draft Fan systems. The plant steam generator was manufactured by Foster and Wheeler Limited in Canada.

31. The three smokestacks are equipped with wet scrubber system that control emission levels below 100 mg/nm². Bottom ash collection utilizes the wet handling system and is separated through an ash clarifier on a close loop water system.

32. The Power Generator is a General Electric (GE) multi extraction steam turbine with a rated capacity of 21 MW. The first extraction port can provide steam up to 72 tons per hour at 160 psig at about 400°F and the second extraction port can supply steam up to 54 tons per hour at 320°F, the rest goes to the condenser at 2" Hg. Absolute.

33. The Cooling System is a three (3) cell 15,000 GPM cooling tower supply cooling water to the condenser via three (3) cooling pumps of 900 GPM at 175 TDH on force through cooling system at 5 to 7% make up requirements.

34. **Power Generations.** The steam turbine drives a 21 MW, 0.85 power factor, 3 phase, 60 hertz, 3600 RPM, 13.8 KV, 0.58 short circuit ratio air cooled synchronous generator with four corner mounted coolers designed for maximum 95°F, 125°F cooling water. Excitation is provided by a static excitation system and field circuit breaker.

35. **Operation.** The power plant will operate 24 hours a day, seven days a week for about 7 to 10 months a year. During the off season, the plant will be given at least 2 months schedule maintenance. During the weekend where the mill has its weekend repair schedule, and cannot supply enough cane fibers for fuel, it is expected that it will run at reduced load and if bigger load is required, bunker 2 or 6 may be used as supplemental fuel.

36. **Combustion Efficiency.** Performance guarantee is based on a capacity of 320,500 lbs/hr steam when burning bagasse. At this load, efficiency will not be less than 66.98%, final steam temperature will be 830 °F ± 10 °F with total solids not exceeding 1 ppm and final steam pressure will be 875 psig.

RATE PER KWHr COMPUTATION

37. The applicants agreed to a rate of Php4.1920/KWHr computed as follows:

Gross Capacity	21,760
WACC	12.23%
Economic Life	25 years
Capital Costs	
EPC	598,750,000
Balance of Plant	14,200,000
Interest During Construction	34,000,000
Financing Charges	5,000,000
Total Capital Cost	651,950,000
Max Rating Gross Capacity (MW)	21.76
Capacity Derating	2.5%
Effective Max Rating Gross (MW)	21.22
Auxiliary Load	7.5%
Potential Generation (MW)	19.62
Sustainable Net Generation (MW)	10.60
High Heat Rate Value Manufacturer	25,078.54
Bagasse Heating Value	4,224.00
Bagasse Required, tons	263,424.2
Bagasse Tranferred, tons	263,429.5
Heat Rate Degradation	1.5%
Average Net Heat Rate	25,460.44
Variable Cost	5,492,620
Variable O&M per MWh net generation	101.93
Cost of Fuel transferred, ton	240.00
Cost of Fuel/MWh Gross Generation, Php/MWh	1,173.25
Cost of Fuel/MWh Net Generation, Php/MWh	1,268.38
Total Net Generation Variable Costs/MWh	1,370.31
Required Return on Total Investment Costs	84,427,437
Fixed Annual Costs	64,474,416
Total Capital and Fixed	148,901,853
Forced Outage due to Fuel Unavailability	34.52%
Maintenance	10.96%
Availability Factor	65.48%
Capacity Factor	50.85%
Net Generation Capacity MW	19.62
Total Generation Sent out to Grid MWhr	53,887
Average total fixed cost per MWhr	2,763.22
Total Variable Cost	101.93
Cost per MWhr of net energy generated	2,865.15
Transformer Losses	2.0%
Cost per MWhr Delivered	2,923.62

	UPDATED COST
Fixed Cost, Php/kWh	2.8196
Capital Cost Recovery	1.5987
Operations and Maintenance (Fixed)	1.2209
Variable Cost, Php/kWh	1.3724
Operations and Maintenance (Variable)	0.1040
Fuel	1.2684
TARIFF RATE	4.1920
<i>Rate Net of Fuel</i>	2.9236

38. **Escalation Clause.** In the event of a significant increase in the price of fuel and materials, the rate agreed in the contract shall be adjusted correspondingly based on the computation using the Consumer Price Index (CPI) as shown below:

Adjustment Formula using Consumer Price Index

$$\text{= CRF} + (\text{OM} \times [\text{CPIc}/\text{CPIb}]) + (\text{FP} \times \text{x})$$

Where:

CRF = the capital recovery fee for the required return on total investment costs;

OM = the operating and maintenance costs for the given period;

CPIc = current consumer price index

CPIb = base consumer price index

FP = the fuel price for the given period.

MOTION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

39. Applicants adopt the foregoing allegations as part of this Motion for the Issuance of Provisional Authority and state:

40. The power crisis being experienced in the Visayas had been in the news for years now. In the news report of Ma. Ester L. Espina and Erwin Ambo S. Delilan of Sun Star Network Online¹ on May 9, 2008, Energy Secretary Angelo Reyes was reported to have advised Negros and Panay officials “to consider self-

¹ <http://www.sunstar.com.ph/static/net/2008/05/09/negros.panay.power.shortage.acute.doe.html>

sufficiency in its power supply to avert the looming power crisis as the power shortage problem has reached to an acute level.

41. To date, the power crisis is no longer looming but an everyday occurrence for applicant NOCECO. As mentioned, Negros and Panay have been experiencing daily brown-outs for the past three months.

42. The NGCP System Alert Notice dated November 10, 2009 showed the energy deficiency for the Visayas Grid Users, thus: *“Expected CNP generation deficiency of 90 mw for morning peak, 120mw afternoon peak and 100mw for evening peak due to non-availability of Thermal 1-50mw, Thermal 2-55mw, CDPP1 (1 unit), PDPP3 (1 unit), PB 102 (2 units) for a total of 130mw.”* A copy of the NGCP System Alert Notice is attached hereto as **Annex “K”**.

43. Applicant NOCECO’s Summary Load Shedding for the month of October 2009 showed System low generation as a result of the deficiency of electricity from the grid. A copy of the summary is attached hereto as **Annex “L”**.

44. In support of the instant Motion for the Issuance of Provisional Authority, applicant NOCECO’s Summaries of Transfer of Power from One Feeder to Another Substation Feeder from August 26 to September 25, 2009 and from September 26 to October 25, 2009 are attached hereto as **Annexes “M” and “N”**. Moreover, NOCECO’s Summary of Substations Feeders Power Tripping/Interruptions is attached hereto as **Annex “O**. Finally, the affidavit of merit of Mr. Noel Garbo, NOCECO’s Department Head for Utility Economics and Corporate Planning is attached hereto as **Annex “P”**.

45. The PSA between the applicants will serve to mitigate the energy problem in the franchise area of NOCECO during the times when applicant FFHC has power to deliver. However, this temporary and minor solution requires immediate implementation.

46. Thus, applicants are constrained to ask for a provisional authority from this honorable Commission to allow the parties to buy and sell electricity at the provisional rate agreed upon in their PSA.

47. This motion is intended only for the purpose mentioned above and nothing else.

PRAYER

WHEREFORE, in view of all the foregoing, it is most respectfully prayed of this Honorable Commission that:

- (1) A provisional authority allowing applicant NOCECO to buy electricity from applicant FFHC at the provisional rate of one percent (1%) lower than the weighted net average discounted generation charges before application of Prompt Payment Discount paid by applicant NOCECO with all of its existing and operating bilateral contract will apply; and
- (2) the Power Supply Agreement dated October 22, 2009, between NOCECO and FFHC be approved.

Other reliefs just and equitable are likewise prayed for.

Makati City for Pasig City, November 23, 2009.

ALABADO & PARTNERS LAW OFFICES

Counsel for Applicants
5th Floor, Builder's Center Building
170 Salcedo St., Legaspi Village,
1229 Makati City, Philippines
Tel No. 8941530

By:

RUSSEL S. ALABADO

Roll of Attorneys No. 49114
IBP No. 759434/1-12-09/RSM
PTR No. 0017918/1-7-09/Makati City
MCLE Compliance No. II-0004851, 8.29.2007

Copy furnished by registered mail:

NATIONAL POWER CORPORATION

NPC Building Complex,
BIR Road corner Quezon Ave,
Diliman, Quezon City

EXPLANATION

Due to lack of messengerial services and distance, a copy of the foregoing pleading was served upon the National Power Corporation through registered mail instead of the preferred mode of personal service.

RUSSEL S. ALABADO