

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



**IN THE MATTER OF THE  
APPLICATION FOR APPROVAL  
OF THE POWER SUPPLY  
CONTRACT (PSC) BETWEEN  
CAMARINES SUR IV ELECTRIC  
COOPERATIVE, INCORPORATED  
(CASURECO IV) AND SAN  
MIGUEL ENERGY CORPORATION  
(SMEC)**

**ERC CASE NO. 2014-105 RC**

**CAMARINES SUR IV ELECTRIC  
COOPERATIVE, INCORPORATED  
(CASURECO IV),**

**Applicant.**

X-----X

**BOOKED**  
Date: MAR 24 2015  
By: WA

**ORDER**

On July 9, 2014, Camarines IV Electric Cooperative, Incorporated filed an application for approval of its Power Supply Contract (PSC) with San Miguel Energy Corporation (SMEC).

In the said application, CASURECO IV alleged, among others, that:

1. It 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 Tigaon, Camarines Sur. It holds a franchise to operate light and power services in the Municipalities of Caramoan, Garchitorena, Goa, Lagonoy, Ocampo, Presentacion, Sagnay, San Jose, and Tigaon, all in the Province of Camarines Sur (Franchise Area). Copies of its Articles of Incorporation, Certificate of Incorporation and Certificate of Franchise are attached to the application;

**Statement of Facts**

2. It has a Power Supply Agreement (PSA) with AP Renewables, Incorporated (APRI) which expired on June 25, 2013. Almost a year before the expiration of the said PSA, it invited to APRI to participate in the negotiation for its electricity requirement which the latter responded positively. A copy of the Letter of Invitation to APRI is, likewise, attached to the application. After series of negotiations, a new PSA was finalized for its renewal. However, several days before the signing of the said new PSA, Mr. Juan Miguel Gatmaitan informed CASURECO IV that APRI has no available supply. In order for it not to be exposed to the Wholesale Electricity Spot Market (WESM), it requested APRI to extend the PSA until September 26, 2013 to give it time to look for another power supplier;
3. For the immediate selection of its power supplier, on different dates, it sent Letters of Invitation to Trans-Asia Oil and Energy Development Corporation (TA-OIL) and Bac-Man Geothermal, Incorporated (BGI). Further, it made insistent follow-ups of its Letters of Invitation to AES Philippines and SMEC. Copies of the said Letters of Invitation are attached to the application;
4. Only SMEC submitted an offer in response to its invitations sent to the abovementioned power suppliers;
5. Upon evaluation of the offer of SMEC, it found the same to be reasonable and beneficial to its member-consumers. Hence, it awarded the contract for the supply of its electricity requirements to SMEC;
6. Subsequently, on August 22, 2013 it SMEC entered into and executed a PSC with SMEC, a copy of which is attached to the application;
7. The Contract shall be effective from September 26, 2013 until December 25, 2018;

8. Under the PSC, SMEC shall impose the agreed Monthly Capacity and Energy Fees, as described in the table below (Annex II of the PSC):

Period	Capacity Fee (PhP/kW-month)	Energy Fee (PhP/kWh)
September 26, 2013 to October 25, 2013	1,305.3817	2.0878
October 26, 2013 to November 25, 2013	1,313.1035	2.0878
November 26, 2013 to December 25, 2013	1,309.3189	2.0878
December 26, 2013 to January 25, 2014	1,360.3708	2.1081
January 26, 2014 to February 25, 2014	1,362.4957	2.1081
February 26, 2014 to March 25, 2014	1,347.2865	2.1081
March 26, 2014 to April 25, 2014	1,366.7682	2.1081
April 26, 2014 to May 25, 2014	1,363.1348	2.1081
May 26, 2014 to June 25, 2014	1,371.0703	2.1081
June 26, 2014 to July 25, 2014	1,367.4503	2.1081
July 26, 2014 to August 25, 2014	1,375.4022	2.1081
August 26, 2014 to September 25, 2014	1,377.5776	2.1081
September 26, 2014 to October 25, 2014	1,373.9778	2.1081
October 26, 2014 to November 25, 2014	1,381.9516	2.1081
November 26, 2014 to December 25, 2014	1,378.3672	2.1081
December 26, 2014 to January 25, 2015	1,572.8534	2.0652
January 26, 2015 to February 25, 2015	1,575.0662	2.0652
February 26, 2015 to March 25, 2015	1,560.1068	2.0652
March 26, 2015 to April 25, 2015	1,579.5133	2.0652
April 26, 2015 to May 25, 2015	1,576.0204	2.0652
May 26, 2015 to June 25, 2015	1,583.9891	2.0652
June 26, 2015 to July 25, 2015	1,580.5138	2.0652
July 26, 2015 to August 25, 2015	1,588.4960	2.0652
August 26, 2015 to September 25, 2015	1,590.7612	2.0652
September 26, 2015 to October 25, 2015	1,587.3067	2.0652
October 26, 2015 to November 25, 2015	1,595.3138	2.0652
November 26, 2015 to December 25, 2015	1,591.8732	2.0652
December 26, 2015 to January 25, 2016	1,600.4763	2.0854
January 26, 2016 to February 25, 2016	1,602.7802	2.0854
February 26, 2016 to March 25, 2016	1,593.5949	2.0854
March 26, 2016 to April 25, 2016	1,607.4066	2.0854
April 26, 2016 to May 25, 2016	1,603.9853	2.0854
May 26, 2016 to June 25, 2016	1,612.0667	2.0854
June 26, 2016 to July 25, 2016	1,608.6598	2.0854
July 26, 2016 to August 25, 2016	1,616.7571	2.0854
August 26, 2016 to September 25, 2016	1,619.1137	2.0854
September 26, 2016 to October 25, 2016	1,615.7299	2.0854
October 26, 2016 to November 25, 2016	1,623.8498	2.0854
November 26, 2016 to December 25, 2016	1,620.4823	2.0854

December 26, 2016 to January 25, 2017	1,629.6159	2.1051
January 26, 2017 to February 25, 2017	1,632.0129	2.1051
February 26, 2017 to March 25, 2017	1,617.0860	2.1051
March 26, 2017 to April 25, 2017	1,636.8300	2.1051
April 26, 2017 to May 25, 2017	1,633.4734	2.1051
May 26, 2017 to June 25, 2017	1,641.6784	2.1051
June 26, 2017 to July 25, 2017	1,638.3382	2.1051
July 26, 2017 to August 25, 2017	1,646.5601	2.1051
August 26, 2017 to September 25, 2017	1,649.0119	2.1051
September 26, 2017 to October 25, 2017	1,645.6975	2.1051
October 26, 2017 to November 25, 2017	1,653.9429	2.1051
November 26, 2017 to December 25, 2017	1,650.6435	2.1051
December 26, 2017 to January 25, 2018	1,658.7273	2.1006
January 26, 2018 to February 25, 2018	1,661.2209	2.1006
February 26, 2018 to March 25, 2018	1,646.4106	2.1006
March 26, 2018 to April 25, 2018	1,666.2360	2.1006
April 26, 2018 to May 25, 2018	1,662.9833	2.1006
May 26, 2018 to June 25, 2018	1,671.2817	2.1006
June 26, 2018 to July 25, 2018	1,668.0461	2.1006
July 26, 2018 to August 25, 2018	1,676.3620	2.1006
August 26, 2018 to September 25, 2018	1,678.9145	2.1006
September 26, 2018 to October 25, 2018	1,675.7054	2.1006
October 26, 2018 to November 25, 2018	1,684.0461	2.1006
November 26, 2018 to December 25, 2018	1,680.8523	2.1006

9. Further, the PSC provides for a cost adjustment mechanism or Adjustment Formula, that shall determine the movements, on a monthly basis, of SMEC's generation costs to reflect the changes in fuel prices, the Philippine Peso to US Dollar exchange rate fluctuations, and inflation based on Consumer Price Indices (CPI) of the United States (US) and the Philippines, as changes in these factors are beyond SMEC's control. Base Prices under this PSC are updated to September 2012 levels, though a portion of the charges are to be based in January 1994 inflationary indices. These base indices shall remain constant throughout the duration of the contract;
  
10. The Adjustment Formula (Annex II-B of the PSC) is as follows:

**Capacity Fees**

**Monthly Capacity Payment (Dollar Portion converted to PhP):**

$$\text{PhP/kW-month} \times \frac{\text{FOREX}_C}{\text{FOREX}_B}$$

Where:

$\text{FOREX}_C$  = Average of the daily exchange rate of the Philippine Peso to the US Dollar, as posted by the Bangko Sentral ng Pilipinas (BSP) for the calendar month within which the start of the current Billing Period occurs

$\text{FOREX}_B$  = 41.749 PhP/USD

**Monthly Capacity Payment (Local Portion in PhP):**

**PhP/kW-Month = No Indexation**

**Monthly Fixed Operations and Maintenance:**

$$\text{PhP/kW-month} \times \frac{\text{PHIL CPI}_C}{\text{PHIL CPI}_B}$$

Where:

$\text{PHIL CPI}_C$  = Consumer Price Index (CPI) for All Income Households in the Philippines – All Items (2006 = 100), as posted by the Philippine National Statistics Office (NSO) for the calendar month within which the start of the current Billing Period occurs

$\text{PHIL CPI}_B$  = 131.40

Energy Fees

Fuel Rate:

$$\text{PhP/kWh} \times \frac{\text{Global Coal Newcastle}_c}{\text{Global Coal Newcastle}_B} \times \frac{\text{FOREX}_c}{\text{FOREX}_B}$$

Where:

Global Coal Newcastle<sub>c</sub> = Fuel Cost Index in USD/MT based on the Global Coal Newcastle posting representing the average index for the calendar month within which the start of the current billing Period occurs

Global Newcastle<sub>B</sub> = 89.41 USD/MT

FOREX<sub>c</sub> = Average of the daily exchange rate of the Philippine Peso to the US Dollar, as posted by the BSP for the calendar month within which the start of the current Billing Period occurs

FOREX<sub>B</sub> = 41.749 PhP/USD

Variable O&M (Dollar Portion):

$$\text{PhP/kWh} \times \frac{\text{FOREX}_c}{\text{FOREX}_B} \times \text{EPI}_{\text{AVE}}$$

Where:

FOREX<sub>c</sub> = Average of the daily exchange rate of the Philippine Peso to the US Dollar, as posted by the BSP for the calendar month within which the start of the current Billing Period occurs

$$\text{FOREX}_B = 41.749 \text{ PhP/USD}$$

$$\text{EP}_{\text{IAVE}} = \text{Average Export Price Index (EPI) for US, Japan and Europe}$$

$$= \frac{\text{JI}_C}{\text{JI}_B} + \frac{\text{USI}_C}{\text{USI}_B} + \frac{(\text{EI}_C / \text{EI}_B)}{3}$$

Where:

$$\text{JI}_C = \text{Japan EPI six (6) months immediately preceding the adjustment date, taken from the International Financial Statistics (IFS) published by the International Monetary Fund (IMF)}$$

$$\text{JI}_B = 93.93$$

$$\text{USI}_C = \text{US EPI six (6) months immediately preceding the adjustment date, taken from the IFS published by the IMF}$$

$$\text{USI}_B = 91.70$$

$$\text{EI}_C = \text{EPI of a European country agreed between the IPP Counter Party and the IPP and notified to the Administrator six (6) months immediately preceding the adjustment date, taken from the IFS published by the IMF}$$

$$\text{EI}_B = 120.57$$

**Variable O&M (Local Portion):**

$$\text{PhP/kWh} \times \frac{\text{RPI}_C}{\text{RPI}_B}$$

Where:

$RPI_C$  = Retail Price Index for All Items (2000=100) in Metropolitan Manila six (6) months immediately preceding the adjustment date, as published by the NSO

$RPI_B$  = 75.90

**Base Indices:**

Particulars	September 2012	
	Global Coal Newcastle Price Index	USD/MT
FOREX Rate	PhP/USD	41.749
US CPI (1982-84=100)	Fixed	231.407
Philippine CPI (2006=100)	Fixed	131.40
	January 1994	
Japan EPI (2010=100)	Fixed	93.93
US EPI (2010=100)	Fixed	91.70
Europe EPI (2005=100)	Fixed	120.57
Retail Price Index – Metro Manila (2000=100)	Fixed	75.90

11. Under the PSC, CASURECO IV may avail of a Prompt Payment Discount (PPD) equivalent to three percent (3%) of the Capacity and Energy Fees components of the current power bill including Value-Added Tax (VAT), provided, that the same is paid in full within ten (10) calendar days upon receipt, but not to extend beyond the 10<sup>th</sup> day of the month following the billing month, provided further, that it has no outstanding obligation arising from previous power bills from SMEC;
12. SMEC shall grant it a Collection Efficiency Discount (CED) applicable to its entire electricity consumption, subject to compliance of the required collection efficiency levels to be supported by Audited Financial Statements (AFS) submitted to the Bureau Internal Revenue (BIR), the Monthly Financial and Statistical Report submitted to the National Electrification Administration (NEA), zero (0)-rated VAT certificates and the duly accomplished CED Availment Form. The table below (Annex IV of the PSC) contains its required collection efficiency levels from its



member-consumers and the levels of discount (in PhP/kWh) that may be granted by SMEC:

Collection Efficiency Levels	Discount (PhP/kWh)
Below 65%	None
66% to 75%	0.0500
76% to 85%	0.1000
86% to 95%	0.1500
96% and above	0.2000

**Rate Impact**

13. The rate impact of the PSC is as follows:

Comparative Average (PhP/kWh)			
NPC	APRI	SMEC	Increase/(Decrease)
5.2420	4.4511	4.8570	(0.03849)

14. As can be gleaned from the table above, the overall rate impact is a decrease of PhP0.3849/kWh using CASURECO IV's actual load profile and prevailing financial indices;
15. In compliance with Rule 20B of the Commission's Rules of Practice and Procedure, copies of the foregoing are attached as annexes to the instant application:

Annex	Description
A	Articles of Incorporation of SMEC
B	Letters of Invitation
C	PSC between CASURECO IV and SMEC; Letter of Agreement
D	Certificate of Registration of SMEC issued by the Securities and Exchange Commission
D-1	Latest General Information Sheet (GIS) of SMEC
E	SMEC's Application for registration with the Board of Investment (BOI)
F	Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR) to the Sual Coal Fired Power Project of the Pangasinan Electric Corporation

G	Contract between CASURECO IV and APRI
H	Details of the PSC – Executive Summary
I	Purchased Power Rates; Sample Computation
J	SMEC's Cash flow indicating initial costs and operating and maintenance expenses (sealed and attached to the application filed with the Commission)
K	Details of procurement process of fuel
L	Transmission Service Agreement (TSA) between CASURECO IV and the National Grid Corporation of the (NGCP)
M	Certificate of Compliance (COC) issued by the Commission
N to N-1	Certification issued by the Local Government Units Legislative Bodies of the Tigaon and the Province of Camarines Sur
O	Newspaper where the application was published
O1	Affidavit of Publication

16. In compliance with Article VI, Sections 1 and 2 of the Commission's Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rates, copies of the following are, likewise, attached as annexes to the instant application:

<b>Annex</b>	<b>Description</b>
P	CASURECO IV Board Resolution approving the PSC with SMEC
Q	CASURECO IV Board Resolution approving the filing for approval of the PSC with the Commission
R	Details regarding the transmission projects or grid connection projects
S	Statement of Consistencies between the existing generation capacity and the Department of Energy's (DOE) Philippine Power Development Plan (PPD)
T	CASURECO IV Load Forecast Projections
U	CASURECO IV Demand Side Management (DSM) Program
V	CASURECO IV latest AFS, balance sheet and cash flow
W	SMEC's latest AFS, balance sheet and cash flow
X	Rate Impact Computation

Y	Certification dated October 8, 2010 issued by the Power Sector Assets and Liabilities Management Corporation (PSALM)
Z	Actual Net Plant Heat Rate of the Sual Coal Fired Thermal Power Plant as of Calendar Years 2010 and 2011, in kcal/kWh and in Btu/kWh
AA	Breakdown of Capacity/Sale into Bilateral Contract Quantities (BCQ) and WESM Sales

17. Further, the instant application is being filed in line with the first (1<sup>st</sup>) and fifth (5<sup>th</sup>) "whereas clauses" of the DOE Circular No. 2003-12-11, which are quoted hereunder:

"WHEREAS, Section 2 of Republic Act No. 9136, also known as the Electric Power Industry Reform Act of 2001 or EPIRA, declared as a policy of the State, among others, to ensure the quality, reliability, security and affordability of the supply of electric power;" (*first "whereas clause", Department of Energy Circular No. 2003-12-11. Underscoring supplied*);

"WHEREAS, pursuant to Section 23 of EPIRA, all distribution utilities, as defined in the law, SHALL HAVE THE OBLIGATION TO SUPPLY ELECTRICITY IN THE LEAST COST MANNER TO ITS CAPTIVE MARKET subject to the collection of retail rate duly approved by the Energy Regulatory Commission;" (*fifth "whereas clause", ibid. Underscoring supplied*);

18. Moreover, Section 1 of the same DOE Circular declares as State policy, that:

"All distribution utilities must henceforth take cognizance and assume full responsibility to forecast, assure and contract for the supply of electric power in the respective franchise areas to meet their obligations as a distribution utility." (*Underscoring supplied*);

19. By way of emphasis, Resolution No. 21, Series of 2005 of the Commission dated October 19, 2005 had directed all distribution utilities “to enter into future bilateral power supply contract with power producers to be subjected to a review by the Commission.” (*Underscoring supplied*);
20. In the interest of the public, considering that SMEC was the only supplier which expressed interest in supplying its power requirements, and in view of the expiration of its PSA with APRI, there is an urgent necessity for the approval of the instant application in order that there will be no undue disruption in the power supply and its member-consumers shall, at the soonest possible time, benefit from the lower generation cost as can be gleaned from the proposal of SMEC;
21. Notwithstanding the suspension of the amendment to the Commission’s Guidelines on the Recovery of Costs for the Generation Component of the Distribution Utilities’ Rates in 2004 by virtue of Resolution No. 21, Series of 2006 dated May 10, 2006 which has not been lifted up to the present, the award of the power supply contract to SMEC was made after it has not received any response from the invited power suppliers except for the Proposal of SMEC. After through study of SMEC’s pricing structure and other favorable terms of its contract, which will redound to the benefit CASURECO IV and its member-consumers in terms of reliable and affordable power supply, the award of the power supply contract was given to SMEC; and

**Prayer**

22. Thus, it prays, that:
  - 22.1 Upon initial review of the instant application, the Commission set the same for public hearing as soon as possible;
  - 22.2 After notice and public hearing, the Commission approve the instant application and allow it to pass on the generation rate and applicable adjustments under the PSC; and

22.3 The Commission authorize it to pass on to its member-consumers fifty percent (50%) of the PPD and CED availed from SMEC.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **April 29, 2015 (Wednesday) at two o'clock in the afternoon (2:00 P.M.) at the Center for Human Resource Development (CHRD), PDA Compound, Tigaon, Camarines Sur.**

CASURECO IV is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing. It is also directed to inform its consumers, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of the Municipalities within CASURECO IV's franchise area and the Provincial Governor of Camarines Sur for the appropriate posting thereof on their respective bulletin boards.

CASURECO IV is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing and pre-trial conference, CASURECO IV must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Mayors and Governor or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

CASURECO IV and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- a) a summary of admitted facts and proposed stipulation of facts;
- b) the issues to be tried or resolved;
- c) the documents or exhibits to be presented, stating the purposes and proposed markings thereof; and
- d) the number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of CASURECO IV to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, CASURECO IV must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

**SO ORDERED.**

Pasig City, March 16, 2015.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson *per* ✓

Copy Furnished:

1. Atty. Ray Jean D. Tamayo  
*Counsel for CASURECO IV*  
Suite 707, 7<sup>th</sup> Floor, OMM-CITRA Building,  
San Miguel Avenue, Pasig City 1605
2. Camarines Sur IV Electric Cooperative Inc. (CASURECO IV)  
Tigaon, Camarines Sur
3. Office of the Solicitor General  
134 Amorsolo St., Legaspi Village Makati City
4. Commission on Audit  
Commonwealth Avenue, Quezon City
5. Senate Committee on Energy  
GSIS Bldg., Roxas Blvd., Pasay City
6. House Committee on Energy  
Batasan Hills, Quezon City
7. Office of the Municipal Mayor  
Caramoan, Camarines Sur
8. Office of the Municipal Mayor  
Garchitorena, Camarines Sur
9. Office of the Municipal Mayor  
Goa, Camarines Sur
10. Office of the Municipal Mayor  
Lagonoy, Camarines Sur
11. Office of the Municipal Mayor  
Ocampo, Camarines Sur
12. Office of the Municipal Mayor  
Presentacion, Camarines Sur



13. Office of the Municipal Mayor  
Sangay, Camarines Sur
14. Office of the Municipal Mayor  
San Jose, Camarines Sur
15. Office of the Municipal Mayor  
Tigaon, Camarines Sur
16. Office the Governor  
Province of Camarines Sur
17. Philippine Chamber of Commerce and Industry (PCCI)  
3<sup>rd</sup> Floor, Chamber and Industry Plaza (CIP),  
1030 Campus Avenue corner Park Avenue,  
McKinley Town Center, Fort Bonifacio, Taguig City