

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
OLONGAPO ELECTRICITY
DISTRIBUTION COMPANY,
INCORPORATED (OEDC) AND
SAN MIGUEL ENERGY
CORPORATION (SMEC)**

ERC CASE NO. 2015-001 RC

**OLONGAPO ELECTRICITY
DISTRIBUTION COMPANY,
INCORPORATED (OEDC) AND
SAN MIGUEL ENERGY
CORPORATION (SMEC),**

Applicants.

X ----- X

DUCKETED
Date: **JUN 16 2015**
By: *[Signature]*

ORDER

On January 6, 2015, Olongapo Electricity Distribution Company, Incorporated (OEDC) and San Miguel Energy Corporation (SMEC) filed an application for approval of their Power Supply Contract (PSC).

In the said application, OEDC alleged, among others, that:

1. It is an electric distribution utility duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at 2nd Floor, Ecaldre Building, 2270 Rizal Avenue, East Bajac-Bajac, Olongapo City. It holds a franchise to construct, install, establish, operate and maintain a distribution system for the conveyance of electric power to the end-users in the City of Olongapo and its suburbs. Attached to the application are copies of its Articles of Incorporation, Certificate of Incorporation and Legislative Franchise;

Statement of Facts

2. On June 17, 2013, it purchased the distribution assets of the Olongapo City Public Utilities Department (OCPUD). The power requirements of OCPUD were served through a Transition Supply Contract (TSC) with the National Power Corporation (NPC) and later on with the Power Sector Assets and Liabilities Management Corporation (PSALM). The said TSC was assigned to SMEC upon the privatization of the contracted capacity of the Sual Coal-fired Thermal Power Plant. Thus, while the TSC was between OCPUD and PSALM, the supply of power actually came from SMEC. Upon expiration of the TSC on July 25, 2010, SMEC discontinued the supply of power to OCPUD;
3. SMEC is a domestic corporation created and existing by and under the laws of the Republic of the Philippines, with address at 2nd Floor, 808 Building, Meralco Avenue corner Gen. Lim St., San Antonio Village, Pasig City. A copy of its Articles of Incorporation is, likewise, attached to the application;
4. When OEDC assumed the distribution of electric service from OCPUD, the latter did not have a power supply contract from generation companies. OEDC attempted to secure supply from other generators but was unsuccessful, thus, it had to secure its entire supply of electric energy from the Wholesale Electricity Spot Market (WESM). Finally, it prevailed upon SMEC to resume supplying power to Olongapo City. To ensure the continued supply of power to its franchise area, OEDC and SMEC executed a PSC on November 21, 2013, a copy of which is attached to the application. The details of the procurement process leading to the selection of SMEC as the supplier of the power requirements of OEDC is, likewise, attached to the application;

5. The PSC shall be effective from the date of signing to December 25, 2023. Pursuant to an Interim Supply Agreement (ISA), SMEC's supply to OEDC commenced on December 26, 2013 at a rate equivalent to the approved NPC Time-of-Use (TOU) rates, Franchise and Benefits to Host Communities (FBHC) Charge and other approved adjustments, until the Commission's approval of the PSC, to wit:

Period	Maximum Allowable Demand (kW)	Contract Energy (kWh)
1st ISA		
Oct. 26, 2013 to Nov.25, 2013	-	19,100,000
Nov. 26, 2013 to Dec. 25,2013	-	19,100,000
2nd ISA		
Dec. 26, 2013 to Feb. 25, 2014	-	Actual energy off-take
3rd ISA		
Feb. 26, 2014 to Mar. 25, 2014	-	14,093,424
Mar. 26, 2014 to Apr. 25, 2014	-	13,853,836
Apr. 26, 2014 to May 25, 2014	-	14,063,800
4th ISA		
May 26, 2014 to June 25, 2014	34,000	17,603,477
June 26, 2014 to July 25, 2014	34,000	16,267,349
July 26, 2014 to Aug. 25, 2014	34,000	15,095,681

6. The salient terms of the PSC are as follows:

Executive Summary:

Contract Capacity	34,000 kW
Term	From date of signing to December 25, 2023
Supply Commencement	December 26, 2013 at the Commission-approved NPC-TOU Rates, other charges and adjustments (ISA)
Source	Unit 2 of the Sual Coal-Fired Thermal Power Plant in Sual, Pangasinan
Delivery Point	High Voltage Side of the Plant's Transformer
Receiving Point	KALE Substation

Nominal Delivery Voltage	69 kV
Minimum Hourly Nomination	Thirty-five percent (35%) of the Contract Capacity
Increase in Contract Capacity	The BUYER may apply in writing for an increase in the Contract Capacity, subject to the SELLER's approval, availability of capacity and technical constraints of the plant, the transmission lines and other facilities
Decrease in Contract Capacity	The BUYER shall be allowed a reduction in the Contract Capacity subject to the payment of a Buy-out Fee. No Buy-out Fee shall be required if the reduction of the Contract Capacity is caused by the implementation of Retail Competition and Open Access, and when applicable laws require the BUYER to source part of its requirements from Renewable Energy (RE) Developers
Annual Outage Allowance	The SELLER shall be entitled to 1,680 cumulative outage hours for every Contract Year
Replacement Power within the Annual Outage Allowance	The SELLER may procure replacement energy and pass on the cost to the BUYER during the annual outage allowance
Discounts	<p>a. Prompt Payment Discount (PPD) – three percent (3%) of the total Capacity and Energy Charges, subject to payment conditions; and</p> <p>b. Collection Efficiency Discount</p>
Force Majeure	An Event of Force Majeure shall excuse a Party from complying with its obligations under the Contract, except for obligations already accruing and for actual energy delivered
Security Deposit	The Security Deposit shall be equivalent to one hundred percent (100%) of the estimated average monthly power bill, updated annually

7. The Parties executed an Amendment Agreement to reduce the Contract Capacity from 34,000 kW to 32,000 kW, a copy of which is attached to the application;
8. Under the PSC, SMEC shall impose Capacity and Energy Fees. The detailed Capacity and Energy Fees for Calendar Years 2015 to 2023 are as follows:

Contract Year 2015			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From	To	Dollar Portion	Peso Portion	Dollar Portion			Peso Portion	
26-Dec-14	- 25-Jan-15	435.7443	1,030.7261	106.3830	1.9943	0.0626	0.0083	
26-Jan-15	- 25-Feb-15	436.5275	1,032.1557	106.3830	1.9943	0.0626	0.0083	
26-Feb-15	- 25-Mar-15	437.3133	1,016.4105	106.3830	1.9943	0.0626	0.0083	
26-Mar-15	- 25-Apr-15	438.1017	1,035.0286	106.3830	1.9943	0.0626	0.0083	
26-Apr-15	- 25-May-15	438.8928	1,030.7446	106.3830	1.9943	0.0626	0.0083	
26-May-15	- 25-Jun-15	439.6864	1,037.9197	106.3830	1.9943	0.0626	0.0083	
26-Jun-15	- 25-Jul-15	440.4828	1,033.6480	106.3830	1.9943	0.0626	0.0083	
26-Jul-15	- 25-Aug-15	441.2818	1,040.8312	106.3830	1.9943	0.0626	0.0083	
26-Aug-15	- 25-Sep-15	442.0834	1,042.2948	106.3830	1.9943	0.0626	0.0083	
26-Sep-15	- 25-Oct-15	442.8877	1,038.0360	106.3830	1.9943	0.0626	0.0083	
26-Oct-15	- 25-Nov-15	443.6947	1,045.2361	106.3830	1.9943	0.0626	0.0083	
26-Nov-15	- 25-Dec-15	444.5044	1,040.9858	106.3830	1.9943	0.0626	0.0083	

Contract Year 2016			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From	To	Dollar Portion	Peso Portion	Dollar Portion			Peso Portion	
26-Dec-15	- 25-Jan-16	445.3168	1,048.7765	106.3830	2.0145	0.0626	0.0083	
26-Jan-16	- 25-Feb-16	446.1319	1,050.2653	106.3830	2.0145	0.0626	0.0083	
26-Feb-16	- 25-Mar-16	446.9497	1,040.2622	106.3830	2.0145	0.0626	0.0083	
26-Mar-16	- 25-Apr-16	447.7703	1,053.2533	106.3830	2.0145	0.0626	0.0083	
26-Apr-16	- 25-May-16	448.5935	1,049.0088	106.3830	2.0145	0.0626	0.0083	
26-May-16	- 25-Jun-16	449.4195	1,056.2642	106.3830	2.0145	0.0626	0.0083	
26-Jun-16	- 25-Jul-16	450.2484	1,052.0284	106.3830	2.0145	0.0626	0.0083	
26-Jul-16	- 25-Aug-16	451.0799	1,059.2942	106.3830	2.0145	0.0626	0.0083	
26-Aug-16	- 25-Sep-16	451.9142	1,060.8165	106.3830	2.0145	0.0626	0.0083	
26-Sep-16	- 25-Oct-16	452.7512	1,056.5957	106.3830	2.0145	0.0626	0.0083	
26-Oct-16	- 25-Nov-16	453.5912	1,063.8756	106.3830	2.0145	0.0626	0.0083	
26-Nov-16	- 25-Dec-16	454.4338	1,059.6655	106.3830	2.0145	0.0626	0.0083	

Contract Year 2017			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
From		To	Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
			Dollar Portion	Peso Portion			Dollar Portion	Peso Portion
26-Dec-16	-	25-Jan-17	455.2793	1,067.9536	106.3830	2.0342	0.0626	0.0083
26-Jan-17	-	25-Feb-17	456.1276	1,069.5023	106.3830	2.0342	0.0626	0.0083
26-Feb-17	-	25-Mar-17	456.9787	1,053.7243	106.3830	2.0342	0.0626	0.0083
26-Mar-17	-	25-Apr-17	457.8327	1,072.6143	106.3830	2.0342	0.0626	0.0083
26-Apr-17	-	25-May-17	458.6896	1,068.4008	106.3830	2.0342	0.0626	0.0083
26-May-17	-	25-Jun-17	459.5492	1,075.7462	106.3830	2.0342	0.0626	0.0083
26-Jun-17	-	25-Jul-17	460.4117	1,071.5435	106.3830	2.0342	0.0626	0.0083
26-Jul-17	-	25-Aug-17	461.2772	1,078.8999	106.3830	2.0342	0.0626	0.0083
26-Aug-17	-	25-Sep-17	462.1455	1,080.4834	106.3830	2.0342	0.0626	0.0083
26-Sep-17	-	25-Oct-17	463.0167	1,076.2978	106.3830	2.0342	0.0626	0.0083
26-Oct-17	-	25-Nov-17	463.8908	1,083.6691	106.3830	2.0342	0.0626	0.0083
26-Nov-17	-	25-Dec-17	464.7678	1,079.4927	106.3830	2.0342	0.0626	0.0083

Contract Year 2018			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
From		To	Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
			Dollar Portion	Peso Portion			Dollar Portion	Peso Portion
26-Dec-17	-	25-Jan-18	465.6477	1,086.6966	106.3830	2.0297	0.0626	0.0083
26-Jan-18	-	25-Feb-18	466.5306	1,088.3073	106.3830	2.0297	0.0626	0.0083
26-Feb-18	-	25-Mar-18	467.4164	1,072.6112	106.3830	2.0297	0.0626	0.0083
26-Mar-18	-	25-Apr-18	468.3052	1,091.5478	106.3830	2.0297	0.0626	0.0083
26-Apr-18	-	25-May-18	469.1968	1,087.4035	106.3830	2.0297	0.0626	0.0083
26-May-18	-	25-Jun-18	470.0916	1,094.8071	106.3830	2.0297	0.0626	0.0083
26-Jun-18	-	25-Jul-18	470.9893	1,090.6738	106.3830	2.0297	0.0626	0.0083
26-Jul-18	-	25-Aug-18	471.8899	1,098.0891	106.3830	2.0297	0.0626	0.0083
26-Aug-18	-	25-Sep-18	472.7936	1,099.7379	106.3830	2.0297	0.0626	0.0083
26-Sep-18	-	25-Oct-18	473.7003	1,095.6221	106.3830	2.0297	0.0626	0.0083
26-Oct-18	-	25-Nov-18	474.6100	1,103.0531	106.3830	2.0297	0.0626	0.0083
26-Nov-18	-	25-Dec-18	475.5227	1,098.9466	106.3830	2.0297	0.0626	0.0083

Contract Year 2019			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From		To	Dollar Portion	Peso Portion				Dollar Portion
26-Dec-18	-	25-Jan-19	476.4385	1,107.1950	106.3830	2.0500	0.0626	0.0083
26-Jan-19	-	25-Feb-19	477.3574	1,108.8721	106.3830	2.0500	0.0626	0.0083
26-Feb-19	-	25-Mar-19	478.2793	1,093.1632	106.3830	2.0500	0.0626	0.0083
26-Mar-19	-	25-Apr-19	479.2042	1,112.2423	106.3830	2.0500	0.0626	0.0083
26-Apr-19	-	25-May-19	480.1323	1,108.1386	106.3830	2.0500	0.0626	0.0083
26-May-19	-	25-Jun-19	481.0634	1,115.6358	106.3830	2.0500	0.0626	0.0083
26-Jun-19	-	25-Jul-19	481.9977	1,111.5416	106.3830	2.0500	0.0626	0.0083
26-Jul-19	-	25-Aug-19	482.9351	1,119.0491	106.3830	2.0500	0.0626	0.0083
26-Aug-19	-	25-Sep-19	483.8755	1,120.7677	106.3830	2.0500	0.0626	0.0083
26-Sep-19	-	25-Oct-19	484.8191	1,116.6913	106.3830	2.0500	0.0626	0.0083
26-Oct-19	-	25-Nov-19	485.7659	1,124.2174	106.3830	2.0500	0.0626	0.0083
26-Nov-19	-	25-Dec-19	486.7159	1,120.1524	106.3830	2.0500	0.0626	0.0083

Contract Year 2020			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From		To	Dollar Portion	Peso Portion				Dollar Portion
26-Dec-19	-	25-Jan-20	576.4966	1,264.1748	106.3830	2.0060	0.0501	0.0083
26-Jan-20	-	25-Feb-20	577.4529	1,265.9207	106.3830	2.0060	0.0501	0.0083
26-Feb-20	-	25-Mar-20	578.4124	1,256.2175	106.3830	2.0060	0.0501	0.0083
26-Mar-20	-	25-Apr-20	579.3750	1,269.4254	106.3830	2.0060	0.0501	0.0083
26-Apr-20	-	25-May-20	580.3409	1,265.4620	106.3830	2.0060	0.0501	0.0083
26-May-20	-	25-Jun-20	581.3100	1,272.9562	106.3830	2.0060	0.0501	0.0083
26-Jun-20	-	25-Jul-20	582.2823	1,269.0060	106.3830	2.0060	0.0501	0.0083
26-Jul-20	-	25-Aug-20	583.2578	1,276.5133	106.3830	2.0060	0.0501	0.0083
26-Aug-20	-	25-Sep-20	584.2367	1,278.2984	106.3830	2.0060	0.0501	0.0083
26-Sep-20	-	25-Oct-20	585.2041	1,274.3646	106.3830	2.0060	0.0501	0.0083
26-Oct-20	-	25-Nov-20	586.2041	1,281.8895	106.3830	2.0060	0.0501	0.0083
26-Nov-20	-	25-Dec-20	587.1927	1,277.9672	106.3830	2.0060	0.0501	0.0083

Contract Year 2021			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From		To	Dollar Portion	Peso Portion			Dollar Portion	Peso Portion
26-Dec-20	-	25-Jan-21	588.1846	1,286.5482	106.3830	2.0264	0.0501	0.0083
26-Jan-21	-	25-Feb-21	589.1798	1,288.3621	106.3830	2.0264	0.0501	0.0083
26-Feb-21	-	25-Mar-21	590.1784	1,272.9161	106.3830	2.0264	0.0501	0.0083
26-Mar-21	-	25-Apr-21	591.1803	1,292.0147	106.3830	2.0264	0.0501	0.0083
26-Apr-21	-	25-May-21	592.1855	1,288.0922	106.3830	2.0264	0.0501	0.0083
26-May-21	-	25-Jun-21	593.1940	1,295.6887	106.3830	2.0264	0.0501	0.0083
26-Jun-21	-	25-Jul-21	594.2060	1,291.7798	106.3830	2.0264	0.0501	0.0083
26-Jul-21	-	25-Aug-21	595.2213	1,299.3881	106.3830	2.0264	0.0501	0.0083
26-Aug-21	-	25-Sep-21	596.2400	1,301.2466	106.3830	2.0264	0.0501	0.0083
26-Sep-21	-	25-Oct-21	597.2620	1,297.3562	106.3830	2.0264	0.0501	0.0083
26-Oct-21	-	25-Nov-21	598.2876	1,304.9850	106.3830	2.0264	0.0501	0.0083
26-Nov-21	-	25-Dec-21	599.3164	1,301.1064	106.3830	2.0264	0.0501	0.0083

Contract Year 2022			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From		To	Dollar Portion	Peso Portion			Dollar Portion	Peso Portion
26-Dec-21	-	25-Jan-22	600.3488	1,309.5509	106.3830	2.0468	0.0501	0.0083
26-Jan-22	-	25-Feb-22	601.3846	1,311.4429	106.3830	2.0468	0.0501	0.0083
26-Feb-22	-	25-Mar-22	602.4238	1,295.9911	106.3830	2.0468	0.0501	0.0083
26-Mar-22	-	25-Apr-22	603.4665	1,315.2413	106.3830	2.0468	0.0501	0.0083
26-Apr-22	-	25-May-22	604.5127	1,311.3673	106.3830	2.0468	0.0501	0.0083
26-May-22	-	25-Jun-22	605.5623	1,319.0656	106.3830	2.0468	0.0501	0.0083
26-Jun-22	-	25-Jul-22	606.6155	1,315.2055	106.3830	2.0468	0.0501	0.0083
26-Jul-22	-	25-Aug-22	607.6722	1,322.9163	106.3830	2.0468	0.0501	0.0083
26-Aug-22	-	25-Sep-22	608.7324	1,324.8508	106.3830	2.0468	0.0501	0.0083
26-Sep-22	-	25-Oct-22	609.7961	1,321.0096	106.3830	2.0468	0.0501	0.0083
26-Oct-22	-	25-Nov-22	610.8633	1,32.7402	106.3830	2.0468	0.0501	0.0083
26-Nov-22	-	25-Dec-22	611.9341	1,324.9129	106.3830	2.0468	0.0501	0.0083

Contract Year 2023			CAPACITY FEES (PhP/kW-month)			ENERGY FEES (PhP/kWh)		
			Capacity Payment		Fixed O&M	Fuel Rate	Variable O&M	
From		To	Dollar Portion	Peso Portion			Dollar Portion	Peso Portion
26-Dec-22	-	25-Jan-23	613.0086	1,333.4599	106.3830	2.0671	0.0501	0.0083
26-Jan-23	-	25-Feb-23	614.0865	1,335.4272	106.3830	2.0671	0.0501	0.0083
26-Feb-23	-	25-Mar-23	615.1681	1,319.9772	106.3830	2.0671	0.0501	0.0083
26-Mar-23	-	25-Apr-23	616.2533	1,339.3808	106.3830	2.0671	0.0501	0.0083
26-Apr-23	-	25-May-23	617.3421	1,335.5588	106.3830	2.0671	0.0501	0.0083
26-May-23	-	25-Jun-23	618.4345	1,343.3614	106.3830	2.0671	0.0501	0.0083
26-Jun-23	-	25-Jul-23	619.5306	1,339.5535	106.3830	2.0671	0.0501	0.0083
26-Jul-23	-	25-Aug-23	620.6303	1,347.3692	106.3830	2.0671	0.0501	0.0083
26-Aug-23	-	25-Sep-23	621.7337	1,349.3808	106.3830	2.0671	0.0501	0.0083
26-Sep-23	-	25-Oct-23	622.8407	1,345.5942	106.3830	2.0671	0.0501	0.0083
26-Oct-23	-	25-Nov-23	623.9515	1,353.4289	106.3830	2.0671	0.0501	0.0083
26-Nov-23	-	25-Dec-23	625.0659	1,349.6546	106.3830	2.0671	0.0501	0.0083

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 Philippine Consumer Price Index (CPI) and other inflationary indices, as changes in these factors are beyond SMEC's control, to wit:

Capacity Fees

Monthly Capacity Payment (Dollar Portion converted to PhP):

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

Where:

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

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:

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

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_c = 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_B = 89.41 USD/MT

FOREX_C = 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_B = 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_C = 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_B = 41.749 PhP/USD

EP_{IAVE} = Average Export Price Index (EPI) for US, Japan and Europe

$$= \frac{Jl_C}{Jl_B} + \frac{USI_C}{USI_B} + \frac{EI_C}{EI_B} \Big/ 3$$

Where:

Jl_C = Japan EPI six (6) months immediately preceding the adjustment date, taken from the International Financial Statistics (IFS) published by the International Monetary Fund (IMF)

Jl_B = 93.93

USI_C = US EPI six (6) months immediately preceding the adjustment date, taken from the IFS published by the IMF

USI_B = 91.70

EI_C = 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

EI_B = 120.57

Variable O&M (Local Portion):

$$\text{PhP/kWh} \times \frac{RPI_C}{RPI_B}$$

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

10. Under the PSC, OEDC may avail of a PPD equivalent to three percent (3%) of the Capacity and Energy Charges of the current power bill including Value-Added Tax (VAT), provided that, the same is paid in full on or before the 10th day of the month following the billing month, provided further that, OEDC has no outstanding obligation arising from previous power bills from SMEC;
11. SMEC shall grant OEDC a Collection Efficiency Discount (CED) based on its actual collection efficiency as shown in the table below:

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

12. The list of conditions for availment of the CED is attached to the application;

Rate Impact

13. Without the PSC, OEDC would have to secure its entire power supply from the WESM. The rate impact of the PSC are as follows:

Particulars	PSC	WESM	ISA	Rate Reduction	
				vs. WESM	vs. ISA
Monthly kWh Purchased	17,670,828	17,670,828	17,670,828		
Cost of Power, PhP	71,342,565	289,092,979	90,077,682		
Effective Cost of Power, PhP/kWh	4.0373	16.3599	5.0975	(12.32)	(1.06)

Assumptions:

- a. Cost of power from SMEC were computed based on the base prices for June 2014, escalated using the following indices:
 - i. CPI = 139; and
 - ii. FOREX = PhP44.00/US\$;
 - b. The cost of power if the supply is sourced from WESM is based on the average WESM price as billed to MERALCO for May 2014 at P16.3599/kWh; and
 - c. The cost of power under the ISA is based on the actual billing of SMEC for June 2014
14. As can be gleaned, the overall rate impact is a decrease using OEDC's actual load profile and prevailing financial indices;

Compliance with the Commission's Rules

15. In compliance with Rule 20 (B) of the Rules of Practice and Procedure, copies of the foregoing are attached as annexes to the instant application:

Annex	Description
A	Articles of Incorporation of OEDC
A-1	Certificate of Incorporation of OEDC
A-2	Legislative Franchise (R.A. No. 10373)
B	Articles of Incorporation of SMEC
C	PSC between OEDC and SMEC
D and series	Details of Procurement Process
E and series	ISAs between OEDC and SMEC
F	Amendment Agreement
G	Certificate of Registration of SMEC issued by the Securities and Exchange Commission (SEC)
H	Latest General Information Sheet (GIS) of SMEC

Annex	Description
I	SMEC's Application for Registration with the Board of Investments (BOI)
J	Environmental Compliance Certificate (ECC) Issued by the Department of Environment and Natural Resources (DENR) for the Sual Coal-fired Power Project of the Pangasinan Electric Corporation
K	Power Plant Description
L	Purchased Power Rates; Sample Computation
M	Transmission Service Agreement (TSA) between OEDC and the National Grid Corporation of the Philippines (NGCP)
N	SMEC's Cost-Based Calculation of Pricing (<i>Sealed and Attached to copies of Application for Filing with the Commission</i>)
O	Details of Procurement Process of Fuel
P	Certificate of Compliance (COC) issued by the Commission
Q	Certification issued by the Local Government Unit Legislative Body Olongapo City
R	Newspaper where the Application was published
S	Affidavit of Publication

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

Annex	Description
T	OEDC Board Resolution approving the PSC with SMEC
U	OEDC Board Resolution approving the filing for approval of the PSC with the Commission
V	OEDC Load Forecast Projections
W	OEDC Latest Audited Financial Statement (AFS), Balance Sheet and Cash Flow

Annex	Description
X	SMEC's Latest AFS, Balance Sheet and Cash Flow
Y	Rate Impact Computation

17. Further, the instant application is being filed in line with the first (1st) and fifth (5th) "whereas clauses" of the Department of Energy (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, 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 PSC to SMEC was made to ensure the continuous supply of power to OEDC due to SMEC's pricing structure and other favorable terms of its contract, which will redound to the benefit OEDC and its customers in terms of reliable and affordable power supply;

Allegations in Support of Motion for Confidential Treatment of Information

22. Article 16.9 of the PSC specifically provides, that "the BUYER shall keep under strict confidence all information communicated by the SELLER as confidential information or which by its nature should be considered as confidential information";
23. Under Rule 4 of the ERC Rules of Practice and Procedure, the Commission may upon request of a party and determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential. Pursuant to its undertaking, OEDC moves that Annex "N" not to be disclosed and be treated as confidential documents in accordance with the said Rules as these documents

contain certain non-public information, data and calculations involving SMEC's business operations and financial trade secrets;

24. OEDC therefore hereby submits one (1) copy of Annex "N" in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential"; and

Prayer

25. Thus, it prays, that:

25.1 Upon initial review of the instant application, the Commission set the same for public hearing as soon as possible;

25.2 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

25.3 The Commission issue an Order: a) treating Annex "N" and the information contained therein as confidential; b) directing their non-disclosure pursuant to Rule 4 of the ERC Rules of Practice and Procedure; and c) prescribing the guidelines for the protection thereof.

On January 6, 2015, SMEC filed a "Petition for Intervention.

On May 15, 2015, it filed a "Motion to Join as Co-Applicant" praying that it be joined as co-applicant in the instant application.

In the said motion, SMEC alleged, among others, that as counterparty to the PSC, it has a direct and substantial interest in the subject of the proceedings, such that the disposition of this case will affect the capacity and energy charges that OEDC will be able to pay to it.

Finding the aforementioned motion meritorious, the same is hereby granted. Accordingly, SMEC is hereby considered as a co-applicant in the instant application.

Likewise, 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 **July 16, 2015 (Thursday) at nine o'clock in the morning (9:00 A.M.) at the Convery Hall, Columban College, No. 1 Mt. Apo St., New Asinan, Olongapo City.**

OEDC and SMEC are hereby directed to cause the publication of the attached Notice of Public Hearing, at their 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. They are also directed to inform OEDC's customers, by any other means available and appropriate, of the filing of the instant application, their 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 Office of the Mayor of Olongapo City for the appropriate posting thereof on its bulletin board.

OEDC and SMEC are 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, OEDC and SMEC must submit to the Commission their 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 Mayor or his/her duly authorized representatives, bearing the seal of his/her office, 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.

OEDC and SMEC 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 OEDC and SMEC to submit the required Pre-trial Brief and Judicial Affidavits of their 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, OEDC and SMEC must also be prepared to make an expository presentation of their application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the customers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, June 15, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson *per se*



Copy Furnished:

1. **Atty. Isidro O. Baculio, Jr.**
Atty. Roel O. Camorro
Atty. Analita E. Ocampo-Fallet
Counsel for OEDC
2nd Floor, Ecaldre Building, 2270 Rizal Avenue,
East Bajac-Bajac, Olongapo City
2. **Atty. Julieta B. Estamo**
Atty. Avelino G. Cedo, III
Counsel for SMEC
2nd Floor, 808 Building, Meralco Avenue corner Gen. Lim St.,
San Antonio Village, Pasig City
3. **Olongapo Electricity Distribution Company, Inc. (OEDC)**
2nd Floor, Ecaldre Building, 2270 Rizal Avenue,
East Bajac-Bajac, Olongapo City
4. **San Miguel Energy Corporation (SMEC)**
2nd Floor, 808 Building, Meralco Avenue corner Gen. Lim St.,
San Antonio Village, Pasig City
5. **Office of the Solicitor General**
134 Amorsolo St., Legaspi Village Makati City
6. **Commission on Audit**
Commonwealth Avenue, Quezon City
7. **Senate Committee on Energy**
GSIS Bldg., Roxas Blvd., Pasay City
8. **House Committee on Energy**
Batasan Hills, Quezon City
9. **Office of the City Mayor**
Olongapo City
10. **Philippine Chamber of Commerce and Industry (PCCI)**
3rd Floor, Chamber and Industry Plaza (CIP),
1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City