

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 (PSA)
ANGELES ELECTRIC
CORPORATION (AEC) AND
ANGELES POWER INC. (API)**

ERC CASE NO. 2015-091 RC

**ANGELES ELECTRIC
CORPORATION (AEC) AND
ANGELES POWER INC. (API),
Applicants.**

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DOCKED
Date: **JUN 23 2015**
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ORDER

On May 4, 2015, Angeles Electric Corporation (AEC) and Angeles Power Inc. (API) filed an application for the approval of their Power Supply Agreement (PSA).

In the said application, AEC and API alleged, among others, the following:

1. AEC is a corporation duly organized and existing under Philippine law, with principal office address at Don Juan Nepomuceno Avenue corner Doña Teresa, Nepo Mart Complex, Angeles City, Pampanga. Under Republic Act No. 9381 (R.A. 9381), it was authorized to construct, own, operate and maintain an electric distribution system in Angeles City, Pampanga;
2. API is a power generation company duly organized under Philippine law, with principal office address at 1905 Robinsons Equitable Tower, ADB Avenue corner Poveda St., Ortigas Center, Pasig City;

3. AEC currently sources its power supply from the following power provider: a) GNPower Mariveles Co. Ltd. (GNPOWER) under a Power Purchase and Sale Agreement (PPSA [72 MW baseload]) expiring on February 26, 2029; b) Angeles Power Inc. (22MW-peaking) under an Amended Electricity Purchase Agreement (AEPA) expiring on December 25, 2016; and c) the rest (imbalance) from the Wholesale Electricity Spot Market (WESM);

4. Considering that AEC's AEPA with API is due to expire on December 25, 2016, AEC issued requests for proposals to several power suppliers. The request solicited proposals for the supply of 22 MW of peak power for a term of at least ten (10) years. AEC is to select a power supplier under a least cost approach and on terms most advantageous to AEC;

5. All of the three (3) potential power suppliers with peaking power plants responded to the invitation to submit proposals. Out of the three (3) power suppliers who responded, one (1) power supplier submitted a non-responsive offer. Thus, only two (2) power suppliers were considered in the selection process;

6. The evaluations conducted on the offers received disclosed the following results:

SUPPLIER A (ANGELES POWER INC.)

SUPPLIER B

TEST PERIOD: APRIL 2014 POWER BILL
 CONSUMPTION: 5,089,427 kWh

Basic Charges:		Rate	Amount
Capacity Fee (P/kW)	22,000	286.50	P 6,303,000.00
O&M Fees:			
Fixed (P/kW)	22,000	411.51	9,053,220.00
Variable (P/kWh)	5,089,427	0.4786	2,435,799.76
Energy Fee (P/kWh)	5,089,427	7.3841	37,580,837.91
TOTAL			P 55,372,857.67
Average Rate (P/kWh)			P 10.88
Add: Line Loss			-
Average Rate (P/kWh)			P 10.88

Basic Charges:		Rate	Amount
Capacity Fee (P/kW)	22,000	366.67	P 8,066,740.00
O&M Fees:			
Fixed (P/kW)	22,000	415.57	9,142,540.00
Variable (P/kWh)	5,089,427	0.4011	2,041,369.17
Energy Fee (P/kWh)	5,089,427	7.1168	36,220,434.07
TOTAL			P 55,471,083.24
Average Rate (P/kWh)			P 10.90
Add: Line Loss			0.07
Average Rate (P/kWh)			P 10.97

7. AEC selected API as the winning power supplier as it found the latter's offer to be the least cost supply. In addition, it gave AEC a more secure and reliable power supply considering that API is embedded to AEC's distribution system;
8. On March 24, 2015, AEC and API entered into a PSA whereby API will supply to AEC 22 MW of peaking power commencing from the December 26, 2016 to December 25, 2026. The salient provisions of the said PSA are as follows:

Tariff Components		Rate
Capacity (PhP/kW/Month)	Fee	286.50 x Contracted Capacity or Registered Maximum demand, whichever is higher
O&M, (PhP/kW/Month)	Fixed	410.34 x CPI adjustment x Contracted Capacity or Registered Maximum Demand, whichever is higher
O&M, (PhP/kWh)	Variable	0.4772 x CPI Adjustment x Actual kWhrs
Energy Fee (PhP/kWh)		0.2597 liter/kWhr x Actual Cost of Bunker Consumed x Actual kWhrs

“Forced Outage - In case SELLER experiences forced outage when dispatched by BUYER, SELLER shall procure replacement power from an alternative source and BUYER shall accordingly pay for the replacement power at the same tariff rates provided herein. Any incremental cost shall be borne by the SELLER.”;

9. A rate impact simulation of the PSA on AEC's Generation Charge for May 2014 billing period disclosed the following results:

RATE IMPACT ON BLENDED GENERATION RATE			
ACTUAL:			
SUPPLIERS	MAY 2014 BILLING (APRIL '14 POWER BILLS)		
	AMOUNT	ENERGY	Ave P/kWh
GNPOWER	P 137,246,470.05	31,216,571	P 4.3966
WESM	61,972,303.16	8,392,410	7.3843
API	60,746,730.51	5,089,427	11.9359
TOTAL	P 259,965,503.72	44,698,408	5.8160
LESS: 50% PPD (GNPOWER)	(593,620.06)	-	
NET GENERATION COST	P 259,371,883.66	44,698,408	
BLENDED GENERATION RATE(P/kWh)			P 5.8027
PROPOSED:			
SUPPLIERS	MAY 2014 BILLING (APRIL '14 POWER BILLS)		
	AMOUNT	ENERGY	Ave P/kWh
GNPOWER	P 137,246,470.05	31,216,571	P 4.3966
WESM	61,972,303.16	8,392,410	7.3843
API	P 55,372,857.67	5,089,427	10.8800
TOTAL	P 254,591,630.88	44,698,408	5.6958
LESS: 50% PPD (GNPOWER)	(593,620.06)	-	
NET GENERATION COST	253,998,010.82	44,698,408	
BLENDED GENERATION RATE(P/kWh)			P 5.6825
INCREASE (DECREASE)			P (0.1202)

10. AEC and API submitted the following documents in support of the instant application:
 - a. Power Supply Agreement (PSA);
 - b. Details of PSA:
 - b.1. Executive Summary
 - b.2. Sources of Funds/Financial Plans
 - 2.1. Debt/Equity Ratio
 - 2.2. Project Cost
 - 2.3. Annual Interest
 - 2.4. Computation of Return on Investment/WACC
 - 2.5. Certification from the Bank/Lending Institution specifying the principal amortization, term and interest during the cooperation period of the loan agreement
 - b.3. Purchased Power Rate
 - 3.1. Breakdown of the base prices of Operation and Maintenance, Capacity Fee, Fixed Operation Fee, and Energy Fee (provide computations)

- 3.2. Sample Computation of Power Rates with the supporting documents on the assumptions taken
 - 3.3. If applicable, basis/rationale of indexation and level of indexation
 - b.4. Cash Flow specifying the following:
 - 4.1. Initial Costs
 - 4.2. Breakdown of Operating and Maintenance Expenses and
 - 4.3. Minimum Energy Off-take (MEOT);
 - c. Articles of Incorporation (AOI);
 - d. SEC Certificate of Registration;
 - e. Latest General Information Sheet;
 - f. Environmental Compliance Certificate;
 - g. Filed application for Certificate of Compliance (COC);
 - h. Relevant technical and economic characteristics of generation capacity, installed capacity, mode of operation and dependable capacity of the plant;
 - i. Approved AEC-API Amended Energy Purchase Agreement (existing);
 - j. Single Line Diagram of API Connection Point;
 - k. Distribution Development Plan (DDP) showing 2015-2024 forecasted load as submitted to DOE;
 - l. Details of procurement process leading to selection of supplier - RFPs, proposals received, tender offers, etc.;
 - m. Details of load forecast projections in accordance with latest DDP and the variability of those projections over the proposed contractual period, including estimation of the potential reduction in load due to retail competition. Any inconsistency shall be supported by relevant analysis;
 - n. Transmission Service Agreement (TSA); and
 - o. Average Daily Load Curve of AEC for 2014(Actual) and 2017(Forecasted); and
11. They pray that after due notice and hearing, the Commission issue a Decision approving the proposed PSA.

Finding the said application to be sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **July 24, 2015 (Friday) at ten o'clock in the morning (10:00 A.M.) at the AEC's Main Office, Don Juan Nepomuceno Avenue corner Doña Teresa, Nepo Mart Complex, Angeles City, Pampanga.**

AEC and API 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 date of the scheduled initial hearing. They are also directed to inform the consumers within AEC's franchise area, 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 hearings.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Mayor of Angeles City for the appropriate posting thereof on its bulletin board.

AEC and API 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, AEC and API must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences of the actual posting and publication of the Notice of Public Hearing consisting of certification issued to that effect, signed by the afore-mentioned Mayor or his duly authorized representative, bearing the seal of his office, and the affidavits of the Editors or Business Managers of the newspapers where 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.

AEC, API 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 thereof and proposed markings therefore; 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 AEC and API 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, AEC and API 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 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, June 15, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson *per 4*

Copy Furnished:

- 1. Atty. Ranulfo M. Ocampo**
Counsel for Applicants
8/F Strata 100 Bldg.
F. Ortigas Jr. Road, Ortigas Center
Pasig City

- 2. The General Manager**
Angeles Electric Corporation (AEC)
Don Juan Nepomuceno Avenue corner Doña Teresa
Nepo Mart Complex, Angeles City, Pampanga

- 3. The President**
Angeles Power Inc. (API)
1905 Robinsons Equitable Tower
ADB Avenue corner Poveda St., Ortigas Center
Pasig City

- 4. The Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
Metro Manila

- 5. The Commission on Audit**
Don Mariano Marcos Avenue
Diliman, Quezon City

- 6. The Senate Committee on Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City

- 7. The House Committee on Energy**
House of Representatives
Batasan Hills, Quezon City

- 8. The City Mayor**
Angeles City