

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE POWER
SUPPLY AGREEMENT
BETWEEN CAGAYAN I
ELECTRIC COOPERATIVE,
INC. (CAGELCO I) AND
ANDA POWER
CORPORATION (ANDA)**

ERC CASE NO. 2015-182 RC

**CAGAYAN I ELECTRIC
COOPERATIVE, INC.
(CAGELCO I) AND ANDA
POWER CORPORATION
(ANDA),**

Applicants.

X-----X

D O C K E T E D
Date: APR 07 2016
By: W

ORDER

On 26 October 2015, Cagayan I Electric Cooperative (CAGELCO I) and Anda Power Corporation (Anda) filed an Application for the approval of their Power Supply Agreement (PSA).

In the said Application, CAGELCO I and Anda alleged, among others the following:

1. CAGELCO I is an electric cooperative duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Maddarulug, Solana, Cagayan. It was granted an exclusive franchise to operate, construct and maintain an electric distribution system in the City of Tuguegarao and the Municipalities of Alcala, Amulung, Baggao, Enrile, Iguig, Peñablanca, Piat, Rizal, Sto. Niño, Solana, and Tuao, all in the Province of Cagayan (Franchise Area).
2. Anda is a power generation company duly organized under the laws of the Republic of the Philippines, with

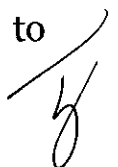
principal office address at TECO Special Economic Zone, Barangay Bundagul, Mabalacat, Pampanga. Copies of Anda's Certificate of Incorporation, Articles of Incorporation, and latest General Information Sheet were attached to the Application as Annexes "A", "B", and "C", respectively.

3. The Parties may be served with orders and other processes through their respective counsels.
4. The Application was filed pursuant to Rule 20(B) of the ERC Rules of Practice and Procedure (ERC Rules). A copy of the PSA was attached to the Application as Annex "D".
5. In compliance with Rule 6 of the ERC Rules, Applicants have furnished the legislative bodies of each local government unit, where they principally operate, a copy of the Application with all its annexes and accompanying documents. Proofs of receipt by the legislative bodies of the Municipality of Mabalacat, Municipality of Solana, the Provinces of Cagayan, and Pampanga were attached as Annexes "E", "E-1", "E-2", and "E-3", respectively.
6. Applicants have caused the publication of the present Application in its entirety in a newspaper of general circulation within CAGELCO I's franchise area. Copies of the newspaper and corresponding affidavit of publication were attached to the Application as Annexes "F" and "G", respectively.
7. CAGELCO I currently sources its power supply from GNPowder Limited Company under a PSA previously approved by the Energy Regulatory Commission (ERC). The remainder of its power requirement is sourced from the Wholesale Electricity Spot Market (WESM).
8. CAGELCO I experienced continuous load growth in recent years, while its baseload supply with GNPowder has not increased. These factors caused CAGELCO I to procure more of its power supply requirements from the volatile WESM.
9. To mitigate its WESM exposure and the price volatility that comes with it, CAGELCO I prepared a *Requests For Proposal* (RFP) addressed to various power suppliers. The



RFP is for the supply of 10MW of either baseload power or peakload power from an existing power generation company for a period of at least 5 years. CAGELCO I was to select a power supplier under a least cost approach, with terms most advantageous to the cooperative.

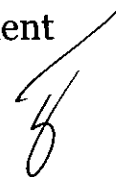
10. On 21 July 2015, CAGELCO I sent RFPs to the following companies: FDC Utilities, Inc., Anda Power Corporation, AES Philippines, Inc., and SEM-Calaca Power Corp. Copies of the RFPs sent to the said power generation companies were attached to the Application as Annexes "H" to "H-3".
11. Of the four potential suppliers invited to submit proposals, only Applicant Anda responded. A copy of Anda's proposal dated 05 August 2015 was attached to the Application as Annex "I".
12. CAGELCO I's Technical Working Group (CAGELCO I TWG) conducted a rigorous evaluation and deliberation of Anda's proposal to ensure that any procurement of power supply will be beneficial to its consumers.
13. CAGELCO I TWG favorably recommended to the Board of Directors the approval of Anda's proposal, subject to revisions of certain terms to be agreed upon by the parties. On 11 September 2015, the Board of Directors approved Anda's proposal and authorized the execution of the PSA. A copy of the Board Resolution was attached to the Application as Annex "J".
14. After further negotiations, Applicants entered into a PSA on 22 October 2015 whereby Applicant Anda will supply to Applicant CAGELCO I 12.5 MW of power for ten (10) years.
15. The contracted capacity was based on the projected increase in demand and the corresponding supply scenario for CAGELCO I, as indicated in the Distribution Development Plan (DDP) and Average Daily Load Profile/Demand-Supply Profile (Historical and Projected). Copies of these documents were attached to the Application as Annexes "K" and "L", respectively.
16. ***Salient Features of the PSA*** – The PSA is a take or pay contract where Anda will supply electricity to



CAGELCO I at a 12.5MW contract capacity from the initial Delivery Date up to ten (10) years. The PSA contains a minimum hourly off-take for any 24-hour period equivalent to or greater than 20% of the contracted capacity.

17. **Allowable Downtime** – Anda’s allowed downtime does not exceed its Maintenance Allowance. Beyond the downtime allowance, Anda has the obligation to source replacement power to fulfill the Minimum Contracted Energy. The resulting increase in cost, if any, shall be for Anda’s account.

$$\text{Maintenance Allowance (kWh)} = \text{Contracted Capacity (kW)} \times 40 \text{ days} \times 24 \text{ hours}$$

18. **The Generation Facility** – Anda constructed a coal-fired power plant located at TECO Special Economic Zone, Barangay Bundagul, Mabalacat, Pampanga. It is a one (1) unit generating facility that has an installed capacity of 82 MW and a dependable capacity of 72 MW. It is projected to have a plant efficiency rate of 89% and an annual capacity of 561,600,000 kWh.
- a) The 82 MW coal-fired power plant was previously owned by Asia Pacific Energy Corporation (Asia Pacific) to which an Environmental Compliance Certificate (ECC) was initially issued by the Department of Environment and Natural Resources (DENR). The ECC was subsequently transferred to Anda based on the confirmation letter issued by the DENR dated 18 February 2014. Copies of the ECC issued to Asia Pacific and the Confirmation of Transfer to Anda were attached to the Application as Annexes “M” and “M-1”, respectively.
- b) Anda was also issued a Certificate of Registration by the Philippine Economic Zone Authority (PEZA) as an Ecozone Utilities Enterprise. Copy of the Certificate from PEZA was attached to the Application as Annex “N”.
- c) Anda also filed an Application for the issuance of a Certificate of Compliance (COC) with ERC. It is also in the process of securing a Transmission Service Agreement (TSA), Metering Service Agreement
- 

(MSA), and Connection Agreement (CA), as certified by the National Grid Corporation of the Philippines (NGCP). Copies of the Application for COC and the NGCP Certification were attached to the Application as Annexes "O" and "P", respectively.

- d) The Department of Energy (DOE) also issued a Certificate of Endorsement, which was attached to the Application as Annex "Q". The Certificate stated among others, that:

xxx the 82 MW Circulating Fluidized Bed Coal Fired Power Plant to be located in Mabalacat, Pampanga, owned and operated by the Anda Power Corporation is consistent with the Power Development Plan (PDP) of the government. xxx

- e) To be able to dispatch the power it will generate, Anda filed before the ERC an Application for an authority to develop, own, operate, and maintain a limited point-to-point transmission line to connect its 82 MW Circulating Fluidized Bed Coal Power Plant to the NGCP's grid, docketed as ERC Case No. 2015-061 MC.

19. **Basic Energy Charge (BEC) for the 82MW Coal-Fired Power Plant** – The Computation of the BEC, which was attached to the PSA as Annex "D", is as follows:

ENERGY FEE AND ADJUSTMENTS

$$\text{Energy Fee} = [\text{CRF} + \text{Fixed O\&M} + \text{Variable O\&M} + \text{Fuel Fee}] \times E$$

Load Factor of 100%

$$\text{Fixed O\&M} = [\text{Fixed O\&M}_{USD} \times \frac{US_CPI_{Actual}}{US_CPI_{Base}} \times \text{Forex}] + [\text{Fixed OM}_{Php} \times \frac{Phil_CPI_{Actual}}{Phil_CPI_{Base}}]$$

$$\text{Variable Cost} = [\text{Variable Cost} \times \frac{Phil_CPI_{Actual}}{Phil_CPI_{Base}}]$$

$$\text{Fuel Fee} = \left[\frac{(\text{Coal Price} + \text{Freight Cost}) \times \text{Forex} + \text{Transport Cost}}{1000} \right] \times \left[\frac{\text{Coal Consumed in kg}}{\text{Total Generation in kWh}} \right]$$

Where:

CRF = Capacity Recovery Fee = PhP1839.5000 per kW-month

$Fixed\ O\&M_{Php}$ = Peso-based O&M Fee = PhP153.4910 per kW-month

$Fixed\ O\&M_{USD}$ = USD-based O&M Fee = \$5.2620 per kW-month

Variable O&M = Variable Fee = PhP0.1200 per kWh

Fuel Fee = Actual Fuel Cost

$Phil_CPI_{Actual}$ = Philippine Consumer Price Index (CPI) for all items for the Current Month as Published by the National Statistics Office

US_CPI_{Actual} = Current Month as Published by the Bureau of Labor Statistics, US Department of Labor

$Phil_CPI_{Bas}$ = Base Philippine CPI = 140.40 (2006=100) July 2014

US_CPI_{Base} = Base US CPI = 238.25 July 2014

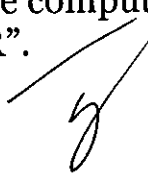
Forex = Reference exchange rate on the meter reading date, as published by the Bangko Sentral ng Pilipinas. (Php per USD)

E = Contacted Energy or Delivered Energy, whichever is higher

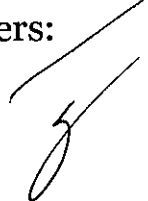
Freight Cost = Actual Freight Cost in USD per metric ton

Transport Cost = Actual Transport Cost in USD per metric ton

20. **Prompt Payment Discount** – CAGELCO I is entitled to a discount at the rate of 3% of the Capital Recovery Fee. The discount will be reflected as a rebate in a credit memo, provided that such payment is made in full on or before the 10th day from receipt of the billing invoice; provided further, that CAGELCO I does not have any overdue payment of any applicable amount under the Agreement; and provided finally, that the ERC has approved the Agreement including the fees and pricing structure contained herein.
21. **Rate Derivation** – Applicants point out that the energy rate and its components are reasonable since they are much lower than Anda's true cost of generation.
22. **Anda's True Cost of Generation** – Anda reiterates that its true cost of generation is higher than the negotiated energy fee and its adjustments under the PSA. A copy of the computation was attached to the Application as Annex "R".



- a) **Capital Recovery Fee (CRF)** – Capital Recovery Fee (CRF) will be paid to Anda for the recovery of their capital investment over the 25-year economic life of the project. The capital cost of the 82MW Coal-Fired Power Plant is estimated at USD199,895,856.37, equivalent to PhP8,990,940,936.74. The project will be funded by loans and equity with a debt-equity ratio of 67.5 to 32.5. Based on the desired equity internal rate of return, Anda proposed a CRF in the amount of PhP 2.62/kWh.
- b) **Fixed Operations and Maintenance (Fixed O & M)** – Fixed Operations and Maintenance (Fixed O & M) Fee has both Peso and Dollar components, covering the fixed expenses for operations and maintenance of the plant. The Peso component is PhP2,915/kWh and O & M Dollar component is USD0.00723/kWh.
- c) **Variable Costs** – Variable costs are composed of consumables, such as limestone, sands, and the PhP0.01/kWh benefit to the host community, which amounts to PhP 1,654/kWh.
23. **Fuel Cost** – Fuel is a total pass through cost. The power plant has a guaranteed coal consumption of 0.7kg/kWh with an escalation rate of 1.5% per year. Coal is expected to be sourced from both domestic and foreign suppliers. A copy of the summary of Anda's Coal Supply Plan was attached to the Application as Annex "S".
24. **Rate Impact** – A Rate Impact Simulation (RIS), attached to the Application as Annex "T", based on CAGELCO I's actual generation charge for the February 2015 and March 2015 power bills show a decrease in the generation charge for CAGELCO I's consumers:



ACTUAL GENERATION CHARGE

FEBRUARY 2015 POWER BILL					MARCH 2015 POWER BILL				
SUPPLIERS	AMOUNT	ENERGY	%	Avg P/kWh	SUPPLIERS	AMOUNT	ENERGY	%	Avg P/kWh
GN Power			0%		GN Power	12,741,403.00	2,638,160	16%	4.83
WESM	82,307,733.19	14,509,670	100%	5.67	WESM	81,928,236.45	13,578,650	84%	6.03
TOTAL	82,307,733.19	14,509,670.00			TOTAL	94,669,639.45	16,216,810.22		
LESS PPD 1%	0					(127,414.03)			
NET GENCOST	82,307,733.19					94,542,225.42			
GENERATION RATE	5.67				5.83				

SIMULATION WITH ANDA

FEBRUARY 2015 POWER BILL					MARCH 2015 POWER BILL				
SUPPLIERS	AMOUNT	ENERGY	%	Avg P/kWh	SUPPLIERS	AMOUNT	ENERGY	%	Avg P/kWh
GN Power					GN Power	12,741,403.00	2,638,160	16%	4.83
ANDA	44,229,600.00	9,000,000	62%	4.91	ANDA	44,729,600.00	9,000,000	55%	4.91
WESM	31,754,722.07	5,509,670	38%	5.67	WESM	27,625,774.27	4,578,650	28%	6.03
TOTAL	75,483,822.07	14,509,670.00			TOTAL	84,596,777.27	16,216,810.22		
LESS PPD 1%	(680,400.00)				LESS PPD	(807,814.03)			
NET GENCOST	74,803,422.07				NET GENCOST	83,788,963.24			
GENERATION RATE	5.16				5.17				
INCREASE/DECREASE	[0.52]				[0.66]				

25. Applicant Anda also prayed for the confidential treatment of its proprietary information, even after the conclusion of the instant case, based on the following grounds:

- a) The Engineering Procurement and Construction (EPC) contracts which Anda executed with its suppliers contain confidential arrangements.
- b) Anda also executed a Loan Agreement at preferred rates and Anda wishes to preserve this business advantage relative to its competitors.
- c) Furthermore, the computation of the WACC, Breakdown of Project Cost, and Financial Model not only make reference to the aforementioned confidential contracts, they also detail Anda's business model and other proprietary information that constitute trade secrets and hence should remain confidential.

26. Anda, thus, submitted to the ERC one copy of the following documents containing the information sought to be treated as confidential, placed in a sealed envelope:

ANNEX	DOCUMENT
U	Essential Details of EPC Contracts
V	Essential Details of Loan Agreement
W	Executive Summary including the

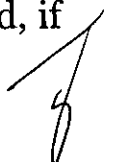
	computation of WACC and Breakdown of Project Cost
X	Financial Model

27. Applicants CAGELCO I and Anda pray that the Commission will:
- a) Issue an Order granting confidential treatment to Annexes "T", "U", "V", "W", and "X" pursuant to Rule 4 of the ERC Rules of Practice and Procedure;
 - b) After hearing on the merits, render a decision issuing a PERMANENT APPROVAL of the implementation of the provisions of the PSA between CAGELCO I and Anda, including the rates set forth therein; and
 - c) Grant other just and equitable reliefs.

Finding the said Application sufficient in form and substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **16 June 2016 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at CAGELCO I Main Office, Barangay Maddarulug, Solana, Cagayan.**

Applicants CAGELCO I and Anda are hereby directed to cause the publication of the attached Notice of Public Hearing in two (2) newspapers of general circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and 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 the franchise area of CAGELCO I, by any other means available and appropriate, of the filing of the 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 Provincial Governor and the Mayors of the Cities and Municipalities within CAGELCO I's franchise area for the appropriate posting thereof on their respective bulletin boards.

CAGELCO I and Anda 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, CAGELCO I and Anda 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 Governor and Mayors 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.

CAGELCO I, Anda, 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 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 CAGELCO I and Anda 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, CAGELCO I and Anda 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, 21 March 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:

JOSE VICENTE B. SALAZAR
Chairman and CEO

ERC
Office of the Chairman

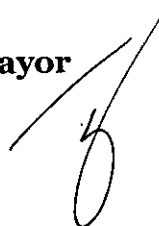


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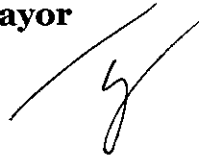
Jose Vicente B. Salazar
JCS/CLS/APV

Copy Furnished:

1. **Attys. Cecilia R. Layug, Rio Q. Balaba, Marcelino C. Arce, IV**
Counsels for CAGELCO 1 and Anda
2904, One San Miguel Building, San Miguel Avenue corner Shaw Boulevard, Ortigas Center, Pasig City, Metro Manila
2. **Cagayan 1 Electric Cooperative, Inc. (CAGELCO 1)**
Maddarulug, Solana, Cagayan
3. **Anda Power Corporation**
TECO Special Economic Zone, Barangay Bundagul, Mabalacat, Pampanga
4. **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
5. **The Office of the Solicitor General**
234 Amorsolo Street, Legaspi Village, Makati City
6. **The Commission on Audit**
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
7. **The Senate Committee on Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
8. **The House Committee on Energy**
House of Representatives
Batasan Hills, Quezon City, Metro Manila
9. **Office of the Governor**
Province of Cagayan
10. **Office of the City Mayor**
Tuguegarao City
11. **Office of the Municipal Mayor**
Alcala, Cagayan
12. **Office of the Municipal Mayor**
Amulung, Cagayan
13. **Office of the Municipal Mayor**
Baggao, Cagayan
14. **Office of the Municipal Mayor**
Enrile, Cagayan
15. **Office of the Municipal Mayor**
Iguig, Cagayan



16. **Office of the Municipal Mayor**
Peñablanca, Cagayan
17. **Office of the Municipal Mayor**
Piat, Cagayan
18. **Office of the Municipal Mayor**
Rizal, Cagayan
19. **Office of the Municipal Mayor**
Sto. Nino, Cagayan
20. **Office of the Municipal Mayor**
Solana, Cagayan
21. **Office of the Municipal Mayor**
Tuao, Cagayan

A handwritten signature in black ink, consisting of a stylized, cursive letter 'g' with a long horizontal stroke extending to the left.