

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



**IN THE MATTER OF THE
JOINT APPLICATION FOR
THE APPROVAL OF THE
ELECTRIC POWER
PURCHASE AGREEMENT
(EPPA) ENTERED INTO BY
AND BETWEEN SURIGAO
DEL SUR II ELECTRIC
COOPERATIVE, INC. AND FDC
MISAMIS POWER
CORPORATION (FDC
MISAMIS)**

ERC CASE NO. 2015-175 RC

**SURIGAO DEL SUR II
ELECTRIC COOPERATIVE,
INC. (SURSECO II) AND FDC
MISAMIS POWER
CORPORATION (FDC
MISAMIS),**

Applicants.

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DOCKETED
Date: APR 28 2016
By:

ORDER

On 13 October 2015, Surigao del Sur II Electric Cooperative (SURSECO II) and FDC Misamis Power Corporation (FDC MISAMIS) filed a Joint Application (with Motion for Confidential Treatment of Information) for the approval of the Electric Power Purchase Agreement (EPPA) executed by and between SURSECO II and FDC MISAMIS.

In their Application, Applicants alleged, among others, the following:

1. SURSECO II was created pursuant to the provisions of the National Electrification Administration Act (R.A. 6038) as amended by Presidential Decree No. 269. Pursuant to this decree, SURSECO II was incorporated and registered on September 10, 1979 with

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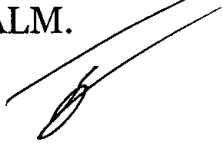
principal office at Tandag, Surigao del Sur. SURSECO II serves the power requirements of the municipalities of Bayabas, Cagwait, Cantilan, Carmen, Carrascal, Cortes, Lanuza, Madrid, Marihatag, Tago, Tandag, San Miguel, San Agustin and Lianga, all in the province of Surigao del Sur.

2. FDC MISAMIS is a Corporation duly organized and existing under Philippine Laws, with principal office address at 30th Floor PBCom Tower, 6795 Ayala Avenue cor. V. A. Rufino St., Makati City. FDC MISAMIS were formerly known and registered under the names Green Renewable Power Holdings, Inc. and Strong Field Energy Corporation. FDC MISAMIS is wholly owned subsidiary of FDC Utilities, Inc.

3. Applicants may be served Orders and other processes through their undersigned counsels.

4. Since 2010, the Mindanao Grid has been experiencing a significant shortfall in power supply causing widespread power interruption. The existing capacity in the island is composed of more than 50 percent hydroelectric power plant which is dependent on the availability of water and affected by weather conditions. Based on the 2012-2030 Supply - Demand Outlook issued by DOE, a total of 1,600 MW additional capacities are needed during the planning period to meet the electricity demand and the required reserve margin of the grid.

5. SURSECO II is requiring annual energy of 57,475,852 kWh and an annual demand of 65,889,638 for 2014. The power supply of SURSECO II is currently sourced from PSALM, TMI and KEGI. For 2014, it has existing power supply agreement for 4.339MW with PSALM I NPC and contract energy of 32,694,326 which will expire on December 2016. With the privatization of the PSALM/NPC generation plants and coupled with the insufficiency of supply in Mindanao, it has become increasingly difficult for PSALM to sustain the demands of its Mindanao customers. As it is, PSALM can no longer supply the electric power requirements of its existing customers including SURSECO II. PSALM confirmed that it has insufficient capacity to supply the additional power requirements of Mindanao Distribution Utilities beyond the contracted energy and equivalent demand in its existing CSEE with PSALM.



6. Based on SURSECO II's actual and forecasted load data, its contract energy and demand requirements for the years 2008 to 2029 are increasing. In order for SURSECO II to meet its obligations to its member consumers (Sec. 1, DOE Department Circular No. 2003-12-011) and in making sure that its requirements are fully covered by supply contracts (Sec. 4.3, DOE Department Circular No. 2010-03-0003), SURSECO II should secure a power supply agreement of about 10MW.

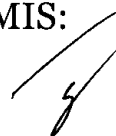
7. Based on the SURSECO II 2014 -2029 Demand and Energy Forecast, the demand requirements of SURSECO II are expected to grow every year, from 13 MW in 2014 to 15 MW in 2017.

8. Given its demand growth and in order to obtain a secure and adequate supply of electricity for its consumers during this time, SURSECO II sought out other generation companies and sources of electricity in the Mindanao Grid and solicited offers and/or expressions of interest from these power suppliers to supply its growing power requirements.

9. Among the offers that SURSECO II considered was one from the FDC MISAMIS which made an offer to SURSECO II to supply its power requirements. FDC MISAMIS is committed to construct 405MW Coal Fired Power Plant in the PHIVIDEC Industrial Estate in Misamis Oriental. The power plant is scheduled to be commissioned in 2016.

10. SURSECO II thoroughly evaluated all the offers/expressions of interest submitted to it and determined that the offer of FDC MISAMIS to be the one most advantageous to its consumers.

11. SURSECO II has forecasted and simulated the effect of the inclusion of the power supplied by FDC MISAMIS on its generation costs upon the commercial operation of the power plant of FDC MISAMIS, taking into consideration that the Transition Supply Contract from PSALM is only until December 2016 and the expected commercial operation of FDC MISAMIS:



With FDC (Php)	Without FDC (Php)	Increase/ (Decrease)
8.2852	6.2923	1.9929

THE ELECTRIC POWER PURCHASE AGREEMENT

12. After extensive negotiations with FDC MISAMIS, SURSECO II signed on 20 May 2013, an Electric Power Purchase Agreement (EPPA) with FDC MISAMIS for a contracted demand of 5MW for 10 years. On 19 June 2013, SURSECO II signed an Amendment Agreement with FDC MISAMIS amending among others Contracted Demand from 5MW to 10MW.

Executive Summary

13. The EPPA governs the relationship between Supplier and Customer for the sale of electric power. The electric power supply will be drawn from the 3x135MW CFB Coal-fired power plant to be constructed, owned and operated by FDC MISAMIS. During plant outage, replacement power will be sourced from other facilities of the FDC MISAMIS, or of any third party, including the WESM or its equivalent. The commencement of the obligation of FDC MISAMIS to deliver of electric power to its customers is subject to the satisfaction of conditions precedent, including the declaration of the commercial operation of the power plant. Generation Charges for pre-commercial operation and during commercial operation are computed separately. The EPPA is subject to customer's security deposit, assignment, termination and buy-out.

Salient Features

14. The EPPA, as amended, between SURSECO II and FDC MISAMIS contains the following salient terms and conditions:



14.1. Commercial Operation Date - The target Commercial Operation Date is thirty six (36) calendar months after all the requirements (Conditions Precedent to Commercial Operation Date) has been met. The Supplier shall notify the Customer in writing of this date.

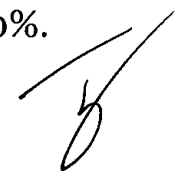
14.2. Term - The Term of the EPPA shall be ten (10) years from the Commercial Operation Date, unless extended (a) by the grant of grace period; (b) due to Force Majeure; or (c) by mutual written agreement by the Parties.

14.3. Service Specification - The Applicants agreed to the following service specifications:

Contracted Demand (kW)	10,000 kW
Contracted Energy (kWh)	87,600,000 kWh
Customer Load Factor	100%/o
Customer's Minimum Demand	At least 400/o of customer's Contracted Demand
Delivery Point	Plant Gate FDC Misamis Power Corporation's Power Plant
Voltage at the Plant Gate	138kV

14.4. Increase in Contracted Energy, Monthly Nominated Energy or Contracted Demand - Customer may request an increase to the Contracted Energy, monthly nominated energy or Contracted Demand of a particular Billing Period by delivery of written notice at least sixty (60) days before the date on which such adjustment is proposed to take effect, setting out the reasons therefor.

14.5. Premium Charge for Excess Consumption - For consumption higher than the Contracted Energy and/or monthly nominated energy, Customer shall pay the Generation Charge applicable plus a Premium Charge of 10%.



14.8. Customer Failure to Offtake Power - If the Customer offtakes power less than the Contracted Energy and/or Contracted Demand, the Customer shall still pay the full Generation Charge for the Contracted Energy and/or Contracted Demand, and all applicable fees, charges and costs.

14.9. Transmission Fees, Ancillary Services Charges, Line Rental Charges, and WESM Costs - The Customer shall pay for Transmission Fees, Ancillary Services Charges, Line Rental Charges, and WESM Costs. All other transmission charges and market related fees/charges that are not part of the generation charge shall be for the account of Customer.

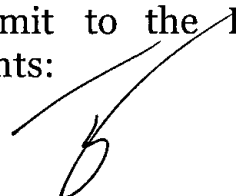
14.10. Security Deposit - The Security Deposit shall be in an amount equivalent to one hundred percent (100%) of the projected highest monthly Power Bill for the first Contract Year of the Agreement.

14.11. Assignment. In all cases of valid assignment, the assignee shall assume all the rights and obligations of the assignor under this Agreement.

14.12. Adjustments Due to Force Majeure - The Supplier shall have seventy-two (72) hours to restore interrupted supply counted from the time a Force Majeure Event prevented it from supplying electric power to the Customer. The Customer shall not be entitled to interruption adjustment during such period. On the other hand, the Customer shall have seventy-two (72) hours to resume taking electric power counted from the time a Force Majeure Event prevented it from fully taking its Contracted Energy.

OTHER RELATED DOCUMENTS

15. In further support of the instant Application, Applicants most respectfully submit to the Honorable Commission, the following documents:



14.6. Replacement Power in Excess of Outage Allowance - The Supplier shall exert best efforts to procure Replacement Power beyond the Outage Allowance from the available Capacity from the Grid. Notwithstanding any provision in this Agreement to the contrary, the Supplier has the right to source Replacement Power for the Customer from other current or future facilities of the Supplier or of any third party, including the WESM or its equivalent, at the sole election of the Supplier.

14.7. Generation Charge. SURSECO II shall pay the generation charge consisting of variable and fixed charges, subject to adjustments. The generation charges for pre-commercial operation and during commercial operation are computed based on the Base Energy Rate (BER) computation as follows:

$$\text{BER} = (\text{FCbase} + \text{VCbase}) / \text{Energy}$$

$$\text{A.) FCbase} = (\text{CRFkwbase} + \text{PHP O\&Mkwbase} + \text{US O\&Mkwbase}) * \text{CD}$$

Where:

$$\text{CRFkwbase} = \text{PHP } 1,924.48 / \text{k.W}$$

$$\text{PHP O\&Mkwbase} = \text{PHP } 474.75 / \text{k.W}$$

$$\text{US O\&Mkwbase} = \text{PHP } 30.64 / \text{k.W}$$

$$\text{B.) VC base} = [\text{DCP base}] * [\text{Forex base}] * [\text{MCR}] * [\text{Energy}] \text{ I Conversion Factor}$$

Where:

$$\text{DCPbase} = \text{US\$} 72 / \text{MT}$$

$$\text{Forexbase} = \text{PHP } 41.12 / \text{US\$}$$

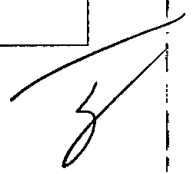
$$\text{MCR} = 0.070 \text{ kg/kWh}$$

$$\text{Energy} = 14,600,000 \text{ kWh}$$

$$\text{Conversion Factor} = 1,000 \text{ kg/MT}$$



ANNEX	NATURE OF DOCUMENTS
A	Electric Power Purchase Agreement between FDC MISAMIS and SURSECO II dated 20 May 2013
A-1	EPPA Amendment No. 1 dated 19 June 2013
B	SURSECO II Certificate of Franchise
C	SURSECO II Certificate of Registration
D	SURSECO II Articles of Incorporation
E	FDC-MISAMIS Certificate of Registration
E-1	Green Renewable Power Holdings Inc.'s Certificate of Incorporation
E-2	Strong Field Energy Corporation Certificate of Filing of Amended Articles of Incorporation
F	FDC-MISAMIS General Information Sheet
G	FDC-MISAMIS latest Audited Financial Statements
H	Affidavit of Service of Application (including Annexes) to the Legislative Body Municipality of Tandag, Province of Surigao del Sur
H-1	Affidavit of Service of Application (including Annexes) Legislative Body of the Province of Surigao del Sur
I	Affidavit of Service of Application (including Annexes) to the Legislative Body of the City of Makati
J	Copy of the Affidavit of Publication
K	PSALM certification of insufficient capacity to supply Mindanao Distribution Utilities
L	SURSECO II Actual and Forecasted Load Data from 2008-2029
M	SURSECO II Procurement Process (in a sealed envelope)
N	SURSECO II Rate Impact Analysis
O	SURSECO II Board Resolution No. 031, Series of 2013
O-1	SURSECO II Board Resolution No. 043, Series of 2013
P	Sources of Funds/Financial Plans; Debt/Equity Ratio; Project Cost; and Computation of Return on Investment! WACC (in a sealed envelope)
Q	FDC MISAMIS Board of Investments (BOI) Certificate of Registration



R	FDC MISAMIS Environmental Compliance Certificate
S	FDC MISAMIS Fuel Procurement Process (in a sealed envelope)
T	Land Bank of the Philippines Certification – Indicative Key Terms and Conditions in a sealed envelope

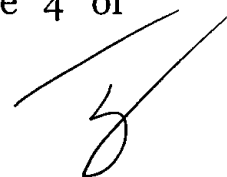
16. Pursuant to ERC Resolution No. 9, series of 2010, FDC MISAMIS shall file the necessary Application for a COC no later than (3) months prior to the commercial operations date of the 3X135MW CFB coal-fired power plant.

ALLEGATIONS IN SUPPORT OF THE MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

17. The Honorable Commission may, upon request of a party and determining that the disclosure of information requested to be treated as confidential information is justified, treat certain information submitted to it as confidential.¹ SURSECO II and FDC MISAMIS is bound by confidentiality agreement prohibiting the disclosure of any business, technical, marketing, operational, organizational, financial or other information and trade secrets and other confidential documents, papers and information. Accordingly, the Applicants respectfully request before the Honorable Commission that Annexes "M, P, S, T" not be disclosed and be treated as confidential in accordance with Rule 4 of the ERC Rules. These Annexes contain confidential information critical to the business operation of FDC MISAMIS including trade secrets and business calculations, assumptions and projections.

18. In view of the foregoing, Applicants pray for the Commission to:

- a) Approve the duly negotiated EPPA, as amended, between the Applicants;
- b) Issue an Order (1) treating Annexes and the information contained therein as confidential, (2) directing their non-disclosure pursuant to Rule 4 of



the ERC Rules, and (3) prescribing the guidelines for the protection thereof; and

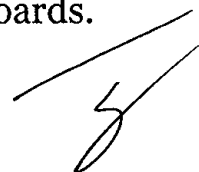
- c) After trial of merits, issue a permanent approval of the EPPA, as amended, between SURSECO II and FDC MISAMIS which would authorize SURSECO II to charge and collect the fees under the EPPA as well as pass on the full amount to its consumers.

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 jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **19 May 2016 (Thursday) at ten o'clock in the morning (10:00 A.M.) at SURSECO II's Principal Office, Tandag, Surigao del Sur.**

SURSECO II and FDC MISAMIS 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 customers within SURSECO II'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 hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Governor of the Province of Surigao del Sur and the Offices of the Mayors of the Municipalities within SURSECO II's franchise area for the appropriate posting thereof on their respective bulletin boards.



SURSECO II and FDC MISAMIS 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.

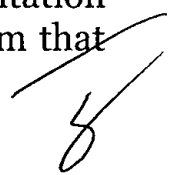
On the date of the initial hearing, SURSECO II and FDC MISAMIS must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned 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.

SURSECO II and FDC MISAMIS 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 SURSECO II and FDC MISAMIS 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, SURSECO II and FDC MISAMIS must also be prepared to make an expository presentation of their Application, aided by whatever communication medium that



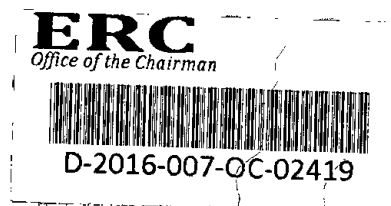
As part of the pre-trial conference, SURSECO II and FDC MISAMIS must also be prepared to make an expository presentation of their Application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the customers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 14 April 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:

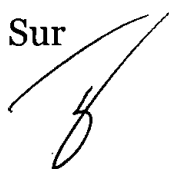

JOSE VICENTE B. SALAZAR
Chairman and CEO



 Ord.2015-179 SURSECO II FDC MISAMIS EPPA IO

Copy Furnished:

1. **Atty. Eleuterio F. Diao IV**
Counsel for Surigao del Sur II Electric Cooperative, Inc. (SURSECO II)
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2. **Atty. Manuel L.M. Torres**
Atty. Miguel K. Mathay
Atty. Gianna Maria C. Comsti
Counsels for FDC Misamis Power Corporation
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ADB Ave. cor. Poveda Street
Ortigas Center, Pasig City
3. **Office of the Solicitor General**
134 Amorsolo St. Legaspi Village,
Makati City 1229
4. **Commission on Audit (COA)**
Commonwealth Avenue,
Quezon City
5. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard
Pasay City 1300
6. **House of Representatives Committee on Energy**
Batasan Hills, Quezon City 1126
7. **President**
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, ECC Building,
Gil Puyat Ave., Makati City
8. **The Office of the Mayor**
Municipality of Bayabas, Surigao del Sur
9. **The Office of the Mayor**
Municipality of Cagwait, Surigao del Sur
10. **The Office of the Mayor**
Municipality of Cantilan, Surigao del Sur
11. **The Office of the Mayor**
Municipality of Carmen, Surigao del Sur
12. **The Office of the Mayor**
Municipality of Carrascal, Surigao del Sur
13. **The Office of the Mayor**
Municipality of Cortes, Surigao del Sur
14. **The Office of the Mayor**
Municipality of Lanuza, Surigao del Sur



- 15. The Office of the Mayor**
Municipality of Lianga, Surigao del Sur
- 16. The Office of the Mayor**
Municipality of Madrid, Surigao del Sur
- 17. The Office of the Mayor**
Municipality of Marihatag, Surigao del Sur
- 18. The Office of the Mayor**
Municipality of San Agustin, Surigao del Sur
- 19. The Office of the Mayor**
Municipality of San Miguel, Surigao del Sur
- 20. The Office of the Mayor**
Municipality of Tandag, Surigao del Sur
- 21. The Office of the Mayor**
Municipality of Tago, Surigao del Sur
- 22. The Office of the Provincial Governor**
Province of Surigao del Sur
- 23. Surigao del Sur II Electric Cooperative (SURSECO II)**
Tandag, Surigao del Sur
- 24. FDC Misamis Power Corporation (FDC MISAMIS)**
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