

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF
APPLICATION FOR
APPROVAL OF THE
ELECTRIC POWER
PURCHASE AGREEMENT
BETWEEN THE CITY
GOVERNMENT OF
LAMITAN AND BASILAN
ELECTRIC COOPERATIVE,
INC., WITH PRAYER FOR
ISSUANCE OF A
PROVISIONAL AUTHORITY
AND MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2021-072 RC

**CITY GOVERNMENT OF
LAMITAN AND BASILAN
ELECTRIC COOPERATIVE,
INC.,**

Joint Applicants.

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Promulgated:
September 20, 2021

ORDER

On 03 September 2021, City Government of Lamitan (LAMITAN) and Basilan Electric Cooperative, Inc. (BASELCO) filed a *Joint Application* dated 06 February 2021, seeking the Commission's approval of their Electric Power Purchase Agreement (EPPA), with prayer for issuance of a provisional authority and motion for confidential treatment of information.

The pertinent allegations of the *Joint Application* are hereunder quoted as follows:

1. Applicant LAMITAN is a local government unit duly organized and existing under the laws of the Republic of the Philippines, with address at Rizal Avenue, Lamitan City, Basilan, Philippines, herein represented by its Mayor, Hon. Rosita U. Furigay. A copy of her authorization through Resolution No. 2020-309, dated

December 16, 2020 is hereto attached and marked as ANNEX “A” hereof;

- 1.1. A copy of Republic Act No. 939 which created Lamitan’s City Charter and latest Audited Financial statements are hereto attached and marked as ANNEXES “B” and “C,” respectively;
 - 1.2. LAMITAN had finished constructing and has installed a four (4) units 1,250 KW (*sic*) Rose Diesel Power Plant (The Power Plant,) which it shall own, operate and maintain. The project is located at Sitio Baroy Highway, Barangay Sengalm, Lamitan City, Basilan;
 - 1.3. The summary of the relevant technical characteristics of the Power Plant (General Plant Description) is hereto attached as ANNEX “D” hereof while the summary of the transmission projects or grid connection projects (Distribution Impact) necessary to complement the Power Plant is hereto attached and marked as ANNEX “E” hereof;
2. Applicant BASELCO is an electric distribution utility organized and existing under the laws of the Republic of the Philippines, with principal office address at Barangay Binuangan, Isabela City, Basilan, represented hereto by its President, Mr. Nick O. Acdalin. A copy of his authorization embodied in its Board Resolution No. 12, Series of 2021 and adopted on February 20, 2021 is hereto attached and marked as ANNEX “F” hereof;
 - 2.1. BASELCO’s Certificate of Franchise is hereto attached and marked as ANNEX “G” hereof;
 - 2.2. BASELCO’s Articles of Incorporation and By-Laws and Certification containing its List of Board of Directors are hereto attached and marked as ANNEXES “H,” “H-1,” and “H-2,” respectively;

NATURE OF THE APPLICATION

3. Pursuant to Rule 20 (B) of the Energy Regulatory Commission’s 2006 Rules of Practice and Procedure (the ERC Rules,) and other pertinent rules and regulations, the instant Joint Application is being submitted to this Honorable Commission for its due consideration and approval of the Power Supply Agreement on the Sale of Electricity (PSA) executed by and between LAMITAN and BASELCO on June 10, 2020. A copy of the said PSA is hereto attached and marked as ANNEX “I” hereof;
4. The subject PSA was entered into pursuant to Section 70 of Republic Act No. 9136 and Section 3.a. of Rule 13 of the Implementing Rules and Regulation (IRR) of Republic Act No. 9136, the Small Power Utilities Group (SPUG) of the National Power Corporation (NPC), who is responsible for providing power generator and its associated power delivery system in areas that are not connected to the transmission system;

5. On the other hand, LAMITAN is located and will be providing electricity generation in a Missionary Area. Thus, it is entitled to receive subsidy from the Universal Charge-Missionary Electrification pursuant to ERC Resolution No. 21, Series of 2011 otherwise known as Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas but with an exception that states: “where good cause appears, the ERC may allow exception from any provision of the Rules if such exception is found to be for public interest and is not contrary to law or any related rules and regulations.”

COMPLIANCE WITH THE PRE-FILING REQUIREMENTS

6. In compliance with the pre-filing requirements mandated under Rule 3, Section 4 (e) of the Implementing Rules and Regulations of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA law and Rule 6 of the ERC Rules, Joint Applicants herein furnished the legislative bodies of the local government units where they principally operate with a copy of the instant application, together with all the annexes. Copies of the Affidavit of Service on the Presiding Officer or Secretary or their duly authorized representative, of the legislative bodies of the Province of Basilan and the City of Isabela, where applicants principally operate are hereto attached and marked as ANNEXES “J” and “K” hereto;
7. In addition, Joint Applicants caused the publication of the instant Application sans its annexes in a newspaper of general circulation within the franchise area of applicant BASELCO. Copies of the newspaper where the publication of this Joint Application appeared and the corresponding Affidavit of Publication are hereto attached and marked as ANNEXES “L” and “L-1;”

STATEMENT OF FACTS AND OF THE CASE

8. The economy of the City of Lamitan in the Province of Basilan failed to take off because of unreliable and high cost of electricity. Electricity is not available for 24 hours per day due to lack of supply and line faults. Electricity rate is more than Php10.00 per KWh (*sic*) despite the same is already subsidized. Some consumers in Lamitan City resorted to connecting to private genset operator and paying Php40 per KWh (*sic*) just to ensure 24-hour supply of electricity. Being one of the missionary areas, electricity is supplied by the National Power Corporation-Small Power Utilities Group (NPC-SPUG) and distributed by applicant BASELCO;
9. The worsening situation opens opportunity for private investment in the generation sector Missionary areas. In response thereto, the Province of Basilan was included in the first wave of missionary areas that underwent the competitive selection process for private sector participation based on DOE Circular 2004-01-01;

10. In 2008, the Department of Energy (DOE) provided technical assistance to BASELCO and NPC for the competitive selection process. Coastal Power Development Corporation was selected as a New Power Provided (NPP) in place of NPC-SPUG who will take over total supply obligation to BASELCO, fulfilling the EC's bas[e], intermediate and peak load. For whatever reason, however, Coastal Power failed to start its operation and the City of Lamitan's hope for reliable and secured power supply has been obliterated;
11. It was due to the reasons stated above that the City of Lamitan deemed it necessary to build, finance and operated (*sic*) on its own, an electric generation facility. The 5MW diesel power plant is located in Lamitan City and it will be directly connected to the 13.2 kV feeder line of BASELCO;
12. Hence, the City Government of Lamitan took the challenge in addressing the situation with its moral obligation to its constituents to provide efficient and reliable supply that it entered the PSA with BASELCO;

BASELCO DEMAND-SUPPLY SITUATION AND PROJECTIONS

13. BASELCO is not undertaking the Demand Side Management (DSM) as required by this Honorable Commission. This is because almost seventy percent (70%) of its consumers within the franchise area are residential type with minimal large loads considering that it is an island electric cooperative with less industrial load. Attached for ready reference is a Certification issued by BASELCO and marked as ANNEX "M" hereof;
14. BASELCO at present sources its electricity requirements from the following:

Existing Supplier	Contracted Capacity (MV) (<i>sic</i>)	Term	Year	Plant Type
NPC-SPUG	11.562	3 YEARS	2021	DIESEL

15. It is expected that the power requirements of BASELCO will significantly increase in the next few years as shown by BASELCO's Distribution Development Plan (DDP) as follows:

Historical and Forecasted Consumption Data

	Coincident Peak MW	MWh Offtake	MWh Transm'n Loss	MWh Residential	MWh Commercial	MWh Industrial	MWh Others	MWh S4R as Seller	MWh Own Use	MWh Switched Contestable Customers	MWh System Loss
2000	5.80	17,703	0	13,447	0	0	0	0	0	0	4,256
2001	5.85	18,347	0	14,318	0	0	0	0	0	0	4,029
2002	5.90	16,845	0	13,984	0	0	0	0	0	0	2,862
2003	5.95	20,363	0	15,991	0	0	0	0	0	0	4,372
2004	5.97	21,079	0	17,040	0	0	0	0	0	0	4,039
2005	6.17	22,247	0	17,764	0	0	0	0	0	0	4,483
2006	6.50	22,719	0	17,998	0	0	0	0	0	0	4,720
2007	6.60	27,096	0	14,210	3,412	1,245	1,711	0	88	0	6,431
2008	7.20	27,631	0	14,281	3,572	1,300	2,079	0	153	0	6,246
2009	7.95	30,191	0	14,976	3,778	1,441	2,709	0	134	0	7,153
2010	8.00	32,788	0	16,181	3,871	1,702	2,826	0	153	0	8,055

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2011	8.30	32,895	0	15,522	3,871	1,730	2,669	0	166	0	8,937
2012	8.30	33,538	0	16,415	3,878	1,383	2,800	0	233	0	8,829
2013	8.45	34,259	0	16,097	4,007	1,086	2,529	0	290	0	10,250
2014	8.50	35,330	0	16,006	3,889	1,049	3,024	0	286	0	11,076
2015	9.00	37,144	0	17,240	4,002	1,079	3,347	0	250	0	11,226
2016	9.18	39,651	0	18,755	4,072	740	3,515	0	280	0	12,289
2017	9.49	43,695	0	20,476	4,302	857	3,588	0	357	0	14,114
2018	10.40	47,555	0	22,484	4,560	883	3,742	0	308	0	15,579
2019	11.32	56,654	0	27,155	5,035	978	3,979	0	317	0	19,191
2020	11.75	55,948	0	30,750	4,874	1,070	3,960	0	409	0	14,884
2021	12.50	59,183	0	34,705	5,073	1,170	4,097	0	442	0	13,696
2022	13.31	66,019	0	39,085	5,270	1,276	4,248	0	477	0	15,663
2023	14.16	72,674	0	43,890	5,465	1,388	4,411	0	512	0	17,008
2024	15.06	79,612	0	49,117	5,657	1,505	4,586	0	548	0	18,198
2025	15.99	86,853	0	54,767	5,847	1,628	4,772	0	584	0	19,254
2026	16.94	94,016	0	60,839	5,847	1,628	4,968	0	620	0	20,114
2027	17.93	101,962	0	67,332	6,215	1,892	5,174	0	656	0	20,693
2028	18.93	108,224	0	74,246	6,394	2,033	5,387	0	692	0	19,472
2029	19.94	114,390	0	81,851	6,570	2,180	5,608	0	727	0	17,724

15.1. The above table is a consolidation of consumption data for all Sectors, namely Residential, Commercial, Industrial, Public Building and Streetlights. The largest Sector is Residential which accounts for around 47.93% of the MWh Offtake.

15.2. A portion of this demand growth is what is sought to be supplied by LAMITAN with the execution of PSA with the latter. This is consistent with the Distribution Development Plan of BASELCO.

Historical Reliability Indices

Year	SAIFI	MAIFI	SAIDI (h)	CAIDI (h)
2019	1.019	0.00	11.684	11.466

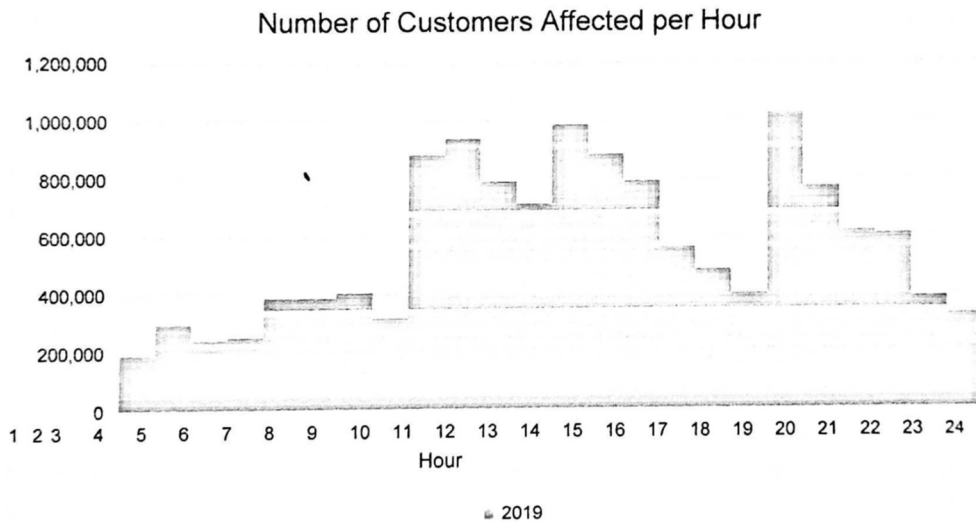
For “Power Supplier” outages, the indices are all within the NEA Standard.

Year	SAIFI	MAIFI	SAIDI (h)	CAIDI (h)
2019	1.464	0.00	340.738	232.698

For “Scheduled” outages, the indices are all within the NEA Standard.

Year	SAIFI	MAIFI	SAIDI (h)	CAIDI (h)
2019	32.645	0.00	3582.792	109.751

For all other outages, the indices are not within the NEA Standard. The frequency of power interruption is very high because of line faults due to vegetation problem



The largest number of customer interruptions occurred on hour 19 which does coincide with the peak period. The second largest number of customer interruptions occurred on hour 13 which does not coincide with the peak period.

A copy of the aforementioned study is hereto attached and marked as ANNEX “N” while the comparative study for the years 2019 to 2025 is hereto attached and marked as ANNEX “N-1” hereof.

16. As it is, the power supply given to the City of Lamitan is not enough, coupled with the projected increase in the power demand of BASELCO’s customers will result in a bigger power shortage which the City of Lamitan is bound to suffer;
17. Thus, Applicant LAMITAN deemed it appropriate to build, own and operate the 5MW Lamitan Diesel Power Plant itself to provide efficient and reliable power supply to BASELCO and ultimately to its constituents. On the other hand, Applicant BASELCO wishes to have a stable, reliable and adequate supply of energy, sourced from a different power supplier in order to mitigate the impact of power inadequacy during supply disruptions from its existing suppliers;

COMPETITIVE SELECTION PROCESS

18. It is understood that LAMITAN will not take over the supply function of NPC-SPUG but instead augment the existing power supply. It is due to this condition that the Competitive Selection Process for Private Sector Participation (PSP) is not necessary. Attached for ready reference are copies of the Department of Energy approval of BASELCO’s request for exception and Certification issued by the latter dated March 19, 2020 and marked hereto as ANNEXES “O” and “O-1;”
19. The Department of Environment and Natural Resources issued an Environmental Compliance Certificate (ECC ARMM2016-1213-38-207) in favor of Lamitan and hereto attached and marked as ANNEX “P” hereof while the Project Assessment Planning Tool and Permit to Operate are hereto marked as ANNEX “P-1” and “P-2,” respectively;
20. A copy of the Certificate of Endorsement No. 2017-06-002 issued by the DOE dated July 20, 2017 is likewise attached hereto and marked as ANNEX “Q” to show that DOE certified that Applicant LAMITAN’s Power Plant Project is consistent with the DOE Power Development Plan;
21. With the completion of LAMITAN’s Power Plant project and its on-going application for Certificate of Compliance pending with this Honorable Commission, the growing power requirements of BASELCO customers will be addressed and BASELCO customers will be assured of a stable and reliable power supply. Attached for ready reference is a Certification issued by Sharon O. Montañer, Director III, Market Operations Service of this Honorable Commission and marked as ANNEX “R;”

22. Further, since LAMITAN's Power Plant is located also in Lamitan City, the power that it will supply to BASELCO will not be as costly since there is no need to pass through any submarine cables and therefore will not be vulnerable to line congestion charges or outages of such cables;
23. It is of judicial notice that there is no other new base-load power plant project with an ECC that was programmed and committed to come on line in the Province of Basilan at any time except that of Applicant LAMITAN's Power Plant. Hence, the PSA between the Joint Applicants herein to ensure the security, affordability and reliability of its power supply to meet the demand growth in BASELCO's franchise area;

**EXECUTIVE SUMMARY AND THE ABSTRACT OF THE
POWER SUPPLY AGREEMENT**

24. Contracted Capacity and Energy: On June 10, 2020, The Joint Applicants BASELCO and Lamitan entered into a supply and deliver agreement at a contract demand of 2,500 kW and contract energy of 3,650 MWh for a period of 1 year. These contract demand and contract energy cannot be increased or decreased by either party except in cases allowed in the PSA such as scheduled outage (*sic*), unscheduled outage (*sic*) and force majeure;
25. Delivery Point: The contracted capacity and electricity shall be delivered by LAMITAN to BASELCO in Lamitan City with a delivery voltage of 13.2 KV (*sic*). The Rose power plant has an installed capacity of 5MW, comprising of four (4) units of 1250KW (*sic*) Diesel Generator connected in parallel with two (2) unit 3.5MVA Distribution Transformer as setup transformer from 480Volts to 13,200Volts. Both are also connected in parallel and being Synchronize at the 13.2KV (*sic*);
26. From the 13.2 bus of the Rose power plant, a switch was built with three (3) sets of bypasses to be able to operate the power plant on an island mode and as peaking plant of the BASELCO;
27. The switchyard is 120 Meters from the distribution line of BASELCO where a Double cat 13.2KV (*sic*) Line has been constructed, intended for Isabela feeder and for Lamitan feeder. The double circuit line is made of 4/0 ACSR conductor with a maximum carrying capacity of 5MVA and the line hardware are made of silicon rubber installed in a 45-footer concrete pole;
28. LAMITAN shall deliver or cause the delivery of such electricity in accordance with good utility practice and in compliance with appropriate rules and regulations such as the Grid Code and the Distribution Code, the WESM Rules and the Open Access Transmission Service Rules;
29. Initial Delivery Date: The initial delivery date shall be on such date as may be provided by LAMITAN after compliance with the following conditions, to wit:

- a. Receipt by LAMITAN of the Certification from the Payment Account Bank, Land Bank of the Philippines, Isabela City Branch, that a Payment Account has been opened by BASELCO;
- b. That this Honorable Commission has issued an approval, either provisional or permanent of the PSA, including the pricing structure thereto;
- c. LAMITAN, BASELCO and NPC will execute the Subsidy Agreement upon the approval of the PSA and the order of this Honorable Commission is in effect;

30. Electricity Fees. The electricity fees under the PSA are quoted as follows:

Particulars	Rates
Capital Recovery Fee (CF)	PhP2.70/kWh
Fixed O&M Fee	PhP2.95/kwh (<i>sic</i>)
Variable O&M Fee	PhP0.55/kWh
Fuel Fee	Pass thru cost subject to the consumption cap of 0.283 liter/kWh for diesel and lube oil consumption cap of 0.00133 liter/kWh, or actual whichever is lower

31. BASELCO is entitled to Missionary Electrification Subsidy. BASELCO shall be billed by LAMITAN and pay for energy delivered, strictly in accordance with the rate fixed in the CERTIFICATE OF EXEMPTION which provide that it “Shall not be higher than the latest ERC approved tariff for the same or similar technology in the area” which is 5.1157 pesos per kilowatt hour as the Subsidized Approved Generation Rate (SAGR) for the Province of Basilan;
32. The difference between the Lamitan’s True Cost of Generation Rate (TCGR) of PhP17.69 and SAGR of PhP5.1167 shall be collected or recovered from the NPC-SPUG through the Universal Charge-Missionary Electrification Fund (UC-ME) which is to be collected from all electricity end-users;
33. Computation of Fuel and Lube Oil Rate: The details of the computation are specified in ANNEX “I” of the PSA which are made an integral part of this Application;

IMPACT OF PSA ON LAMITAN’S GENERATION COST

34. Should the Honorable Commission approve the Electricity Fees under the PSA, the table below shows the calculation on the rate impact to the consumers of BASELCO and possible effect of the Increase/(Decrease) in Subsidy Requirement if the power shall be sourced from Lamitan;

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	TCGR (PhP/kWh (a))	BASELCO's SAGR PhP/kWh (b)	Subsidy Rate (PhP/kWh (c=a-b))	Energy Generation kWh (d)	Total Required Subsidy PhP (e=c*d)
If source from NPC	16.81	5.1167	11.69	3,600,000	42,082,200.00
If source from Lamitan	17.69	5.1167	12.58	3,600,000	45,273,469.96
Increase/(Decrease) in Subsidy Requirement by sourcing from Lamitan					3,191,269.96
Philippine Forecasted Energy Sales, kWh (for 2019)					91,414,712,438
Rate impact on UC-ME Rate, PhP/kWh					0.0000349

35. Considering that BASELCO is located in one of the Missionary areas, it is entitled for Missionary Electrification subsidy. The generation rate to be charged by BASELCO to its member-consumer shall be the ERC approved Subsidized Approved Generation Rate (SAGR) of PhP4.8024/kWh for Basilan;
36. The expected additional capacity from LAMITAN even as early as the testing and commissioning and pre-commercial operations of the Power Plant will contribute greatly to the improvement of the quality, reliability and affordability of electric power delivered to the customers of BASELCO and the security of supply and stability of Basilan power grid;
37. As stated above, the terms of the PSA expressly states that the performance by LAMITAN and BASELCO of their respective obligations is conditioned on the approval by this Honorable Commission of this Joint Application;
38. It is therefore imperative, with all due respect, that in order for LAMITAN to deliver and for BASILAN to be able to receive power from the former as early as the testing and commissioning and the pre-commercial operations of the Power Plant for this Honorable Commission to issue a Provisional Authority and after a full hearing on the merits, a final approval for the PSA be approved;
39. **CERTIFICATE OF COMPLIANCE:** As stated above, Applicant LAMITAN has already applied with this Honorable Commission for the issuance of a Certificate of Compliance (COC) that will allow it to generate electricity from its Power Plant. A copy of the Certification from the Market Operations Service of this Honorable Commission certifying that Applicant LAMITAN has filed an application for a COC on October 28, 2020 is already attached and marked as ANNEX "R" above;
40. **PROJECT COST:** The Project Cost Breakdown is:

PARTICULARS	PROJECT COST
Land Acquisition	1,000,000
Other Land Improvements	9,389,660
Power Supply System	127,1509,700 (<i>sic</i>)
Buildings	21,370,981
Others	2,124,065
Total	161,035,406
Annual kWh generation	3,650,000
Cost per MW (in Php)	32,207,081

The detailed information on the project cost as shown in the Pre-Closing Trial Balance as of December 31, 2020 is hereto attached and marked as ANNEX "S" hereof;

41. Funding and Sources of Funds, Cash Flow and Basis for the Purchased Power Rate: The Project shall be funded through loans from the Land Bank of the Philippines, Zamboanga Lending Center, equity coming from the local funds and other sources of funds for the Power Plant including the debt-equity ratio for the Project, cash flow and basis for the purchased power rate in the PSA is hereto attached as ANNEXES "T" (Power Supply Procurement Plan) "T-1," (Project Cost Breakdown) "T-2" (Distribution Impact Study) and "T-3" (Certification of Compliance issued by BASELCO,) respectively;
42. Bank Certification: The Certification from the Land Bank of the Philippines, Zamboanga Lending Center and the amortization schedule, term and interest of the loan is hereto attached and marked as ANNEXES "U" and "U-1" hereof;
43. Rate Schedule: The Electricity Fees upon Commercial Operation of the Power Plant are specified in and shall be computed in accordance with ANNEX "B" of the PSA (ANNEX "I") as showed in Section 28 above;
44. Capital Recovery: The Project Cost for the Power Plant is provided in Section 28 of the PSA. The City Government of Lamitan fully intends to enter into a long –term power supply agreement with BASELCO to recover the cost of the capital investments;
45. BOI Certificate: LAMITAN has no plans to apply and avail of the Board of Investment (BOI) Incentives. Hence, no Certificate of Registration with attached Terms and Condition will be provided;
46. Renewable Energy Service/Operating Contract from DOE: The said Contract with DOE cannot be provided as the same is not applicable because of the nature of the Power Plant Project, which is a diesel plant;
47. Certificate of Registration or Certificate of Confirmation of Commerciality: This document is not applicable in the instant Joint Application because the COC is still pending with the ERC;
48. Demand Side Management (DSM): BASELCO is not undertaking any DSM as required by this Honorable Commission. This is because almost seventy percent (70%) of its consumers within the franchise area are residential type with the minimal large loads considering that it is an island electric cooperative with less industrial load;

OTHER DOCUMENTS

49. In support of the instant Application, the herein Applicants submits to this Honorable Commission the following documents:

I. GOVERNMENT REQUIREMENTS:

For BASELCO

- a. Articles of Incorporation ANNEX "H" above
- b. By-Laws ANNEX "H-1" above
- c. Certificate of List of Board of Directors and Board Members ANNEX "H-2" above

For LAMITAM (*sic*)

- a. Republic Act No. 9393 ANNEX "B" above
- b. 2019 Audited Financial Statement ANNEX "C" above

II. Further, pursuant to the Pre-Filing Requirements by this Honorable Commission pursuant to Resolution No. 38, Series of 2006, Rule 20 B section 2 of ERC Guidelines for the Recovery of Cost for the Generation Component of the Distribution Utilities' Rate, Resolution No. 13, Series of 2015 and Resolution No. 1, Series of 2016, the following are not applicable:

- A. Demand Side Management
- B. Competitive Selection Process
- C. BOI Certificate
- D. Renewable Energy Service/Operating Contract from DOE; and
- E. Certificate of Registration or Certificate of Confirmation of Commerciality.

The written justification thereto has already been explained above.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY

50. The Lamitan Power Plant is now 100% complete and is scheduled to begin testing and commissioning;

51. As stated above, under the PSA between the Joint Applicants, in order for LAMITAN to be able to deliver and BASELCO to be able to receive power from the former as early as the testing and commissioning and the pre-commercial operations of the Power Plant, the Honorable Commission with all due respect, must approved the PSA;

52. Thus, a provisional approval with the indicative rate by this Honorable Commission will allow the Joint Applicants herein to comply with their respective obligations under the PSA;

53. The issuance of a provisional authority will allow LAMITAN to charge and collect the respective fees embodied in the PSA. More importantly, it will realize the very reason why the Joint

Applicant entered into PSA, which is to serve the customers/constituents of BASELCO and the City of Lamitan, respectively;

54. Pursuant to ERC Rules and Regulations, it is authorized to exercise its discretion to approve the requested provisional authority subject to the conditions that this Honorable Commission may impose, in the interest of justice;

**ALLEGATIONS IN SUPPORT OF MOTION FOR NON-
DISCLOSURE OF CONFIDENTIAL INFORMATION**

55. Pursuant it (*sic*) Rule 4 of ERC Rules of Practice and Procedure, This Honorable Commission may, upon the request of a party and after determination of the conditions to warrant such confidentiality, treat such information as confidential;
56. Joint Applicants respectfully request that ANNEXES “N” and “T-3” which contain non-public information, data and calculations involving business operations and financial trade secrets reflecting LAMITAN’s investment and business calculations, be treated as confidential documents;
57. Pursuant to Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure, Joint Applicants hereby submit one (1) copy of ANNEXES “N” and “T-3” in a sealed envelope, with the envelope and each page of the document stamped with the word “CONFIDENTIAL.”

PRAYER

WHEREFORE, premises considered, Joint Applicants respectfully prayed from the Honorable Commission:

1. To issue an Order treating ANNEXES “N” and “T-3” of this Joint Application as confidential documents and the information contained therein as confidential and to direct its non-disclosure pursuant to Rule 4, Section 1 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof;
2. Pending hearing of the instant application on the merits, issue a provisional approval of the PSA between the herein Joint Applicants and to approve the Electricity Fees agreed upon by the Joint Applicants in the PSA; and
3. After hearing on the merits, issue a Decision approving the terms and conditions of the Purchase Supply Agreement on the Sale of Electricity dated June 10, 2020 entered into between the herein Joint Applicants, thereby authorizing LAMITAN to charge and collect from BASELCO the Electric Fees corresponding to the:
 - a. Testing and Commissioning Period;
 - b. Pre Commercial Operation Period; and

- c. Commercial Operations Date as contained in the PSA and authorizing BASELCO to pass the full amount thereof to its consumers.

Other reliefs which may be just and equitable are likewise prayed for.

Finding the said *Joint Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020¹ dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)²:

Date	Platform	Activity
22 October 2021 (Friday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and expository presentation
29 October 2021 (Friday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams	Pre-trial Conference and presentation of evidence

Accordingly, LAMITAN and BASELCO are hereby directed to host the virtual hearing at **BASELCO's Principal Office located at Brgy. Binuangan, Isabela City, Basilan**, as the designated venue for the conduct thereof, and ensure that the same is open to the public and the community quarantine guidelines are observed at all times. Moreover, LAMITAN and BASELCO shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

RELATIVE THERETO, LAMITAN and BASELCO are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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;

- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the Mayors and the Local Government Unit (LGU) legislative bodies within BASELCO's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within BASELCO's franchise areas, by any other means available and appropriate, of the filing of the *Joint Application*, its reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, 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 and attend the scheduled hearings; and
- 5) Furnish with copies of the *Joint Application* and its attachments all those making requests therefor, subject to the resolution of the prayer for confidential treatment of information, and reimbursement of reasonable photocopying costs.³

Within five (5) calendar days prior to the date of the initial virtual hearing, LAMITAN and BASELCO must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of their written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked, the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavit of the Editors or Business Managers of the newspapers where the said Notice of Virtual Hearing was published, and the complete issue of the said newspapers;

³ For the e-mail address of the joint applicants, please see page 18.

- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by LAMITAN and BASELCO to inform the consumers within the affected franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Joint Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, LAMITAN and BASELCO are hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Governor, Mayors, and Local Legislative Bodies, and to submit proof of its posting thereof.

LAMITAN, BASELCO and all interested parties are also required to submit to the Commission via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;

- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

LAMITAN and BASELCO must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of LAMITAN and BASELCO to comply with the above requirements 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 the said date of cancellation.

LAMITAN and BASELCO must also be prepared to make an expository presentation of the instant *Joint 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, the nature of the *Joint Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

LAMITAN and BASELCO are hereby directed to file a copy of their Expository Presentation via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. LAMITAN and BASELCO shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

LAMITAN and BASELCO are hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, LAMITAN and BASELCO, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 10 September 2021.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: VMA/LSP/MCCG



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Copy Furnished:

1. City Government of Lamitan (LAMITAN)
Joint Applicant
Rizal Avenue, Lamitan City,
Basilan
2. Basilan Electric Cooperative, Inc. (BASELCO)
Joint Applicant
Brgy. Binuangan, Isabela City,
Basilan
baselco_inc@yahoo.com
baselco_financeteam@yahoo.com
3. The Law Firm of Dupaya and Dupaya
Atty. Anna Caridad Sazon-Dupaya
Counsel for Joint Applicants
Unit 6-B 20 Lansbergh Place Condominium
170 T. Morato corner Scout Castor Sts.,
Quezon City
anndups@yahoo.com
4. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
5. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
citizensdesk@coa.gov.ph
6. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
senateenergycommittee@gmail.com
7. House Committee on Energy
Batasan Hills, Quezon City
committee.energy@house.gov.ph
8. Regulatory Operations Service
Energy Regulatory Commission
Pacific Center Building, San Miguel Avenue, Pasig City
ros@erc.ph
9. Office of the Governor
Province of Basilan
10. Office of the Local Government Unit (LGU) Legislative Body
Province of Basilan
11. Office of the City Mayor
Lamitan City, Basilan
12. Office of the Local Government Unit (LGU) Legislative Body
Lamitan City, Basilan
13. Office of the City Mayor
Isabela City, Basilan
14. Office of the Local Government Unit (LGU) Legislative Body
Isabela City, Basilan
15. Office of the Mayor
Al-Barka, Basilan
16. Office of the Local Government Unit (LGU) Legislative Body
Al-Barka, Basilan
17. Office of the Mayor
Akbar, Basilan
18. Office of the Local Government Unit (LGU) Legislative Body
Akbar, Basilan
19. Office of the Mayor

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- Hadji Mohammad Ajul, Basilan
20. Office of the Local Government Unit (LGU) Legislative Body
Hadji Mohammad Ajul, Basilan
 21. Office of the Mayor
Lantawan, Basilan
 22. Office of the Local Government Unit (LGU) Legislative Body
Lantawan, Basilan
 23. Office of the Mayor
Sumisip, Basilan
 24. Office of the Local Government Unit (LGU) Legislative Body
Sumisip, Basilan
 25. Office of the Mayor
Maluso, Basilan
 26. Office of the Local Government Unit (LGU) Legislative Body
Maluso, Basilan
 27. Office of the Mayor
Tuburan, Basilan
 28. Office of the Local Government Unit (LGU) Legislative Body
Tuburan, Basilan
 29. Office of the Mayor
Tipo-Tipo, Basilan
 30. Office of the Local Government Unit (LGU) Legislative Body
Tipo-Tipo, Basilan
 31. Office of the Mayor
Ungkaya Pukan, Basilan
 32. Office of the Local Government Unit (LGU) Legislative Body
Ungkaya Pukan, Basilan
 33. Office of the Mayor
Municipality of Tabuan-Lasa, Basilan
 34. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Tabuan-Lasa, Basilan
 35. Office of the Mayor
Municipality of Tongkil, Basilan
 36. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Tongkil, Basilan
 37. Office of the Mayor
Municipality of Hadji Muhtamad, Basilan
 38. Office of the Local Government Unit (LGU) Legislative Body
Municipality of Hadji Muhtamad, Basilan