

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE
GENERATION RATE FOR
THE USE, LEASE, AND
OPERATION OF 18 MW
MODULAR GENERATION
SETS**

ERC CASE NO. 2021-108 RC

**ZAMBOANGA CITY
ELECTRIC COOPERATIVE,
INC. (ZAMCELCO),
*Applicant.***

Promulgated:
January 14, 2022

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 29 December 2021, Zamboanga City Electric Cooperative, Inc. (ZAMCELCO) filed an *Application* dated 17 December 2021 (Application), seeking the Commission's approval of the generation rate for the use, lease, and operation of eighteen (18) MW modular generation sets.

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

1. ZAMCELCO is a non-stock, non-profit electric cooperative duly organized and existing under the Philippine Laws, with principal office address at MCLL Highway, Putik, Zamboanga City. It may be served with orders, notices and other legal processes of the Honorable Commission through undersigned Office.
2. ZAMCELCO is presently represented herein by its Chief Management Officer, Marvee M. Espejo, who were duly authorized by its Board of Directors in Board Resolution No. 104, Series of 2021, to file the instant application.

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3. ZAMCELCO holds an exclusive franchise issued by the National Electrification Commission to operate an electric light and power distribution service in Zamboanga City.
4. Pursuant to Section 25 of Republic Act No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001” (EPIRA), Rule 20 (A) of the ERC Rules of Practice and Procedure and ERC Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities’ (DUs) Rates, Applicant submits this Application for the approval of the proposed generation rate for the use, lease, operation, and generation of 18 MW Modular Generator Set (Gensets) to the Honorable Commission for its due consideration and approval.
5. Section 25 of the EPIRA provides that “the retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that will promote efficiency as may be determined by the ERC”. Further, section 3(ss) defines retail rate as “the total price paid by end-users consisting of the charges for generation, transmission and related ancillary services, distribution, supply and other related charges for electric service.”
6. On 3 January 2019, the management of ZAMCELCO was turned over to the Joint Venture (“JV”) between Crown Investment Holdings, Inc. (Crown) and DESCO, Inc. pursuant to an Investor-Manager Contract (“IMC”).
7. Under the IMC, the JV shall manage ZAMCELCO, which includes among others, the settling of ZAMCELCO’s justified and lawful monetary liabilities and improving its services.
8. On 04 February 2019, Western Mindanao Power Corporation (“WMPC”) ceased to supply power to ZAMCELCO due to a dispute between the parties in relation to possible overbillings made by WMPC and the non-effectivity of their Power Supply Agreement (“PSA”).
9. The supply from WMPC is used by ZAMCELCO to balance the grid and address the voltage drops because of NGCP’s inability to maintain the voltage level required by the Zamboanga City grid. The average dispatch energy of WMPC for 2018 ranged between 10MW to 28MW during peak hours of 1pm to 7pm.
10. ZAMCELCO instituted emergency measures, including the acquisition and dispatch of its own generators to address lack of electricity supply resulting from WMPC’s unilateral actions, and pending the resolution of the issue between ZAMCELCO and WMPC.

11. Considering the high demand during the summer months of 2019 and the opening of canning factories within its franchise area in March 2019, ZAMCELCO deemed it best to augment its available supply, and thus secure and provide power to its customers through the lease of generator sets in order to address the anticipated supply shortages.
12. To be fully compliant to its franchise duty to provide continuous supply of electricity to its customers, it was imperative for ZAMCELCO to draw additional electric energy from other sources in order to avert the widespread and long rotational blackouts in its franchise area.
13. For this reason, ZAMCELCO requested for quotations from various lessors of diesel-fired generator sets, this being the only available and cost-effective supply option available to it at that time.
14. After receiving several quotations from interested parties, ZAMCELCO selected two lessors for a total of 18MW Gensets.
15. On 19 February 2019, ZAMCELCO initially resolved to authorize Crown, represented by Henry Rophen Virola, to file an Application before the Honorable Commission for ZAMCELCO's leased Gensets with a minimum capacity of 8MW to a maximum capacity of 18MW.
16. On 06 March 2019, ZAMCELCO requested for Certificate of Exemption (COE) for conducting CSP under Section 2.2 of Department of Energy ("DOE") Department Circular No. 2018-02-0003, to wit:
 - 2.2.1. Any generation project owned by the DU funded grants or donations. The DU may be allowed to infuse internally generated funds; provided, that the amount shared by the DU shall not exceed 30% of the total project cost; Provided further, that taxes to be paid by the DU shall not be included in the total project cost;
 - 2.2.2. Negotiated procurement of emergency power supply; Provided, that the cooperation period of the corresponding PSA shall not exceed one (1) year; Provided further, that the rate shall not be higher than the latest ERC approved generation tariff for same or similar technology in the area;
17. ZAMCELCO, in its letter dated 06 March 2019 to DOE, explained that: "(i) the Gensets will be operated by ZAMCELCO, albeit through lease agreements. Thus, effectively, ZAMCELCO will exercise possession, control and ownership over the generation aspect of the project; (ii) the acquisition of the Gensets may likewise be considered 'negotiated procurement of emergency power supply', to the extent that the asset which shall produce the energy supply

will be procured or sourced from third parties the period of use of Gensets will not exceed one (1) year, and that the need of power supply can be categorized as emergency in nature, especially due to the sudden cut of power supply from WMPC.”

18. In view of the Supreme Court Decision in *Alyansa Para sa Bagong Pilipinas, Inc. vs. the Energy Regulatory Commission, et al.*, G.R. No. 227670, May 3, 2019, on 13 June 2019, ZAMCELCO submitted additional documents to support the request for CSP-COE and emphasized the necessity for the use of the modular gensets.
19. Unfortunately, the DOE took over one year to process the request. In the meantime, ZAMCELCO had to immediately operate the generator sets as otherwise the entire city grid will blackout due to the sudden cut of supply by WMPC. In this regard, ZAMCELCO never had the opportunity to secure a certificate of compliance for the rented generator sets.
20. In its Letter dated 21 April 2020, the DOE approved ZAMCELCO’s request for CSP-COE for the lease of modular Gensets with contracted capacity of 18MW. Consequently, a corresponding Certification of even date was likewise issued by the DOE in favor of ZAMCELCO. By this time, the generator sets have ceased operations already due to the compromise agreement reached with WMPC.
21. The use, operation, and lease of said Gensets by ZAMCELCO augmented and provided the needed power supply within its franchise area, and thus, benefitted its member-consumers and allowed them to enjoy continuous, uninterrupted, adequate, stable, and reliable energy supply, particularly during the critical supply months of March to September 2019.
22. However, since there was no approved rate yet for such emergency supply, ZAMCELCO deemed it prudent not to include the associated costs thereof in its generation charges for the relevant months, until it shall have secured the requisite regulatory authority from the Honorable Commission. Before doing so, however, it waited for the DOE’s CSP-COE, which was as afore-stated finally issued on 21 April 2020.
23. ZAMCELO leased and operated three areas of generator sets to boost voltage in various areas in the city grid with a total of 24 MW in capacity, rotating the operation from generator set areas wherever voltage stability is required. During this period, the three generator sets generated 21,804,042 KwHrs for ZAMCELCO consumers.
24. To reiterate, Section 25 of the EPIRA, provides that “the retail rates charged by distribution utilities for the supply of electricity in their captive market shall be subject to regulation

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by the ERC based on the principle of full recovery of prudent and reasonable economic costs incurred, or such other principles that will promote efficiency as may be determined by the ERC”.

25. Accordingly, ZAMCELCO hereby submits for the due consideration and approval of this Honorable Commission its proposed rate for the use, lease, operation, and generation of 18MW Gensets as indicated in the schedule below, to wit:

RATE COMPONENT	RATE	
	Php/kW/Mo.	Php/kWh
Rental Fee	537.59	
Fixed Operating & Maintenance	29.35	
Variable Operating & Maintenance		
Fuel Fee		10.0351
Total	566.94	PhPo.4550

26. Based on simulation, the total cost per kWh for the use, lease, and operation of the 18MW Gensets is much lower as compared with the effective PhP/kWh rate of other existing diesel-fired power plants during the relevant period.
27. As itemized above, the total recoverable generation costs associated with the use, lease, and operation of the 18MW Gensets amount to PhP402,495,551.56. Based on ZAMCELCO’s monthly average kWh sales of 48,052,709 for the past six months and a recovery period of six months equivalent to the term of the lease, the rate impact of the generation cost recovery being applied for is 1.3960 kWh. To mitigate this increase, however, ZAMCELCO proposes a longer recovery period of 18 months to reduce the rate impact to PhPo.4550/kWh.
28. In support of this Application, the following documents are herein attached and made as an integral part of this Application, to wit:

ANNEX	NATURE OF DOCUMENT
“A” to “A-2”	ZAMCELCO’s Board Resolution No. 104, Series of 2021, Board Resolution No. 118A dated August 6, 2020 and Board Resolution No. 23 dated March 18, 2021, authorizing Marvee M. Espejo, Chief Management Officer to represent ZAMCELCO to file before Energy Regulatory Commission (ERC) an application for the recovery of the cost incurred for the operation of generator sets, sign the verification and certification, and other documents related thereto, and authorizing Salvanera Guzman Law Office and/or any of its lawyers,

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ANNEX	NATURE OF DOCUMENT
	to represent ZAMCELCO as Legal Counsel in the proceedings
“B”	ZAMCELCO’s Bureau of Internal Revenue (BIR) Certificate of Registration or BIR Revenue Form 2303
“C”	ZAMCELCO’s Certificate of Franchise
“D”	ZAMCELCO’s Articles of Incorporation
“E”	ZAMCELCO’s By-Laws
“F”	ZAMCELCO’s Letter dated 06 March 2019 to DOE
“G”	ZAMCELCO’s Letter dated 13 June 2019 to DOE
“H”	DOE’s Letter dated 21 April 2020
“I”	Certification issued by DOE dated 21 April 2020 (CSP-COE)
“J”	ZAMCELCO’S Board Resolution No. 16, Series of 2019, entitled “Resolution authorizing Crown Investment Holdings, Inc., represented by Henry Rophen Virola, to file application before the Energy Regulatory Commission (ERC) for Zamboanga City Electric Cooperative, Inc. (ZAMCELCO’s) rental of generator sets with a minimum capacity of 8 MW to a maximum capacity of 18 MW
“K”, series	Quotations from various lessors of diesel-fired generator sets
“L”, series	Contracts of Lease between ZAMCELCO and various land lessors
“M”, series	Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR)
“N”	18MW Modular Generating Set General Plant Description and Specification
“O”, series	Receipts, invoices, etc. proof of actual expenses (fixed, O&M, fuel) in operating the 18 MW Gensets
“P”, series	Meter reports (or other credible proof of actual kWhs generated)
“Q”	ZAMCELCO’s Certification on Demand Side Management
“R”	ZAMCELCO’s Distribution Development Plan (DDP) Summary
“S”	ZAMCELCO’s Average Daily Load Curve
“T”, series	ZAMCELCO’s Certificates of Approval to Connect
“U”	ZAMCELCO’s Audited Financial Statement 2019
“V”	ZAMCELCO’s NEA Certificate of Registration
“W”, series	Fuel Fee
“X”, series	Rate Recovery Simulation
“Y”	Executive Summary
“Z”	Sworn Statement on Fuel Procurement
“AA”	List of Directors

ANNEX	NATURE OF DOCUMENT
“BB”	Write-ups
“CC” to “CC-2”	Net Heat Rates (Oil Consumption Guarantee Certificates)
“DD”	Supply and Demand Scenario

COMPLIANCE WITH PRE-FILING REQUIREMENTS

29. In compliance with the pre-filing requirements for the instant Application, it is submitting the following documents which are being made integral parts thereof, to wit:

Annexes	Description of Document
“EE”, series	Proof of receipt of copies of the Application from the concerned Offices of the Mayor/Governor and the Sangguniang Panlungsod/Panglalaawigan.
“FF”	Newspaper where the Application was published
“GG”	Affidavit of Publication

PRAYER

WHEREFORE, ZAMCELCO respectfully prays that, after due notice and hearing, the instant Application be **APPROVED**, and that:

- a) ZAMCELCO be allowed to recover the generation costs associated with the use, lease, and operation of the 18MW Gensets from March 2019 to September 2019 in the amount of PhP402,495,551.56; and
- b) ZAMCELCO be authorized to impose the rate of PhPo.4550/kWh to its member-consumers for the recovery of such generation costs over a period of 18 months or until such time that it is fully recovered.

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

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

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

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Date and Time	Platform	Activity
01 March 2022 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Determination of compliance with jurisdictional requirements and Expository presentation
08 March 2022 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (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.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may likewise file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of

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Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 12th day of January 2022 in Pasig City.


AGNES XST DEVANADERA
Chairperson and CEO


LS: BJV/MCCG

