

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



IN THE MATTER OF THE
APPLICATION FOR APPROVAL
OF THE POWER SALES
AGREEMENT (PSA) BETWEEN
CAGAYAN ELECTRIC POWER
AND LIGHT COMPANY,
INCORPORATED (CEPALCO)
AND MAPALAD POWER
CORPORATION (MPC), WITH
PRAYER FOR PROVISIONAL
AUTHORITY

ERC CASE NO. 2014-122 RC

CAGAYAN ELECTRIC POWER
AND LIGHT COMPANY,
INCORPORATED (CEPALCO)
AND MAPALAD POWER
CORPORATION (MPC),
Applicants.

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D O C K E T E D
Date: SEP 23 2014
By: [Signature]

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on August 26, 2014, Cagayan Electric Power and Light Company, Incorporated (CEPALCO) and Mapalad Power Corporation (MPC) filed an application for approval of their Power Sales Agreement (PSA), with prayer for provisional authority.

In the said application, CEPALCO and MPC alleged, among others, that:

The Applicants

1. CEPALCO is a private electric distribution utility organized and existing under the laws of the Republic of the

Philippines with office address at 33 Don Toribio Chaves Street, Cagayan de Oro City. It has a legislative franchise to distribute electricity in the City of Cagayan de Oro (*except the Barangays of Balkingon, San Simon, Pagatpat, Tagpangi, Pagalungan, Taglimao, Tuburan, Pigsag-an, Tumpagon, Bayanga, Mambuaya, Dansolihon, Tignapoloan, Besigan and a portion of Canitoan, Republic Act No. 9284, Section 1*) and the Municipalities of Tagoloan, Villanueva, and Jasaan, all in the Province of Misamis Oriental. A copy of its Certificate of Public Convenience and Necessity (CPCN) is attached to the application;

2. MPC is a generation company duly authorized and existing under the laws of the Republic of the Philippines, with principal address at 4th Floor, Alphaland Southgate Tower, 2258 Chino Roces Avenue corner EDSA, Makati City. Copies of its Certificate of Incorporation, Articles of Incorporation, By-Laws, latest General Information Sheet (GIS), and Audited Financial Statements (AFS) are, likewise, attached to the application;

Nature of the Application

3. Pursuant to Rule 20 (B) of the ERC Rules of Practice and Procedure, approved by the Commission on June 22, 2006 in Resolution No. 38, Series of 2006, the instant application is submitted to the Commission for its review and approval of their PSA dated July 22, 2014. A copy of the said PSA is attached to the application;

Compliance with Pre-filing Requirements

4. In compliance with Rule 6 of the ERC Rules of Practice and Procedure, they have furnished the legislative bodies of each of the local government units in CEPALCO's franchise area and in the place where MPC holds its principal office with copies of the present application and all its annexes and accompanying documents. corresponding proofs of receipt are, likewise, attached to the application;
5. Further, they have caused the publication of the present application in its entirety, excluding its annexes, in a

newspaper of general circulation within CEPALCO's franchise area. Copies of the newspaper and the corresponding affidavit of publication are attached to the application;

Statement of Facts

6. **Shortage of Power Supply in the Mindanao Grid.** The Mindanao Grid has long been suffering from a deficit in its power supply. The generating capacity in the Grid is no longer sufficient to meet the power requirements of Mindanao;
7. As a result, various parts of Mindanao have suffered from significant power outages, adversely affecting local businesses and the daily lives of all electricity consumers;
8. **Drastic Reduction in the National Power Corporation (NPC)/Power Sector Assets and Liabilities Management Corporation's (PSALM) Supply.** In addition, the main power supplier in Mindanao significantly reduced its allocations to distribution utilities, further aggravating the power shortage;
 - 8.1 PSALM, which took over all the power generation assets of NPC pursuant to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA, supplies the bulk of the power requirements of Mindanao. NPC/PSALM, likewise, supplies a significant portion of CEPALCO's current power supply;
 - 8.2 Recently, NPC/PSALM significantly reduced its firm supply commitments to distribution utilities in Mindanao, by about one-third (1/3);
 - 8.3 CEPALCO's current Contract for the Supply of Electric Energy (CSEE) with NPC/PSALM will expire in March 2015, after which, any allocation from NPC/PSALM is, likewise, expected to be significantly reduced; and

8.4 **PSALM Certification.** CEPALCO has requested PSALM for a certification on whether it will have available capacity and energy to supply CEPALCO during the term of the PSA. CEPALCO undertakes to submit the certification to the Commission once it is obtained. A copy of the said request is attached to the application;

9. **CEPALCO's Power Suppliers.** A summary showing CEPALCO's power providers, with their corresponding contracted capacities and terms of supply, is shown in the table below:

CEPALCO's Suppliers				
Power Supplier	Installed Capacity (MW)	Contract Capacity (MW)	Effectivity/ Commercial Operation	Contract Term (Years)
MINERGY Diesel 1	18.9	15.31	1995	15 (extended for another 12 years)
MINERGY Diesel 2	27.4	20	Jan 2012	20
Cabulig Hydro-Electric Power Plant	8.0	As available	Oct 2012	30
FG Bukidnon Power Corporation	1.8	As Available	Apr 2005	20
Photovoltaic Plant (owned by CEPALCO)	1.0	As Available	Oct 2004	
Bubunawan Power Corporation	7.0	As Available	Under Rehabilitation	25
MINERGY Coal Corporation	110.0	100	2017	25
PSALM		Variable Monthly	March 26, 2005, amended on March 27, 2006	10 or until March 2015

10. **Necessity for Additional Power Supply.** In order to ensure sufficient power supply to CEPALCO's customers, the power requirements within its franchise should be adequately covered by supply contracts;

10.1 In addition to the expected reduction in supply from PSALM, the power demand in CEPALCO's franchise area is expected to steadily increase at an annual average growth rate of five percent (5%). Copies of CEPALCO's Supply-Demand Forecast and Distribution Development Plan (DDP) showing

its load forecast projections are attached to the application;

11. Hence, there is a need for CEPALCO to procure power supply so that the power requirements of its customers are sufficiently addressed;

12. Recent events have further highlighted the need for additional power supply;

12.1 In May 2014, the biggest power supplier in the Mindanao Grid, the STEAG coal-fired power plant, broke down. This caused a prolonged power supply shortage in the Grid, resulting in power curtailment throughout the Island; and

12.2 As a result, CEPALCO was constrained to implement in its franchise area daily rotational brownout lasting around two (2) to seven (7) hours;

13. **Procurement Process for Supply.** Thus, CEPALCO exerted efforts to procure power supply contracts with generation companies;

14. In order to augment the available power supply especially in case of unforeseen circumstances such as the STEAG outage, CEPALCO negotiated with MPC for the purchase of any available power supply. Since the capacity MPC's power plant is already fully contracted with its other customers, MPC offered to supply power to CEPALCO on a non-firm basis;

15. Based on its evaluation, CEPALCO determined that, as compared to the prices of other suppliers at that time, MPC's offer of non-firm supply would result in the lowest generation cost to it, to the benefit of its customers. Thus, CEPALCO executed the PSA with MPC for the supply of power on a non-firm basis. An affidavit supporting the foregoing is attached to the application;

16. Under the law, no contract for the supply of power can become legally effective unless approved by the Commission. Hence, this instant application;

Abstract of the PSA and Related Information

17. **The Generation Facilities.** To supply power under the PSA, MPC shall operate and maintain its bunker C-fired diesel power station located in Sitio Mapalad, Barangay Dalipuga, Iligan City (MPC Power Plant);
18. The MPC Power Plant has a total net generating capacity of 103 MW, including a 5 MW unit which was relocated from Sarangani Province to the MPC Power Plant site. A copy of a certification on the Plant's specific fuel oil consumption rate is, likewise, attached to the application;
19. **Salient Features of the PSA.**
 - 19.1 **Supply of Power Requirements.** Under the PSA, MPC shall supply or cause to supply to CEPALCO capacity and energy on a non-firm basis, subject to the terms and conditions of the PSA, including a dispatch and nomination procedure therein (*Sec. 4.1, Sec. 6.2, PSA*);
 - 19.2 In essence, if at any point, CEPALCO has unserved power requirements, it may request MPC for supply, and MPC may, if it has available capacity, supply such requirements;
 - 19.3 As it is a non-firm contract, CEPALCO shall not be liable for any failure or refusal to request supply, neither shall MPC be liable for any failure to deliver the requested supply (*Sec. 4.1, PSA*);
 - 19.4 **Commencement Date.** The foregoing arrangement shall commence on the date designated by MPC as the date on which the MPC Power Plant is ready to commence operations under the PSA (*Sec. 1.1, PSA*);
 - 19.5 **Term.** The term of the PSA shall expire on December 31, 2015, unless otherwise renewed by mutual agreement of the parties or terminated earlier in accordance with the terms of the PSA (*Sec. 16.1, PSA*); and

19.6 **Effective Date.** The obligations under the PSA shall become effective upon the Commission's approval or confirmation that CEPALCO may purchase power from MPC as provided in the PSA (Sec. 3.1, PSA);

20. **Purchased Power Rate.** For the supply of power by MPC, CEPALCO shall pay the monthly payments based on the following formulae:

20.1 **Monthly Payments.** The Monthly Payments shall be paid to the Seller on a monthly basis in accordance with the following formula:

$$\text{Monthly Payments} = \text{CRF} + \text{FOMF} + \text{VOMF} + \text{AFC} + \text{SC} + \text{Taxes}$$

Where:

CRF = Capital Recovery Fees

FOMF = Fixed Operation and Maintenance (O&M) Fee

VOMF = Variable O&M Fee

AFC = Actual Fuel Cost

SC = Start-Up Costs

Taxes = Value-Added Tax (VAT), other applicable taxes and government impositions, if any

20.2 **Capital Recovery Fee (CRF).** The CRF shall be computed as follows:

$$\text{CRF} = \text{CRFR} \times \text{ED}$$

Where:

CRF = Capital Recovery Fee, in Pesos

$$CRFR = \frac{\text{PhP}250.18}{(\text{Hours in the Billing Month})}$$

ED = kWh delivered during the Billing Month

20.3 Fixed O&M Fee (FOMF). The FOMF covers the operating and maintenance costs of the MPC Power Station. It shall be computed according to the following formula:

$$FOMF = \left\{ FOMR \times \left[\left(0.58 \times \frac{CPI_n}{CPI_o} \right) + \left(0.02 \times \frac{WPC_n}{WPC_o} \right) + \left(0.40 \times \frac{EU_n}{EU_o} \times \frac{FPPI_n}{FPPI_o} \right) \right] \right\} \times ED$$

Where:

FOMF = Fixed O&M Fee, in Pesos

$$FOMR = \frac{\text{PhP}217.62}{(\text{Hours in the Billing Month})}$$

ED = kWh delivered during the Billing Month

CPI_n = Consumer Price Index (CPI) for Metropolitan Manila Area (National Capital Region), all items published by the NEDA/NSO for the period of price determination

CPI_o = CPI for Metropolitan Manila Area (National Capital Region), all items published by the NEDA/NSO for June 2010 (at 115.9, 2006 = 100)

WPCn	=	Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines, as published by the NEDA/NSO for the period of price determination
WPCo	=	Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines, as published by the NEDA/NSO for June 2010 (at 518.2, 1998=100)
EUn	=	Euro-Peso Exchange Rate for the period of price determination, as published by the Bangko Sentral ng Pilipinas (BSP)
EUo	=	Euro-Peso Exchange Rate for June 2010 (at PhP56.5910/1Euro) as published by the BSP
FPPIn	=	Finland Producers' Price Index for Manufacturing for the period of price determination, as published in the International Financial Statistics of the International Monetary Fund (IMF)
FPPIo	=	Finland Producers' Price Index for Manufacturing for June 2010 (at 108.5), as published in the International Financial Statistics of IMF

20.4 **Variable O&M Fee (VOMF).** The VOMF covers the cost of the use of, among other items, chemicals, lubricants and spare parts that are directly related to the generation of the MPC Power Station. It shall be computed according to the following formula:

$$VOMF = \left\{ VOMFR \times \left[\left(0.10 \times \frac{CPI_n}{CPI_o} \right) + \left(0.60 \times \frac{WPC_n}{WPC_o} \right) + \left(0.30 \times \frac{EU_n}{EU_o} \times \frac{FPPIn}{FPPIo} \right) \right] \right\} \times ED$$

Where:

FOMF	=	Fixed O&M Fee, in Pesos
VOMF	=	Variable O&M Fee, in Pesos
VOMFR	=	Variable O&M Fee Rate of PhP0.17/kWh
ED	=	kWh delivered during the Billing Month
CPIn	=	CPI for Metropolitan Manila Area (National Capital Region), all items published by the NEDA/NSO for the period of price determination
CPlo	=	CPI for Metropolitan Manila Area (National Capital Region), all items published by the NEDA/NSO for June 2010 (115.9, 2006 = 100)
EUn	=	Euro-Peso Exchange Rate for the period of price determination, as published by the BSP
EUo	=	Euro-Peso Exchange Rate for June 2010 (at PhP56.5910/1Euro) as published by the BSP
FPPIIn	=	Finland Producers' Price Index for Manufacturing for the period of price determination, as published in the International Financial Statistics of IMF
FPPIo	=	Finland Producers' Price Index for Manufacturing for June 2010 (at 108.5), as published in the International Financial Statistics of IMF

WPCn = Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines, as published by NEDA/NSO for the period of price determination

WPCo = Wholesale Price Index for Mineral Fuels, Lubricants and Related Materials for the Philippines, as published by the NEDA/NSO for June 2010 (at 518.2)

20.5 **Actual Fuel Cost (AFC).** The AFC is the fee paid to the Seller as payment for the procurement and delivery of the fuel oil (Diesel) used in the operation of the MPC Power Station. The AFC shall be computed as follows:

$$AFC = FCRF + FCRFadj$$

Where:

CRF = Capital Recovery Fee, in Pesos

AFC = Actual Fuel Cost, in Pesos

FCRF = Base Fuel Cost Recovery Fee
= FCR x ED

FCR = Fuel Price of PhP7.21/kWh, based on November 2012 delivered price of Bunker C Fuel Oil at plant site of PhP30.50/liter, density of 0.9855 gram/liter and Specific Fuel Oil Consumption of 0.233 kg/kWh)

FCRFadj = Fuel Cost Recovery Adjustment based on MOPS price of Bunker C/Heavy Fuel Oil (HFO) deliveries during period of price determination in Peso/liter

$$= (FC_n - FC_o) \times 0.233 \text{ kg/kWh} \times \text{ED}$$

FC_n = The average MOPS price of Bunker C Fuel Oil/Heavy Fuel Oil (HFO) deliveries during the period of price determination in Peso/liter

FC_o = The December 2012 reference price of MOPS Bunker C Fuel/Heavy Fuel Oil (HFO) fuel at PhP30.50/liter (delivered) in Peso/liter

20.6 Start-Up Costs (SC). The Buyer, on a pro rata basis of the capacity of the MPC Power Station allocated to the Buyer, shall pay the Seller Start-Up Costs for the cost of starting up the MPC Power Station after a period of shutdown due to any reason attributable to all the buyers of the Seller. The Start-Up Costs shall be computed based on the prevailing price of diesel fuel at the time of the Start Up and paid in accordance with the following:

$$SC = (\text{No. of cold Start-ups} \times 600 \text{ liters} \times \text{price of Diesel per liter}) + (\text{No. of Warm Start-ups} \times 300 \text{ liters} \times \text{price of Diesel per liter})$$

<i>Type of Start-Up</i>	<i>Liters of Diesel Fuel</i>
Cold Start-up (more than 10 hours of shutdown)	600
Warm Start-up (less than 10 hours of shutdown)	300

20.7 VAT. The relative VAT of the above fee payments of twelve percent (12%) shall be computed as follows:

$$VAT = (CRF + FOMF + VOMF + AFC + SC) \times 0.12$$

For reference, a sample computation of the fees is contained in Schedule C of the PSA;

- 20.8 **Basis for Indexation.** As indicated in the formulae above, the monthly fees to be paid by CEPALCO are subject to adjustments based on various indices or factors in order to properly reflect the fluctuation of MPC's costs in producing electricity; and
- 20.9 The components of the O&M Fees representing foreign currency-denominated costs are adjusted based on the foreign exchange rate and the appropriate foreign price indices. Those representing local costs are adjusted based on local price indices. The AFC vary based on the applicable fuel cost index;
21. **Sources of Funds/Financial Plans.** The Project is being funded through loans and equity, with a debt-equity ratio of 68:32. For the relocated unit, the same will be funded wholly by equity;
- 21.1 **Project Cost.** The total project cost for the MPC Power Plant to date is PhP1.456 billion. A breakdown of the total project cost to date is attached to the application. For reference, a comparison between the said total project cost and earlier project cost totals is, likewise, attached to the application;
- 21.2 **Annual Interest.** MPC's actual interest cost is 6.5% per annum; and
- 21.3 **Computation of Weighted Average Cost of Capital (WACC).** The nominal pre-tax WACC of the Project is 12.38%. A computation of the said WACC is attached to the application;
22. **Cash Flow.**
- 22.1 **Breakdown of O&M Expenses.** A breakdown of the projected operating expenses is attached to the application. For reference, a comparison between MPC's updated and previous projected fixed operating expenses is, likewise, attached to the application;

23. **Fuel Supply.** In order to ensure the supply of fuel for the operations of the MPC Power Plant, MPC solicited offers from reputable suppliers in the area, and has contracted with the supplier which offered the best terms. A copy of its Fuel Supply Agreement is attached to the application;

24. **Environmental Compliance Requirements.** The Office of the President of the Republic of the Philippines previously approved the exemption of the MPC Power Plant from the requirement of an Environmental Compliance Certificate (ECC). Nevertheless, the MPC Power Plant will be operated responsibly in accordance with good utility practice and in accordance with all relevant laws and regulations, including environmental laws. Copies of documents evidencing such exemption are attached to the application;

25. **The Department of Energy (DOE) Certification.** The DOE has certified that the capacity of the MPC Power Plant is consistent with its Power Development Plan (PDP). A copy of the said certification is, likewise, attached to the application;

26. **Certificate of Compliance (COC).** On October 19, 2013, the Commission issued a COC covering the MPC Power Plant. On March 10, 2014, the Commission issued a separate COC for the relocated unit. Copies of the COCs are attached to the application;

Rate Implications of the PSA

27. In order to determine the impact of the implementation of the PSA on CEPALCO's generation costs, an analysis was conducted taking into consideration comparable alternative sources of supply;

28. The results of the analysis show that the non-firm supply under the PSA will result to lower cost of purchased power of CEPALCO, which will translate to lower generation costs for its customers. A copy of the said analysis is attached to the application;

29. The results of the said analysis are summarized in the tables below:

Particulars	MPC	If sourced from available suppliers		
		ILP	Modular Gensets	IMEM
Ave. Price (PhP/kWh)	8.6300	14.2800	15.71	32.0000
Weighted Generation Cost (PhP/kWh)	0.0071	0.0117	0.0129	0.0263
Rate Impact: MPC is lower by (PhP/kWh):		0.0046	0.0058	0.0192

The main assumptions are as follows:

- a. Average price of MPC was based on actual purchases in May 2014;
- b. Effective price of Interruptible Load Program (ILP) is based on a fuel price of PhP42.00 per liter. Fuel conversion rate is at 0.34 liter per kWh, as approved by the Commission under the Amended ILP Guidelines (ERC Resolution No. 8, Series of 2013); and
- c. Price for a modular generator set is based on the lower price offered by suppliers of modular gensets to CEPALCO, with the following assumptions:
 - i. Fuel price at PhP42.00 per liter;
 - ii. Exchange rate assumption at PhP44.00/US\$; and
 - iii. Fuel conversion rate of 0.2678 liter per kWh

**Allegations in Support of the Motion
for Provisional Authority**

30. As discussed above, CEPALCO's forecasted demand is expected to increase steadily in the coming years. Moreover, NPC/PSALM, which supplies a significant portion of CEPALCO's current power requirements, is expected to significantly reduce its firm supply commitments to CEPALCO when the current contract expires in 2015;

31. In addition, the recent outage of the STEAG power plant further highlighted the immediate need for additional supply;
32. Hence, the need for CEPALCO to secure additional power supply. Otherwise, it would not have sufficient power supply to the detriment of the residents and enterprises in its franchise area;
33. A provisional approval of the present application will greatly redound to the benefit of CEPALCO's customers as it will allow it to obtain additional power from any available supply from MPC, especially, in case of unforeseen circumstances similar to the STEAG plant outage;
34. Hence, they move for the provisional approval of the instant application pursuant to Rule 14 of the ERC Rules of Practice and Procedure. A copy of the sworn statement supporting the said motion is attached to the application; and

Prayer

35. Thus, they pray that the Commission: a) Immediately issue an Order provisionally approving the PSA subject of the instant application, as well as the generation rate and adjustment mechanisms indicated therein; and b) After due hearing, render judgment making such provisional approval permanent.

The Commission has set the application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **October 16, 2014 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at CEPALCO's Conference Room, 44 Toribio Chaves Street, Cagayan de Oro City.**

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicants conclude the presentation of their evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicants, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicants are hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENAIDA G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **JOSEFINA PATRICIA A. MAGPALE-ASIRIT**, Energy Regulatory Commission, this 15th day of September, 2014 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III