

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE POWER
SUPPLY AGREEMENT (PSA)
BETWEEN FIRST BUKIDNON
ELECTRIC COOPERATIVE, INC.
(FIBECO) AND MARAMAG MINI
HYDRO POWER CORPORATION
(MMHPC), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2015-031 RC

**FIRST BUKIDNON ELECTRIC
COOPERATIVE, INC. (FIBECO)
AND MARAMAG MINI HYDRO
POWER CORPORATION
(MMHPC),**

Applicants.

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DOCKETED
Date: MAR 13 2015
By: *ln*

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on February 27, 2015, First Bukidnon Electric Cooperative, Inc. (FIBECO) and Maramag Mini Hydro Power Corporation (MMHPC) filed an application for the approval of their Power Supply Agreement (PSA), with prayer for the issuance of provisional authority.

In the said application, FIBECO and MMHPC alleged, among others, the following:

1. FIBECO is a non-stock, non-profit electric cooperative existing pursuant to Presidential Decree No. 269 (P.D. 269), as amended, with office address at Anahawon, Maramag, Bukidnon;

2. MMHPC is a domestic corporation organized and existing under the laws of the Republic of the Philippines which may be served with summons at FIBECO Office, Anahawon, Maramag, Bukidnon, and represented in the instant application by its President, Mr. Eden S. Sopanjare;
3. Pursuant to Rule 20 (B) of the Commission's Rules of Practice and Procedure, and other pertinent rules and regulations, the instant application is filed for its due consideration and approval;
4. In Compliance with Rule 6 of the said Rules, FIBECO served copies of the application together with all of its annexes to the legislative bodies of the provinces, cities and municipalities where it principally operates;
5. It likewise caused the publication of the entire application in Goldstar Daily, a newspaper of general circulation in Mindanao and within FIBECO's franchise area covering the City of Valencia, the Municipalities of Kitaotao, Danggagan, Don Carlos, Maramag, Quezon, San Fernando, Pangantucan, Kalilangan, Kibawe, Damulog, Kadingilan and Wao in the Province of Lanao del Sur. The Affidavit of Publication and the newspaper where and when said application was published is attached to the instant application;

FIBECO'S SUPPLY AND DEMAND SCENARIO

I. SUPPLY

6. At the time of the filing of the instant application, FIBECO is presently sourcing power from the following generators on a monthly basis:

NPC-PSALM	9.7 MW	10,300,508 kWh	8/25/06 to 8/25/15
KEGI	3.2 MW	700,000 kWh	2012 to 2022
Crystal Sugar Co.	4.0 MW	2,800,000 kWh	shown below**
Total	16.9 MW	14,800,000 kWh	

** Non firm (during milling season 8 months and 2 months off milling)

FIBECO has likewise entered into power supply contracts with the following GN Power Kauswagan, Inc. and FDC Utilities, Inc, but this will be effective in the later part of 2017.

7. The above power supply agreements cover only the base load requirement of FIBECO;

II. CAPACITY AND DEMAND

8. The forecasted capacity and energy demand of FIBECO for years 2014 to 2023 is projected as follows (all in Megawatt hours (MWH, except the demand in Megawatts (MW)):

Year	2014	2015	2016	2017	2018
Energy Purchased	168,242.18	178,557.63	189,282.12	200,419.80	211,973.73
Sales	148,204.59	157,264.53	166,679.55	176,453.44	186,589.00
Demand	31.54	33.08	34.58	36.10	37.62
Year	2019	2020	2021	2022	2023
Energy Purchased	223,946.26	236,339.18	249,153.95	262,391.70	276,053.40
Sales	197,088.35	207,953.15	219,184.71	230,784.08	242,752.13
Demand	39.15	40.67	42.19	43.71	45.23

9. FIBECO is heavily dependent on hydro powered electricity from NPC. It cannot anymore supply all of its power requirements as it is required by law to privatize gradually its generation assets and it is prohibited from building or constructing new generating facilities. During the pendency of the Contract for the Supply of Electric Energy (CSEE), NPC/PSALM, formally informed FIBECO that it has insufficient capacity to fully serve and comply with its contracted capacity and energy due to generation constraints. Copy of the PSALM letter is attached to the instant application;

III. IMBALANCE

10. There is supply demand imbalance of approximately 14 MW with demand outstripping supply. This shortage,

however, will ease out the moment GN Power, Inc. and FDC Utilities will start commercial operations sometime in late 2017 and onwards;

11. For peaking power requirements, FIBECO has not made any contractual agreement with any independent power producer;

PROCUREMENT PROCESS

12. Due to the lack of peaking power supplier and the urgent necessity of insuring that there will be available reliable and stable supply of power and energy during peaking hours, between 4:00 P.M. to 11:00 P.M., FIBECO and MMHPC entered into a negotiated contract. MMHPC is partly owned by FIBECO and that the power comes from renewable energy, which in the long run is advantageous and beneficial to the members consumers of FIBECO primarily because the fixed and variable operating and maintenance expenses are low;
13. FIBECO has been soliciting proposals for its peaking power requirements, however, only base load and intermediate load have been offered by independent power producers. This has therefore compelled FIBECO to source its peaking power requirements from MMHPC which has readily submitted its proposed terms and conditions for the supply of electric energy which are now embodied in the subject PSA;

MMPC AND THE HYDRO POWER PLANT

14. The hydro power plant is design for a dependable capacity of 1.4 MW. The plant will be located at Camp 1, Maramag, Bukidnon, which will primarily use the available head of Maramag Falls of about 35 meters. The feasibility study conducted by Karad Phils., Inc. should be treated as "Confidential Information";
15. The Certification of Registration, the Articles of Incorporation and Corporate by Laws are also attached to the application as annexes. MMHPC is a registered RE developer duly endorsed by the Department of Energy (DOE) under Hydropower Service Contract HSC No.

2012-04-205. The copies of the said endorsement and the Contract of Service are attached to the application. MMPC is an assignee of the RE Contract which was initially granted to FIBECO;

16. The hydro power project is duly endorsed by the host barangay, Camp 1, the Municipal Government of Maramag and the Provincial Government of Bukidnon;
17. MMPC has likewise secured all the necessary permits from the Department of Environment and Natural Resources (DENR), the Certificate of Non Coverage (CNC), Special Land Use permit, Certification from the Mines and Geoscience Bureau, and the approved subdivision plan;
18. The office of the National Commission on Indigenous People (NCIP) has likewise issued a Certificate of Non Overlap;
19. The Distribution Impact Study (DIS) is also attached to the instant application;

PRE OPERATING COSTS, FEASIBILITY STUDY AND EPC CONTRACT

20. From the time the project was conceptualized, pre operating costs were incurred which include among others, the organization cost, project feasibility costs, permits and licenses from the local and national government agencies as well as administrative expenses. The costs likewise include the consultancy agreement for the technical, financial and legal services;
21. The engineering design was completed and EPC was awarded to Karad Phils, Inc. The copy of the EPC contract is attached to the instant application. They pray that the said contract be treated as confidential information pursuant to the Commission's Rules of Practice and Procedure;

22. Shown below is the summary of the Capacity Fee:

Pre Development/Operating Costs.....	PhP 51,547,235.00
EPC.....	229,000,000.00
Consultancy costs.....	5,000,000.00
Contingency costs (5% of EPC).....	<u>11,450,000.00</u>
Total Estimated Project cost.....	PhP 301,997,235.00

FIXED AND VARIABLE OPERATING AND MAINTENANCE EXPENSES

23. The annual Fixed Operating and Maintenance (FOM) expenses per annum is estimated to be Six Million Four Hundred Sixty-Nine Thousand Six Hundred Pesos (PhP6,469,600.00) and a variable O & M of One Million Seven Hundred Thousand Pesos (PhP1,700,000.00) per service contract with KARAD Phils., Inc., copy of the Operating Agreement is attached to the instant application and likewise prayed to be treated as confidential information;

24. Pursuant to the Operating Agreement, certain costs are to be borne by MMPC and not covered by MMPC, as follows:

The following are not Fixed or Variable Costs and are to the account of Owner: "1. Outside services to include Security Services, General Services, Legal Services and Auditing Services attributable to Owner 2. Insurance of asset 3. Owner insurance 4. Owner's Board, Management and admin/finance manpower and related expenses 5. Taxes attributable to the asset, to include but not limited to income tax, property tax, local business taxes 6. Statutory and compliance costs to include but not limited to National Wealth Tax, ER 1-94 7. Major equipment overhauls, as set forth in Section." These will increase the Fixed and Variable O & M Expenses as follows: Fixed cost by PhP1,000,000.00 and Variable Cost by PhP300,000.00 per annum;

**WEIGHTED AVERAGE COST OF CAPITAL (WACC), IRR and
 GENERATION RATE**

25. The capital structure comprises of 23.73% equity and 76.27% debt. The Development Bank of the Philippines (DBP) has committed to provide PhP230,346,297.00 of the total fund requirement at 5.5% interest per annum. A copy of the approval by DBP is attached to the instant application;
26. The pre operating/development costs of PhP71,650,938.00 were sourced from equity infusion. The cost of equity is 14.5%. The cost of equity is derived by dividing the expected dividend by the stockholders over the investment they have infused as equity. Thus, for every peso (PhP1.00) that they have invested, they expect to receive fourteen and one half centavos (PhP0.1450);
27. The weighted average cost of capital (WACC) is computed as follows:

	Equity	Debt	Total WACC
Weight	23.73%	76.27%	
Cost of Capital	14.5%	5.5%	
	3.44085%	4.1985%	7.6357%

28. On the basis of the project cost and operating expenses based on a 10-year life of the project at a rate of return/WACC of 7.6357% per annum, the generation rates are computed as follows:

Fixed Capacity Fee per Kw

Annual Capacity cost.....	PhP44,269,759
Annual kW (1,400kW x 12 months).....	16,800 kW
FCF per kW per MONTH.....	PhP2,635.10/kW

Annual FOM..... PhP7,469,600.00
Annual kW 16,800 kW
FOM per kW per MONTH..... PhP444.58 per kW

Variable Operating & Maintenance fee per kWh

Annual VOM..... PhP2,000,000.00
Annual kWh..... 7,056,000 kWh
VOM per kWh per MONTH.....PhP0.2834 per kWh

29. On the assumption that the 1.4 MW hydro power plant will be operating at 8 to 14 hours per day depending on whether it is the rainy or summer season, the total generation rate per kWh is made up of PhP6.8189 Fixed and PhP0.2834 Variable or a total of PhP7.10232/kWh.

**ABSTRACT OF THE POWER SUPPLY AGREEMENT (PSA)¹
AND OTHER RELEVANT INFORMATION**

30. **Executive Summary.** The Contract Capacity to be made available by MMHPC to FIBECO shall be One Thousand Four Hundred Kilowatts (1,400 kW) per month which shall be delivered in accordance with the Schedule of Contract Energy which is fixed on a daily and hourly basis;
31. **Salient Features of the PSA.**
- a. **Term.** The PSA shall have a term or contract period of ten (10) years from effective from the Closing Date. Closing Date means the time MMHPC is obligated to deliver the contract capacity and contract energy to FIBECO, provided these conditions are satisfied: (a) Receipt of MMHPC of a certificate executed by the corporate secretary of FIBECO adopting the resolutions to (1) authorize FIBECO to execute, enter into, and deliver the PSA and performance of its obligation under the PSA, (2) Designating the person authorize to execute the PSA in behalf of FIBECO; (b) Copy of the Certificate of Registration of FIBECO from the NEA; and (c) Receipt from the ERC approval of the PSA (including the

¹Annex "F"

Provisional Authority). MMHPC is likewise required to submit to FIBECO the following documents as condition precedent: (1) Corporate Secretary of MMHPC adopting the resolutions to (1) authorize MMHPC to execute, enter into, and deliver the PSA and performance of its obligation under the PSA, (2) Designating the person authorize to execute the PSA in behalf of MMHPC; (b) Certificate of Compliance from the Commission; and (c) Notice of Commercial Operations date. The contract period may be extended due to force majeure as provided in Section 9.8 of the PSA;

b. Contract Energy. MMHPC shall deliver the Contract Capacity and Contract Energy at the Metering Points² at the Rates Schedule³ specified under the PSA. On the other hand, to make available for delivery, the contract energy shall be based on the schedule of Contract Energy attached to the PSA;

c. Rates Schedule. The basic components of the Electricity Fee is as follows:

Capacity Fee (CF) = PhP2,635.10/kW per month

Fixed Operating and Maintenance Fee (FOM) = PhP444.58/kW/month

Variable Operating and Maintenance Fee (VOM) = PhP0.2834/kWh

Billing Capacity = 1,400 Kw (1.4 MW)

Operating Schedule = 14 hours a day

d. Contract Energy Fee per month

CEF = FC + VC

FC = (CF + FOM X IFf) x BC

VC = (VOM X IFv + FL) x ED

Where:

BC = Billing Capacity in kW

²Annex "A" of the PSA

³Annex "B" of the PSA

FC	=	Fixed charge per month in PhP in kW
VC	=	Variable charge per month in PhP in kWh
ED	=	Energy delivered in kWh
CEF	=	Contract Energy Fee in PhP
VOM	=	Variable Operating & Maintenance Fee per month in PhP/kWh
CF	=	Capacity Fee in PhP per month
FOM	=	Fixed Operating & Maintenance Fee per month in PhP
EE	=	Energy delivered in excess of eight hours

ALLEGATIONS IN SUPPORT OF THE MOTION FOR PROVISIONAL AUTHORITY

32. As discussed, the demand for power supply of FIBECO's franchise area is steadily increasing. Furthermore, NPC/PSALM, the supplier of the bulk of FIBECO's requirement, has significantly reduced its supply commitments to FIBECO's by about one third (from 31 MW down to 10 MW);
33. The timely implementation of the PSA subject of the present case will ensure sufficient power supply in FIBECO's franchise area. This will greatly benefit the electricity consumers as well as the local businesses;
34. In view of the foregoing, they move for the provisional approval of the instant application pursuant to Rule 14 of the Commission's Rules of Practice and Procedure. Copies of the sworn statements supporting the said motion are attached to the instant application;

IMPACT ON APPLICANT FIBECO's OVERALL GENERATION RATE

The determination of the generation rate impact is based on the blended generation rates of FIBECO subject to the condition that the CSEE with NPC will be renewed for the years 2015 to 2016 and there will only be a 30% reduction in the contracted demand for 2017 to 2018. The overall impact on the rate, however, is very minimal:

Year	Without MMHPC	With MMHPC	Difference (PhP)
2015	6.9906	6.9908	0.0002
2016	7.6580	7.6578	0.0002
2017	5.8708	5.8710	0.0002
2018	5.8859	5.8861	0.0002

35. Thus, they pray that:

- a) The Commission provisionally approves the PSA entered into by FIBECO and MMPH upon the filing of the instant application. It is likewise prayed that the PSA and the detailed plant design and cost estimates be treated as confidential and to be released only upon the sound discretion of the Commission should there be any request from any person;
- b) MMHPC can immediately start with the EPC activities of the Generation Plant pending review and evaluation by the Commission of the final authority on the generation rate applied for to meet closing date. This will insure that upon completion of the project and for it to proceed to supply FIBECO the contracted energy requirement; and
- c) It is finally prayed that after due notice, publication and hearing, the proposed generation rate subject matter of the instant application be approved as follows:

Capacity Fee (CF) = PhP2,635.10/kW/month

Fixed Operating and Maintenance Fee (FOM) = PhP444.58/kW/month

Variable Operating and Maintenance Fee (VOM) = PhP0.2834/kWh

The Commission has set the application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **April 1, 2015 (Wednesday) at two o'clock in the afternoon (2:00 P.M.) at the FIBECO's Main Office, Anahawon, Maramag, Bukidnon.**

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, 9th day of March, 2015 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III