

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL FOR THE
EMERGENCY POWER
SUPPLY AGREEMENT
BETWEEN DON ORESTES
ROMUALDEZ ELECTRIC
COOPERATIVE, INC. AND
KEPCO SPC POWER
CORPORATION, WITH
PRAYER FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2023-127 RC

**DON ORESTES ROMUALDEZ
ELECTRIC COOPERATIVE,
INC. (DORELCO) AND KEPCO
SPC POWER CORPORATION
(KSPC),**

Applicants.

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Promulgated:
December 04, 2023

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 November 2023, the Don Orestes Romualdez Electric Cooperative, Inc. (DORELCO) and KEPCO SPC Power Corporation (KSPC) filed a *Joint Application* dated 28 June 2023, seeking the Commission's approval of their Emergency Power Supply Agreement (EPSA), with motion for confidential treatment of information.

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

1. Applicant DORELCO is a non-stock, non-profit electric cooperative organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at San

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Roque, Tolosa, Leyte, Philippines. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.

2. DORELCO is a duly franchised Distribution Utility engaged in the distribution of electricity with its franchise areas in Leyte, Philippines.
3. Applicant KSPC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at the 7th Floor, Cebu Holdings Center, Cebu Business Park, Cebu City, Philippines. It may be served with notices and other processes of this Honorable Commission through its counsel at the address indicated herein.
4. KSPC owns and maintains a 2x103 MW Circulating Fluidized Bed Combustion (CFBC) Boiler Coal-Fired base load power plant in the City of Naga, Cebu, which became operational in 2011.

STATEMENT OF FACTS

5. DORELCO experienced unexpected delays in the Competitive Selection Process (“CSP”) activities schedule as a result of the COVID-19 outbreak and government restrictions imposed. With only a few months until DORELCO’s Power Supply Agreement (“PSA”) with Power Sector Assets and Management (PSALM), covering five (5) MW of DORELCO’s baseload power supply, expires on July 25, 2022, they were forced to turn to several potential remedies.
6. Through a Letter dated 27 June 2022 DORELCO wrote to the Department of Energy (“DOE”) requesting for an exemption from the Competitive Selection Process (“CSP”) requirement of the DOE. The Letter expressed DORELCO’s urgent need for supply of electricity due to circumstances beyond control of DORELCO.

6.1. The Letter sought exemption from the CSP pursuant to Section 2.2.1.2 of Department of Energy Department Circular No. DC 2021-09-0030 (“DOE Amended CSP Circular”), which states that:

2.2 Exemption from the CSP

2.2.1 The following instances shall warrant a Certificate of Exemption from the conduct of Competitive Selection Process (COE-CSP) from the DOE:

XXX

2.2.1.2 Negotiated procurement of emergency power supply wherein the cooperation period of the corresponding Emergency Power Supply Agreement (EPSA) shall not exceed one (1) year, and such EPSA shall be filed immediately before the Energy Regulatory Commission (ERC) upon issuance and within the effectivity of the COE-CSP; Provided that the DU shall prove and certify that it has performed all

the necessary and required due diligence, and solicited proposal from at least one (1) power supplier for EPSA to address the emergency situation and to avert and/or mitigate its consequences, and the offer/s from available Power Supplier/s shall be attached in the request for COE-ESP; Provided also, that the procurement of emergency power supply shall not be entitled to any form of subsidy; Provided finally, that the rate shall be equivalent to or lower than the ERC-approved generation tariff for same or similar technology in comparable areas.

7. Without an immediate procurement of three (3) MW baseload power supply to DORELCO brought about by PSALM's power supply contract expiration, DORELCO will be exposed to inadequate of power supply, and even high electricity rates coming from volatile price offered at Wholesale Electricity Market (WESM).
8. DORELCO deems that this is an emergency that requires a prompt procurement of sufficient capacity of baseload energy from a reliable generator to ensure stability of power supply at a reasonable minimum cost for the paramount interest of its member-consumers in the coming months.
9. On 31 August 2022, the DOE favorably issued a Certificate of Exemption (COE-CSP-2022-08-039) exempting DORELCO from the conduct of CSP for the negotiated procurement of emergency power of 3 MW Baseload for a period of 1 year from 26 August 2022 to 25 August 2023.
10. Consequently, DORELCO and KSPC executed an Emergency Power Supply Agreement ("EPSA"), subject of this Joint Application.
11. Thus, this instant Joint Application for the approval of the EPSA between DORELCO and KSPC.

SALIENT FEATURES OF THE EPSA

12. Salient Features of the EPSA.

12.1. Contract Capacity. KSPC capacity cap means 3000 kW.

12.2. Contract Quantity.

12.2.1. Upon terms and subject to the conditions set out herein, commencing on the Effective Date and until the Scheduled Termination Date, the Seller shall deliver or cause the delivery to the Buyer, in each Contract Year, a minimum number in kWh of energy ("Contract Quantity") as set forth in Annex "B".

A copy of the Contract Quantity Table is included in the Emergency Power Supply Agreement attached as Annex "A".

12.2.2. The Contract Quantity may be reduced by force majeure.

12.2.3. The Contract Quantity shall be reduced by actual undelivered energy in the event of Forced Outage or Planned Outage.

12.3. Contract Period. The PSA shall be effective for a term of Twelve (12) months, which shall commence on the Effective Date and end on the Scheduled Termination Date on the following day of the last day of the 12-month period.

12.3.1. Effective Date. The Contract shall become effective (The Effective Date) upon full satisfaction and compliance with the following condition (the Condition Precedent) of the issuance of Certification of Exemption from the Competitive Selection Process (COE-CSP) by the Department of Energy.

12.4. Computation of Generation Fee and Contract Price.

A copy of the Computation of Generation Fee and Contract Prize is included in Annex D of the Emergency Power Supply Agreement attached as Annex "A".

12.5. Allowed Forced Outage. In respect of each Unit 1 and Unit 2, a total of 28 days (equivalent to 1,008,000 kWh) of Forced Outage to which the Seller shall be entitled in any Contract Year.

12.6. Planned Outage. In respect of Unit 1 and Unit 2, a total of 80 days (equivalent to 2,880,000 kWh) for every Contract Year allowed to the Seller to undertake the normal inspection, maintenance, repair, and overhaul of the Cebu power Plant; provided, that only one Unit shall be under Planned Outage at any one time.

13. Estimated Rate Impact Analysis was conducted by DORELCO and resulted to a reduction of -0.5864/kWhr. A copy of the Rate Impact Analysis is attached as Annex "AA".

14. Environmental Compliance Certificate (ECC). On 10 September 2007, the Department of Environment and Natural Resources (DENR) has issued ECC Transfer of Ownership in favor of KSPC with ECC No. 0511-013-206.

15. Board of Investments (BOI) Certificate. On 8 May 2008, KSPC's plants located in Naga City, Cebu were registered with BOI with Certificate of Registration No. 2008-088.

16. Certificate of Compliance. The Honorable Commission has issued the Provisional Authority to Operate dated 03 February 2021, for KSPC's power plants for a period of 19 February 2021 to 20 February 2022. Likewise, the Honorable Commission issued the extension of the Provisional Authority to Operate dated 11 March 2022, for a period of one year from 20 February 2022 to 19 February 2023. On February 9, 2023, ERC issued a Certification

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that the said Provisional Authority to Operate is currently being evaluated.

17. Certificate of Endorsement. The DOE has issued a Certificate of Endorsement with No. 2022-04-160 dated 19 April 2022 for KSPC's plant in barangay Colon, Naga City, Cebu, certifying that the Plant is consistent with the Power Development Plan of the Government.
18. As further support to the instant Joint Application, the Applicants most respectfully submit to the Honorable Commission the following documents in accordance with the Pre-filing Checklist in Resolution No. 38, Series of 2006¹, Rule 20 B Section 2 of the ERC Rules of Practice and Procedure:

ANNEX	DOCUMENTS/INFORMATION
A	EMERGENCY POWER SUPPLY AGREEMENT
B, and B-1	DORELCO Articles of Incorporation and By-Laws
C	DORELCO Verified Certification showing list of Board of Directors
D, and D-1	KSPC Articles of Incorporation and By-laws
E	Shareholder's Agreement
F	KSPC General Information Sheet
G	KSPC Verified Certification showing list of Board of Directors
H	KSPC Certification of Registration issued by BOI
I	ECC issued by the DENR to KSPC
J, and J-1	Provisional Authority to Operate KSPC and Extension for the Provisional Authority to Operate
K	Certificate of Endorsement to KSPC
L	DORELCO Certification for Non- Applicability of Demand Side Management
M	DORELCO Supply Demand Scenario
N	DORELCO SAIFI and SAIDI
O	DORELCO Letter to DOE
P	DOE Certificate of Exemption
Q	DORELCO Transmission Service Agreement with NGCP
R	KSPC Transmission Service Agreement with NGCP
S	Executive Summary of the DORELCO and KSPC EPSA
T*	KSPC's Financial Model
U*	Sworn Statement on Fuel Procurement
V*	Relevant technical and economic characteristics of generation capacity
W*	KSPC's 2021 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows
X	KSPC's WESM Registration Approval Form
Y	WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (DORELCO) <ul style="list-style-type: none"> • CSP DOCUMENTS

¹ Resolution No. 38, Series of 2006 – A Resolution Promulgating the Energy Regulatory Commission's Rules of Practice and Procedure.

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ANNEX	DOCUMENTS/INFORMATION
Z	<p>WRITE UP FOR NON-APPLICABILITY OF DOCUMENTS (KSPC)</p> <ul style="list-style-type: none"> • Renewable Energy Service Contract • Certificate of Registration or Certification of Commerciality by an RE Developer and after due confirmation by the DOE • Water Permit from the NWRB • Equivalent PHP/kWh with assumptions for foreign denominated rates • Computation Levelized Cost • BIR Receipts • Seller's Receipts • Purchase Orders with Annotation of Acceptance or Transfers • Deeds of Sale and other Other Forms of Conveyance of Ownership • Cost Analysis Related to the generation in support of the Proposed Pricing • Computation Levelized Cost • Potential Cost (absolute amounts and PhP/kWh) of Ancillary Services as and when the IPP or the DU is connected to the main grid. • Basis/rationale/derivation of Other Charges such as replacement, start-up, pre-commercial, and ancillary costs. • Distribution Wheeling Service Agreement
AA	Estimated Rate Impact
BB	DORELCO DDP
CC	Single Line Diagram
DD	Estimation of potential load
EE	Verified certification
FF	Excel for ERC App and OM
GG	Certification of the Net Heat Rate
HH	MEOT Allocation to the generating units
II	Explanation to no. 39 and 40
JJ	Write up on non-applicability of TSC
KK	DORELCO Registration

*Subject to the Motion for Confidential Treatment of Information

**ALLEGATIONS IN SUPPORT OF THE MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION**

19. Section 1, Rule 4, of the ERC Revised Rules of Practice and Procedure provides that a party to a proceeding before the Honorable Commission may move for information to be treated as confidential.

20. Pursuant thereto, KSPC prays that the information contained in the documents attached as Annexes "T", "U", "V", and "W", be treated as confidential and that the same be continuously protected from public disclosure, except to the officers and staff of the Honorable Commission. In particular, these are the

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documents for which confidential treatment is sought as they contain trade secrets and/or commercially-sensitive data about KSPC's plant operations and pricing strategies:

ANNEX	DOCUMENT
T	Financial Model
U	Sworn Statement on Fuel Procurement
V	Relevant Technical and Economic Characteristics of Generation Company
W	KSPC's 2021 Audited Financial Statements (AFS), Balance Sheet, Income Statement, and Statement of cash Flows

21. The competitors of KSPC will gain undue advantage and use the information in their own operation, if they obtain the information provided in the documents requested to be confidential.

PRAYER

WHEREFORE, the foregoing premises considered, it is respectfully prayed that this Honorable Commission:

1. Give due course to the instant application.
2. Issue an Order:
 - a. Treating the Confidential Documents and the information contained therein as confidential
 - b. Directing their non-disclosure pursuant to Rule 4 of the ERC Rules, and
 - c. Prescribing guidelines for the protection of the said documents.
3. After trial on the merits, issue a Decision approving the EPSA, thereby confirming the compliance by DORELCO and KSPC to the rules governing emergency power supply, and further confirming the effective rate charged, collected, and paid in connection with this EPSA.
4. To authorizing KSPC to charge and collect from DORELCO the electricity fees based on the final rates approved by this Honorable Commission, and authorizing DORELCO to pass the full amount thereof to its customers.

Other relief and remedies consistent with law, justice, and equity are likewise prayed for.

The Commission hereby sets the instant *Joint Application* 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

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thereof, pursuant to Resolution No. 09, Series of 2020² and Resolution No. 01, Series of 2021³ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
06 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and expository presentation
13 February 2024 (Tuesday) at nine o'clock in the morning (9:00 A.M)		Pre-Trial Conference and presentation of evidence

DORELCO and KSPC are directed to host the virtual hearings at **DORELCO's Principal Office at San Roque, Tolosa, Leyte**, 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. DORELCO and KSPC shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at docket@erc.ph, and 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, any person who has 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, and copy furnishing 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. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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- 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 file through e-mail at docket@erc.ph, and 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. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. 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.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **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.


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

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Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, 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 hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 4th day of December 2023 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO


LS: ADGS/ARG/MCCG

ERC
Office of the Chairperson and CEO



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