

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF THE  
ELECTRIC POWER  
PURCHASE AGREEMENT  
FOR EMERGENCY POWER  
SUPPLY BETWEEN THE  
ILOILO I ELECTRIC  
COOPERATIVE, INC. AND  
PALM CONCEPCION POWER  
CORPORATION**

**ERC CASE NO. 2021-090 RC**

**ILOILO I ELECTRIC  
COOPERATIVE, INC. AND  
PALM CONCEPCION POWER  
CORPORATION,**

*Joint Applicants.*

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**Promulgated:**  
November 18, 2021

**ORDER**

On 05 November 2021, Iloilo I Electric Cooperative, Inc. (ILECO I) and Palm Concepcion Power Corporation (PCPC) filed a *Joint Application* dated 11 May 2021, seeking the Commission's approval of their Electric Power Purchase Agreement (EPPA) for emergency power supply.

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

Parties to the Case

1. Applicant ILECO I is an electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Brgy. Namocan, Tigbauan, Iloilo, Philippines 5021. It has been granted an exclusive franchise by the National Electrification Administration (NEA) to distribute electric service in the Municipalities of Alimodian, Cabatuan, Guimbal, Igbaras, Leganes, Leon, Maasin, Miag-ao, Oton, Pavia, San Joaquin, San Miguel, Santa Barbara, Tigbauan and Tubungan, all in the Province of Iloilo.

2. Applicant PCPC is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at Brgy. Nipa, Municipality of Concepcion, Province of Iloilo. PCPC is the owner and operator of the 2 x 135 MW clean coal-fired power plant (the "Power Plant"), which it shall own, operate, and maintain, located at Brgy. Nipa, Municipality of Concepcion, Province of Iloilo. Unit 1 of the Power Plant commenced commercial operations last August 2016.

#### 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"), Department of Energy (DOE) Department Circular DC 2018-02-003 and other pertinent rules and regulations, this Joint Application is being submitted to this Honorable Commission for the approval of the Electric Power Purchase Agreement for Emergency Power Supply ("EPPA for Emergency Power Supply") entered into by and between Joint Applicants ILECO I and PCPC. A copy of the EPPA for Emergency Power Supply is attached to this Joint Application as Annex "A" and made an integral part hereof.

#### ILECO I DEMAND-SUPPLY SITUATION

4. The franchise area of ILECO I had a total coincident peak power demand of 56.19 MW in the year 2019. Currently, ILECO I sources its electric power requirements from the following suppliers:
  - a) 3.5 MW from Panay Energy Development Corp. Units 1 and 2 under a Power Supply Contract until April 2036;
  - a) (*sic*) 8 MW from Panay Energy Development Corp. Unit 3 under a Power Supply Contract until February 2042;
  - b) 18 MW from the Green Core Geothermal Inc. under a Power Supply Agreement until December 2025;
  - c) 8 MW from Panay Power Corp. under a Power Supply Contract until April 2023;
  - c) (*sic*) 6 MW from Palm Concepcion Power Corp. Unit 1 under an Electric Power Purchase Agreement until October 2031;
  - e) 12.69 MW balance is sourced from the Wholesale Electricity Spot Market (WESM).
5. Thus, currently, only 43.5MW of the 56.19MW total demand of ILECO I is contracted under bilateral contracts as shown in its Distribution Development Plan. 10MW of this

uncontracted demand of ILECO I is what is sought to be supplied under the EPPA for Emergency Power Supply with PCPC.

Details on the Procurement Process undertaken by Applicant ILECO I

6. In February 2020, Applicant PCPC sent a letter to the Board of Directors of ILECO I offering to supply a total of 10MW of its power requirements from Unit 1 of the PCPC Power Plant under a one (1) year Emergency Power Supply Contract as allowed under DOE DC 2018-02-003. The representatives of PCPC thereafter made multiple presentations to the Board of Directors of ILECO I on the proposed emergency supply of power from Unit 1 of the PCPC Power Plant.
7. Joint Applicants PCPC and ILECO I thereafter commenced negotiations for the execution of the EPPA for Emergency Power Supply. Applicant ILECO I considered the need to immediately reduce the uncontracted portion of the power supply requirements of the consumers in its franchise area by sourcing a portion of such uncontracted requirements from a power plant in Panay in order to improve the reliability and security of the supply of power to its franchise area.
8. After a due diligence evaluation, Applicant ILECO I determined that the offer of PCPC to supply a portion of its power requirements was responsive to its needs and was in accordance with the requirements for emergency power supply contracts under DOE DC 2018-02-003.
9. Applicant ILECO I also determined that the emergency power supply offer of PCPC had a tariff that is exactly the same as that in its regular EPPA with PCPC which was approved by the Honorable Commission in its Order dated 12 July 2016 in ERC Case No. 2016-063RC. Further, the Capital Recovery Fee, the fixed and variable O&M Fees and the indexation thereof and the fuel cost formula which composed the total tariff in the subject EPPA for Emergency Power Supply between Joint Applicants herein, are exactly the same as the rates approved by the Honorable Commission for Joint Applicant PCPC in the respective decisions in ERC Case Nos. 2013-205RC, 2014-108RC, 2014-125RC and 2015-013RC which are the applications for the Approval of the respective EPPA's between PCPC and NORECO 1, NOCECO, CEBECO II and SOLECO, respectively.
13. (*sic*) The tariff in the EPPA for Emergency Power is exactly the same as the tariff approved by the Honorable Commission in its Decision dated 06 June 2017 in ERC Case No. 2015-013RC which is the application for the approval of the EPPA between PCPC and the Southern Leyte Electric Cooperative. This application was filed on 30 January 2015 prior to the 30 June 2015 cut-off imposed by the Supreme Court in its decision in the ABP Case (G.R. 227670). Thus, this approved rate is considered as the latest ERC approved rate for a base load coal

fired power plant in Panay Island and is thereby compliant with one of the main requirements for emergency power supply contracts under section 2.2.2 of DOE DC 2018-02-003.

14. Applicant ILECO I further determined that it would be better to source its emergency power requirements from the PCPC Power Plant as it is also located in Panay Island and connected to the Panay Grid and the power that it will supply to ILECO I need not pass through any submarine cables and will be free from potential line congestion charges or any outages of such cables thus improving the reliability and security of its power supply.
15. Given the foregoing determinations, Applicant ILECO I entered into the subject EPPA for Emergency Power Supply with PCPC in May 2020 to ensure the security, affordability and reliability of its supply of power to meet the demand of the consumers in its franchise area and to minimize potential exposure to spot market price volatility.
16. Thereafter, through a letter dated 10 June 2020, ILECO I wrote the DOE requesting for an exemption from Competitive Selection Process (“CSP”) requirement of the DOE for its EPPA for Emergency Power Supply with PCPC. The Letter sought exemption from the CSP pursuant to Section 2.2 of DOE Circular No. DC2018-02-0003 which states that:
  - “2.2. All PSAs shall be procured through CSP; Provided however, that the following instances shall warrant a Certificate of Exemption from the Department of Energy (DOE) on the conduct of CSP:  
  
xxx
  - 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. Likewise, the Letter stated that the timely issuance of the requested Certificate of Exemption is extremely vital in order for ILECO I to fulfill its mandate of providing continuous, uninterrupted, and reasonably priced electric service to the consumers in its franchise area.
18. In a letter dated 04 November 2020, the DOE issued a Certificate of Exemption (COE-CSP-2020-09-002), exempting ILECO I from conduct of a CSP and to proceed with the EPPA for Emergency Power Supply with PCPC Unit 1 for a Contracted Capacity of 10MW, among others, for the period of 26 September 2020 to 25 September 2021.

19. In view of DOE's issuance of the Certificate of Exemption, on 30 November 2020, PCPC and ILECO I commenced delivery and acceptance of the Contracted Capacity and Energy under the EPPA for Emergency Power Supply.
20. In a letter to the DOE dated 09 November 2020, ILECO I requested for an amendment of the period of effectivity of the COE to 20 November 2020 to 19 November 2021. ILECO I made this request due to the fact that the Joint Applicants had not made any deliveries of electricity under the EPPA for Emergency Power while they were still waiting for the issuance of the COE by the DOE and if they were to follow the period of effectivity in the COE, the term of the EPPA for Emergency Power Supply would be less than the one (1) year period allowed under DOE DC 2018-002-03 and originally requested by the Joint Applicants.
21. On 24 February 2021, the DOE granted the foregoing request of ILECO I and issued a Certification with No. COE-CSP-2021-01-001 which stated that the EPPA for Emergency Power between Joint Applicants ILECO I and PCPC would have a term from 04 November 2020 to 03 November 2021.
22. Hence, this instant Joint Application for the approval of the EPPA for Emergency Power Supply between ILECO I and PCPC.

**IMPACT OF EPPA FOR EMERGENCY POWER SUPPLY ON  
 ILECO I GENERATION COSTS**

23. Based on the actual generation costs of ILECO I for April 2021, there was an increase of Php 0.11375 per kWh on the actual total generation costs of ILECO I as billed to its consumers for the said period with the electricity sourced under the EPPA for Emergency Power Supply with PCPC as compared to generation costs without such supply. However, when compared to total generation costs with the peak WESM prices, sourcing electricity supply under the EPPA for Emergency Power Supply with PCPC would result to a decrease of Php 6.76987 per kWh on the generation costs of ILECO I.
24. Joint Applicants respectfully attach the following documents to this Application in compliance with the Rules of the Honorable Commission on the approval of Power Supply Contracts:

Description of Document	Annex
NEA Certificate of Franchise of ILECO I	"B"
Certification of the Board Secretary on the list of the current Board of Directors of ILECO I	"C"
Distribution Development Plan (DDP), Supply – Demand Scenario, Matrix of Current Power	"D" to "D-5"

Supply Agreements and Power Supply Procurement Plan of Applicant ILECO I	
ILECO I Certification that it does not have any TSC/CSEE with NPC/PSALM and Demand Side Management Programs	“E”
ILECO I Rate Impact Computation with excel file	“F”
ILECO I Statement on Potential Cost of Ancillary Services	“G”
ILECO I Letter-Request to DOE dated 10 June 2020 requesting for a COE for the EPPA for Emergency Power Supply with PCPC and Letter-Request dated 09 November 2020 for amendment of the date of effectivity.	“H” and “H-1”
DOE’s Letter-Reply to ILECO I dated 04 November 2020 and DOE Certificates of Exemption Nos. COE-CSP-2020-09-002 and COE-CSP-2021-01-001.	“I and series”
PCPC Certificate of Registration with the Securities and Exchange Commission (“SEC”)	“J”
PCPC Articles of Incorporation	“K”
PCPC Latest General Information Sheet (“GIS”)	“L”
PCPC latest Audited Financial Statements	“M”
PCPC Board of Investments (“BOI”) Certificate of Registration for the Concepcion Power Plant Project	“N”
ECC No. 0606-006-402 for the PCPC Power Plant issued by the DENR on 27 May 2007 and the approved amendments thereto dated 12 October 2012	“O” and “O-1”
PCPC Certificate of Compliance (“COC”) No. 18-05-M-00162V	“P”
Certification from the DOE dated 03 January 2014 certifying that the PCPC Power Plant Project is consistent with the DOE Power Development Plan	“Q”
Relevant technical characteristics of Unit 1 of the PCPC Concepcion Power Plant	“R”
Summary of the transmission projects or grid connection projects necessary to complement the PCPC Power Plant	“S”
PCPC Transmission Service Agreement with National Grid Corporation of the Philippines (“NGCP”)	“T”
PCPC Connection Agreement with NGCP	“U”
PCPC Metering Services Agreement with NGCP	“V”
Executive Summary of the PSA with Rate Schedule	“W”
Summary of the relevant information on the project cost for the PCPC 135 MW Concepcion coal-fired power generation facility  PCPC Sources of Funds/Financial Plans;  PCPC Cash Flow	“X” and series

<p>Certification from BDO Capital and Investments, Inc., the Lead Arranger of the financing for the PCPC Power Plant, on the principal amortization, term and interest of the respective loan agreements for the Project</p> <p>Basis for the purchased power rate in the EPPA for Emergency Power Supply with breakdown of the base prices; Capital Recovery Fee, Fixed and Variable O&amp;M, and Fuel Fee with basis/rationale of indexation including the sources, reference date, and weight of indexation</p> <p>PCPC Financial model (electronic copy) containing derivation of rates</p>	
PCPC Explanation on Fuel Procurement	“Y”
PCPC Write-Up on the Non-Applicability of other required documents	“Z”
Certification of the net heat of the PCPC Power Plant	“AA”
Affidavits of Service to Office of the Governor and the Presiding Officer or Secretary or their duly authorized representative, of the <i>Sangguniang Panlalawigan</i> of the Province of Iloilo and Offices of the Mayors and the Presiding Officers or Secretaries or their duly authorized representatives of the <i>Sangguniang Bayan</i> of the Municipalities of Tigbauan and Concepcion, all in Iloilo province, where Applicants principally operate, attesting to the fact of such service with proof of receipt.	“BB and Series”
Copies of the newspaper of local circulation in the franchise area of ILECO I where the publication of this Application appeared and the corresponding Affidavit of Publication from the publisher of such newspaper attesting to such publication	“CC” and “CC-1”.
Board Resolution adopted by the Board of Directors of PCPC authorizing the execution of the EPPA for Emergency Power Supply with ILECO I and the joint filing of the instant application	“DD”
Board Resolutions passed by the Board of Directors ILECO I approving the execution of the EPPA for Emergency Power Supply with PCPC and authorizing the joint filing of the instant Application	“EE and Series”

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of the Honorable Commission that, after full proceedings on the merits, issue a Decision APPROVING the

terms of the Electric Power Purchase Agreement for Emergency Power Supply between Joint Applicants PCPC and ILECO I, thereby authorizing PCPC to charge and collect from ILECO I the Electricity Fees as stated therein and authorizing ILECO I to pass the full amount thereof to its consumers.

Joint Applicants pray for all other reliefs just and equitable under the premises.

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 2020<sup>1</sup> dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)<sup>2</sup>:

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>18 January 2022</b> (Tuesday) at nine o'clock in the morning (9:00 AM)	<b>Microsoft Teams</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>25 January 2022</b> (Tuesday) at nine o'clock in the morning (9:00 AM)	<b>Microsoft Teams</b>	Pre-trial Conference and presentation of evidence

Accordingly, PCPC and ILECO I are hereby directed to host the virtual hearing at **ILECO I's principal office located at Brgy. Namocan, Tigbauan, Iloilo**, 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, PCPC and ILECO I shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

**RELATIVE THERETO**, PCPC and ILECO I are hereby directed to:

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

<sup>2</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.



- 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 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 Governors, the Mayors and the Local Government Unit (LGU) legislative bodies within ILECO I's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within ILECO I's franchise area, by any other means available and appropriate, of the filing of the *Joint Application*, its reasons therefor, and of the scheduled virtual hearing 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 hearing; 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, if any, and reimbursement of reasonable photocopying costs.<sup>3</sup>

Within five (5) calendar days before the date of the virtual hearing, PCPC and ILECO I must submit to the Commission via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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*

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<sup>3</sup> For the e-mail address of the applicants, please see page 13.

*Hearing* was published, and the complete issues of the said newspapers;

- 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 Governors, Mayors and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by PCPC and ILECO I to inform the consumers within the affected franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearing 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 proof of compliance with the requirements of the Commission.

Moreover, PCPC and ILECO I are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Mayors, Provincial Governors, and Local Legislative Bodies, and to submit proof of their posting thereof.

PCPC and ILECO I and all interested parties are also required to submit via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days before the date of the scheduled 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.

PCPC and ILECO I 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 PCPC and ILECO I 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.

PCPC and ILECO I 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.

PCPC and ILECO I are hereby directed to file a copy of their Expository Presentation via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), at least five (5) calendar days prior to the scheduled virtual hearing. PCPC and ILECO I 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](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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 expository presentation.

PCPC and ILECO I 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, PCPC and ILECO I, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings@erc.ph](mailto: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, 12 November 2021.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS;CNR/LSP/MCCG

**ERC**  
Office of the Chairperson  
  
\*AVSTD-2021-11-510-0130\*

**ERC CASE NO. 2021-090 RC**  
**ORDER/ 12 NOVEMBER 2021**  
**PAGE 13 OF 15**

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Copy Furnished:

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8. House Committee on Energy  
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9. Office of the Municipal Mayor  
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10. Office of the Sangguniang Bayan  
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36. Office of the Sangguniang Bayan  
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37. Office of the Municipal Mayor  
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38. Office of the Sangguniang Bayan  
Maasin, Iloilo

39. Office of the Governor  
Province of Iloilo
40. Office of the Sangguniang Panlalawigan  
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41. Regulatory Operations Service (ROS)  
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