

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
THE APPROVAL OF THE
POWER SUPPLY
AGREEMENT (PSA)
BETWEEN ILOILO I
ELECTRIC COOPERATIVE,
INC. (ILECO I) AND SUAL
POWER, INC. (SPI), WITH
MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
MOTION FOR PROVISIONAL
AUTHORITY OR INTERIM
RELIEF**

ERC CASE NO. 2025-030 RC

**ILOILO I ELECTRIC
COOPERATIVE, INC. (ILECO
I) AND SUAL POWER, INC.
(SPI),**

Applicants.

X-----X

Promulgated:
February 21, 2025

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 31 January 2025, the Iloilo I Electric Cooperative, Inc. (ILECO I) and Sual Power, Inc. (SPI) filed their *Joint Application* dated 23 December 2024, seeking the Commission's approval of their Power Supply Agreement (PSA), with motion for confidential treatment of information and for issuance of provisional authority or interim relief.

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

THE APPLICANTS

1. ILECO I is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Namocon, Tigbauan, Iloilo.

2. ILECO I is a distribution utility engaged in distribution of light and power within its franchise area covering the municipalities of Alimodian, Cabatuan, Guimbal, Igaras, Leganes, Leon, Maasin, Miag-ao, Oton, Pavia, San Joaquin, San Miguel, Sta. Barbara, Tigbauan, and Tubungan, all in the Province of Iloilo.

3. SPI is a private corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5th Floor, C5 Office Building Complex, #100 E. Rodriguez Jr. Ave., C5 Road, Bo. Ugong, Pasig City 1604.

4. SPI is a subsidiary of San Miguel Global Power Holdings Corp. (SMGPHC) and was the Independent Power Producer Administrator¹ of the of the 1,000 MW contracted capacity (net) of the Sual Coal-Fired Thermal Power Plant located in Barangay Pangascasan, Sual, Pangasinan. On 25 October 2024 Team Sual Corporation and the Power Sector Assets and Liabilities Management Corporation turned over the power plant to SPI, which assumed full control of the entire plant capacity of 1,294 MW².

5. Applicants may be served with notices, orders, and other processes of this Honorable Commission through their respective counsels at the addresses hereinbelow indicated.

NATURE OF THE APPLICATION

6. This Joint Application is being submitted to this Honorable Commission pursuant to Rule 20 (B) of the ERC Resolution No. 01, Series of 2021, or the Revised Rules of Practice and Procedure (ERC Rules), for the review and approval of the Power Supply Agreement (PSA) between ILECO I and SPI.

7. The subject PSA was a result of a Negotiated Procurement, after two (2) failed Joint Competitive Selection Process (CSP), in accordance with the Department of Energy (DOE) Department Circular (DC) No. DC2018-02-0003³, as amended by DOE DC No. DC2021-09-0030⁴.

STATEMENT OF FACTS

¹ At the time of signing of the Power Supply Agreement

² Aggregated Dependable Capacity based on the Provisional Authority to Operate dated 02 April 2024.

³ Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market otherwise known as "CSP Rules".

⁴ Amending Certain Provisions of and Supplementing Department Circular No. DC2018-02-0003 on the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market.

8. In April 2022, ILECO I, together with the other members of the aggregation known as Panay-Guimaras Electric Cooperatives Power Consortium, Inc. (PGEPCCI), conducted a Joint CSP through a Joint Third-Party Bids and Awards Committee (TPBAC) in order to procure a more stable and reliable power supply for the full load requirements and the anticipated increase in the demand of its member-consumer owners (MCOs) in the franchise area.

9. After two (2) failed biddings, the PGEPCCI solicited and conducted direct negotiations, pursuant to and in compliance with the DOE DC No. DC2018-02-003, as amended by DOE DC No. DC2021-09-0030, for the supply of the required capacity and/or energy of its member electric cooperatives (ECs) from various generation companies, including SPI.

10. All offers received were carefully reviewed and evaluated by the Joint Technical Working Group (TWG), and based therefrom, the offer of SPI emerged to be the most advantageous and beneficial for all the member ECs of PGEPCCI, including ILECO I, in terms of the availability of the required supply, reliability, cost-effectiveness and sustainability.

11. Negotiations on the terms and conditions of the PSA ensued between ILECO I and SPI. Thereafter, on 28 August 2024, ILECO I submitted the final copy of the PSA to the Energy Virtual One-Stop Shop (EVOSS) System for the review and approval of the National Electrification Administration (NEA).

12. On 26 September 2024, the NEA approved the subject PSA, directing ILECO I to proceed with the signing of the PSA with SPI. Thus, on 25 October 2024, ILECO I and SPI executed the subject PSA with a term of nine (9) years, starting from the initial date of delivery or the approval of the ERC, whether provisional, interim or final, whichever comes later, and ending on 25 December 2031.

13. Hence, this instant Joint Application for the approval of the PSA between ILECO I and SPI.

SALIENT TERMS OF THE PSA

14. The PSA between ILECO I and SPI contains the following salient features:

- 14.1. **The Generation Facilities.** The power required under the subject PSA will be supplied from the Sual Coal-Fired Thermal Power Plant of SPI located in Brgy. Pangascasan, Sual, Pangasinan.
- 14.2. **Cooperation Period.** The cooperation period is nine (9) years, starting from the initial date of delivery or the approval of the ERC, whether provisional, interim or final, whichever comes later, and ending on 25 December 2031.

Contracted Capacity and Contracted Energy.

The contracted capacity under the PSA is 15,000 kW. The buyer shall commit a monthly Minimum Energy Off-Take (MEOT) of seventy percent (70%) up to one hundred percent (100%) Maximum Capacity Utilization Factor (CUF), in kWh, as indicated in Schedule 1 (Contracted Capacity and Contracted Energy) of the PSA.

SCHEDULE 1
CONTRACTED CAPACITY AND CONTRACTED ENERGY

BILLING PERIOD	CONTRACTED CAPACITY (kW)	CONTRACTED ENERGY (kWh) (100%)
December 26 - January 25	15,000	7,812,000
January 26 – February 25	15,000	7,812,000
February 26 – March 25	15,000	7,056,000 (non-leap year) 7,308,000 (leap year)
March 26 – April 25	15,000	7,812,000
April 26 – May 25	15,000	7,560,000
May 26 – June 25	15,000	7,812,000
June 26 – July 25	15,000	7,560,000
July 26 – August 25	15,000	7,812,000
August 26 – September 25	15,000	7,812,000
September 26 – October 25	15,000	7,560,000
October 26 – November 25	15,000	7,812,000
November 26 –December 25	15,000	7,560,000

14.3. **Allowed Outages.** The seller is allowed the following outages under the PSA:

14.3.1. **Scheduled Outage** of three hundred sixty (360) consecutive hours per Billing Year.

14.3.2. **Unscheduled Outage** of three hundred sixty (360) cumulative hours per Billing Year.

14.4. **Replacement Power.** The PSA provides for replacement power as follows:

14.4.1. **During Allowed Outage,** SELLER shall have the option, but not the obligation, to provide the Replacement Power to the BUYER. For this purpose, Replacement Power during Allowed Outage shall be billed at Contract Charges, or WESM rates, whichever is applicable.

14.4.2. **In Excess of Allowed Outage,** SELLER shall supply or cause the supply to the BUYER of Replacement Power at its own cost. However, the BUYER shall pay the SELLER for the Replacement Power at its actual price, or at Contract Charges, whichever is lower.

14.4.3. **In Case of Force Majeure,** SELLER shall have the option, but not the obligation, to supply Replacement Power to the BUYER. For this purpose, Replacement Power supplied by the SELLER to be paid by the BUYER at Contract Charges.

14.5. **Contract Charges.** The PSA provides for the following charges:

14.5.1. **Electricity Fees.** The Electricity Fees in PhP/kWh, as contained in Schedule 4.1, is as follows:

SCHEDULE 4.1
ELECTRICITY FEES

Component of Electricity Fees	Rate, PhP/kWh
Capital Recovery Fee ("CRF")	1.9407
Fixed Operations and Maintenance Fee ("FOM")	0.3500
Variable Operations and Maintenance Fee ("VOM")	0.1000
Fuel Fee	3.5700

NOTE:

1. *CRF and FOM at 100% CUF.*
2. *Fuel Fee is subject to monthly adjustments.*
3. *The BUYER may avail of Prompt Payment Discount ("PPD") pursuant to Section 4.3.*

The computations for the Electricity Fees are contained in Schedules 4.2 to 4.4 of the PSA is as follows:

SCHEDULE 4.2
MONTHLY BILLING OF CONTRACT CHARGES

$$CC_{BP} = [(CP_{BP} * AE_{BP} + EP_{BP} * DE_{BP})] + OAC_{BP} + T_{BP}$$

Where:

- CC_{BP}** = Contract Charges for the current Billing Period, in PhP.
- CP_{BP}** = Capacity Payment comprising of CRF and FOM for the current Billing Period, in PhP, based on actual Capacity Utilization Factor under Schedule 4.3, as follows: $CRF_{CUF} + FOM_{CUF}$
- AE** = Associated Energy during the current Billing Period subject to the Contracted Energy.
- EP_{BP}** = Energy Payment comprising of VOM and Fuel for the current Billing Period, in PhP, based on VOM under Schedule 4.1 and current Fuel Fee (FF_C) computed under Schedule 4.4, as follows:
- VOM + FF_C**
- DE** = Actual Delivered Energy during the current Billing Period.
- OAC_{BP}** = Other Associated Charges for the current Billing Period, in PhP.
- T_{BP}** = Applicable Taxes for the current Billing Period, in PhP.
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SCHEDULE 4.3
CAPITAL RECOVERY FEE (“CRF”) and
FIXED OPERATIONS & MAINTENANCE FEE (“FOM”), in
PHP/KWH AT VARIOUS CAPACITY UTILIZATION
FACTORS (“CUF”)

CUF	CRF	FOM
100%	1.9407	0.3500
99%	1.9603	0.3535
98%	1.9804	0.3571
97%	2.0008	0.3608
96%	2.0216	0.3646
95%	2.0429	0.3684
94%	2.0646	0.3723
93%	2.0868	0.3763
92%	2.1095	0.3804
91%	2.1327	0.3846
90%	2.1564	0.3889
89%	2.1806	0.3933
88%	2.2054	0.3977
87%	2.2307	0.4023
86%	2.2567	0.4070
85%	2.2832	0.4118
84%	2.3104	0.4167
83%	2.3382	0.4217
82%	2.3668	0.4268
81%	2.3960	0.4321
80%	2.4259	0.4375
79%	2.4566	0.4430
78%	2.4881	0.4487
77%	2.5204	0.4545
76%	2.5536	0.4605
75%	2.5877	0.4667
74%	2.6226	0.4730
73%	2.6586	0.4795
72%	2.6955	0.4861
71%	2.7334	0.4930
70%	2.7725	0.5000

CAPACITY UTILIZATION FACTOR FORMULA

The Capacity Utilization Factor shall be calculated in accordance with the formula below:

$$CUF = \frac{AE}{CC \times (BPD - FMDT - AO) \times 24}$$

Where:

- CUF** = Capacity Utilization Factor
- AE** = Associated Energy refers to the supplied energy, in kWh, nominated by the BUYER and declared by the SELLER within the relevant Billing Period
- CC** = Contract Capacity in kW
- BPD** = Billing Period Days, the number of Days within the relevant Billing Period
- FMDT** = Force Majeure Days Taken within the relevant Billing Period
- AO** = Actual Outage days Taken within the relevant Billing Period up to the Allowable Scheduled or Unscheduled Maintenance.

Note: CUF for each Billing Period shall be rounded-off to the nearest whole percentage/number.

SCHEDULE 4.4
FUEL FEE ADJUSTMENT FORMULA

$$FF_C = FF_B \times \left[A \times \left\{ \frac{NewC_C}{NewC_B} \right\} \times \left\{ \frac{FX_C}{FX_B} \right\} + B \right]$$

Where:

- FF_C = Adjusted Fuel Fee for the current Billing Period, in PhP/kWh approximated to nearest four (4) decimals, calculated based on the movement of global COAL Newcastle (“NEWC”) and Foreign Exchange (“FX”) Indices.
- FF_B = Base Fuel Fee set at PhP3.5700/kWh
- A = Percentage of the Base Fuel Fee portion that is adjusting based on the the movement of NEWC and FX, set at 67.79%.
- $NEWC_C$ = Average posted NEWC index for the calendar month within which the start of the current Billing Period occurs.
- $NEWC_B$ = Base NEWC index set at USD129.16/MT.
- FX_C = Average of the daily FX rate of the Philippine Peso to the US Dollar as posted by the Bangko Sentral ng Pilipinas for the calendar month within which the start of the current Billing Period occurs.
- FX_B = Base FX rate set at PhP55.895/USD.
- B = Percentage of the Base Fuel Fee that is not adjusting and fixed for the entire contract term, set at 32.21%

14.5.2. **Other Associated Charges.** WESM Charges other than Line Rental, transmission line loss, site specific loss adjustment and any interconnection charges, among others, shall be for the account of the BUYER. Line Rental charges from the power plant gate (Nodal Point), which is the lower between actual and up to PhP0.5000/kWh (“LR Cap”), shall be for the account of the SELLER. Line Rental charges beyond the LR Cap, shall be for the account of the BUYER.

14.6. **Government Taxes.** All applicable existing taxes including Value Added Tax (“VAT”), as well as all other future taxes, that may be imposed by the government, and which may be legally passed on by the SELLER to the BUYER in connection with the SELLER’s performance of its obligation under the Agreement, including any increase or adjustments thereon, shall be for the account of the BUYER.

14.7. **Prompt Payment Discount.** The BUYER shall avail of a three and 2/10 percent (3.2%) Prompt Payment Discount (“PPD”) applicable to the Electricity Fees (excluding Other Associated Charges, Replacement

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Power cost, if any, and Taxes) if it pays in full within ten (10) days after receipt of the invoice.

- 14.8. **Security Deposit.** The BUYER shall not be required by the SELLER to post a Security Deposit upon the execution of the Agreement. In any case that the BUYER should fail to pay in full its current invoice on or before its Due Date, it shall be required to post a Security Deposit at the immediately succeeding Billing Period after the Due Date equivalent to one hundred percent (100%) of the average monthly invoice for the Billing Periods from Initial Delivery Date up to the current Billing Period.

RATE IMPLICATIONS

15. ILECO I calculated the rate impact of the implementation of the subject PSA with SPI and compared it with the generation rate if ILECO I purchases its demand requirements from the WESM, as follows:

Without SPI			
Supplier	Energy , kWh	Rate, PhP/kWh	Amount, PhP
GCGI	13,392,000	6.4415	86,264,570
PEDC 1&2	1,953,000	8.6595	16,912,047
PEDC 3	5,952,000	5.9786	35,584,429
WESM	22,697,081	8.6870	197,168,454
Total	43,994,081	7.6358	335,929,500
With SPI			
Supplier	Energy , kWh	Rate, PhP/kWh	Amount, PhP
GCGI	13,392,000	6.4415	86,264,570
PEDC 1&2	1,953,000	8.6595	16,912,047
PEDC 3	5,952,000	5.9786	35,584,429
SPI	11,160,000	6.4624	72,120,384
WESM	11,537,081	8.6870	100,222,070
Total	43,994,081	7.0715	311,103,500
Generation Rate Increase/(Decrease)		(0.5643)	(24,826,000.12)

Note:

GCGI, PEDC 1, 2 & 3 Rate - Average Rate (January -September 2024)

WESM Rate - Average Nodal Price (January-Septemeber 2024)

16. As shown in the Rate Impact Calculation, the implementation of the PSA between ILECO I and SPI will be beneficial to its MCOs with an estimated generation rate reduction of Php 0.5643/kWh as compared to sourcing the same power requirements from the WESM. Thus, the PSA subject of this Joint Application will ultimately redound to the benefit of the MCOs,

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providing a continuous and reliable supply of electricity at affordable rates.

SUPPORTING DOCUMENTS

17. In support of this Joint Application, the following documents are hereby submitted for the evaluation of the Honorable Commission:

Description of Document	Annex
Power Supply Agreement (PSA) between ILECO I and SPI dated 25 October 2024 and the Executive Summary of the PSA	“A” to “A-1”
ILECO I’s Certificate of Franchise, Certificate of Registration issued by the National Electrification Administration (NEA) with Articles of Incorporation and Certificate of Registration issued by NEA	“B” to “B-2”
ILECO I’s Secretary’s Certificate under Oath showing the list of Board of Directors and Board Members	“C”
ILECO I’s Distribution Development Plan (DDP) for 2023 to 2032	“D”
ILECO I’s Certification of No Demand Side Management Program and Transmission Supply Contract (TSC/CSEE) with NPC/PSALM	“D-1”
ILECO I’s Power Supply Procurement Plant (PSPP) 2021 to 2030	“D-2”
ILECO I’s Transmission Service Agreement with NGCP	“D-3”
ILECO I’s Potential for a Reduction in Load supplied by the DU due to retail competition, GEOP, and etc.	“D-4”
ILECO I’s Supply and Demand Scenario and Average Daily Load Curve	“E” to “E-1”
ILECO I’s Power Supply Contract Utilization	“E-2”
ILECO I’s Single Line Diagram (SLD) Connection	“F”
ILECO I’s Performance Assessment of the System (SAIFI and SAIDI)	“G”
Proof of Joint TPBAC Establishment (Memorandum of Agreement, PGEPCCI Board Resolution No. 01, Series of 2020), and ILECO I Resolution No. 2024-167	“H” and series
PGEPCCI’s Invitation to Bid (First Round of CSP)	“I” and series
PGEPCCI’s Invitation to Bid (Second Round of CSP)	“J” and series

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Final Instructions to Bidders with Eligibility Requirements (1 st Round of CSP)	“K”
Final Instructions to Bidders with Eligibility Requirements (2 nd Round of CSP)	“K-1”
Proof of Service of Invitation to CSP Observers (1 st Round of CSP)	“L” and Series
Proof of Service of Invitation to CSP Observers (2 nd Round of CSP)	“M” and Series
PGECPCI’s Minutes of Pre-Bid Conference and Supplemental Bid Bulletins (1 st Round of CSP)	“N” and Series
PGECPCI’s Minutes of Pre-Bid Conference and Supplemental Bid Bulletins (2 nd Round of CSP)	“O” and Series
PGECPCI’s Joint Third-Party Bids and Awards Committee (TPBAC) Resolution No. 01, Series of 2022 declaring the failure of bidding for the 1 st Round of the CSP	“P”
PGECPCI’s Joint Third-Party Bids and Awards Committee (TPBAC) Resolution No. 03, Series of 2023 declaring the failure of bidding for the 2 nd Round of the CSP	“Q”
Postings on the DOE CSP Portal during the 1 st Round of the CSP	“R”
Postings on the DOE CSP Portal during the 2 nd Round of the CSP	“R-1”
Postings on NEA Website during the 1 st Round of the CSP	“S”
Postings on NEA Website during the 2 nd Round of the CSP	“S-1”
PGECPCI’s Solicitation Letters with Proof of Transmittal to Generation Companies and TOR (Direct Negotiation)	“T” and series
Offers Received by PGECPCI (Direct Negotiation)	“U” and Series
PGECPCI’s Joint Third-Party Bids and Awards Committee (TPBAC) Resolution No. 01, Series of 2024 determining SPI as the successful proponent selected through Direct Negotiation for the procurement of the power supply requirement of five (5) Electric Cooperatives including ILECO I	“V”
PGECPCI’s Joint Third-Party Bids and Awards Committee (TPBAC) Evaluation and Post Qualification Report recommending SPI as the successful proponent on the Direct Negotiation for the procurement of the power supply requirement of five (5) Electric Cooperatives, including ILECO I	“V-1”
PGECPCI’s Head of Procuring Entity (HOPE) Board Resolution No. 01, Series of 2024 approving the recommendation of the	“V-2”

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PGECPCI's Joint TPBAC declaring SPI as the successful proponent selected through Direct Negotiation for the procurement of the power supply requirements of five (5) Electric Cooperatives, including ILECO I	
Notice to Proceed from NEA dated 26 September 2024	"V-3"
Notice of Award issued by PGECPCI's Joint TPBAC	"V-4"
PGECPCI's Matrix and Type of CSP (Schedule of Bidding Activities – First Round, Second Round, and Direct Negotiation)	"W", "W-1" and "W-2"
PGECPCI's Joint Sworn Statement (on the Conduct of CSP) dated 31 January 2024 and JTPBAC Chairman's Affidavit on the Conduct of CSP dated 07 November 2024	"X to X-1"
ILECO I's Resolution No. 2024-130 Approving the Execution of the PSA with SPI	"Y"
ILECO I's Rate Impact Simulation	"Z"
ILECO I's Proof of WESM Membership	"AA"
ILECO I's Explanation of Non-Applicability of Certain Requirements	"BB"
SPI's Certificate of Incorporation, Articles of Incorporation and By-Laws	"CC" and series
SPI's Verified Certification showing the list of Board of Directors and the Board Members of the Ultimate Parent Company	"DD"
SPI's General Information Sheet ("GIS")	"EE"
SPI's Certification on Documents Previously Submitted (Section 22, ERC Resolution 16, series of 2023)	"FF"
SPI's Provisional Authority to Operate ("PAO") for the Sual Coal Fired Thermal Power Plant	"GG"
SPI's Affidavit of Undertaking to Submit its Transmission Service Agreement ("TSA")	"HH"
SPI's Generation Rate, Derivation, and Related Documents (Confidential)*	"II" and series
SPI's Sample Bill to ILECO I (Confidential)*	"JJ"
SPI's Latest Audited Financial Statement	"KK"
SPI's Write-Up on the Non-Applicability of Certain Requirements	"LL" and series

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SPI's Write-Up on the Capability to Supply ILECO I's Supply Requirement	"MM"
SPI's Data on Outages	"NN"
SPI's Affidavit of Undertaking to submit its Operation and Maintenance Agreement ("OMA")	"OO"
SPI's Secretary's Certificate	"PP"
SPI's Certificate of Email Registration	"QQ"
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SPI's General Information Sheet ("GIS")	"EE"
SPI's Certification On Documents Previously Submitted (Section 22, ERC Resolution 16, series of 2023)	"FF"
SPI's Provisional Authority to Operate ("PAO") for the Sual Coal Fired Thermal Power Plant	"GG"
SPI's Affidavit of Undertaking to Submit its Transmission Service Agreement ("TSA")	"HH"
SPI's Generation Rate, Derivation, and Related Documents (Confidential)*	"II" and series

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SPI's Sample Bill to ILECO II (Confidential)*	"JJ"
SPI's Latest Audited Financial Statement	"KK"
SPI's Write-Up on the Non-Applicability of Certain Requirements	"LL" and series
SPI's Write-Up on the Capability to Supply ILECO I's Supply Requirement	"MM"
SPI's Data on Outages	"NN"
SPI's Affidavit of Undertaking to submit its Operation and Maintenance Agreement ("OMA")	"OO"
SPI's Secretary's Certificate	"PP"
SPI's Certificate of Email Registration	"QQ"

** Subject of the Motion for Confidential Treatment of Information*

MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

18. Under the ERC Rules of Practice and Procedure, a party to any proceeding before the Honorable Commission may request that certain information be not disclosed to the public and be treated as confidential.⁵ Accordingly, SPI prays for the confidential treatment of the information contained in the following annexes:

Documents and/or Information	Annex
SPI's Generation Rate, Derivation, and Related Documents (Confidential)*	"II" and series
SPI's Sample Bill to ILECO I (Confidential)*	"JJ"

19. The above enumerated annexes contain information and data where SPI has actual and valuable proprietary interest to protect which fall within the bounds of "trade secrets" that are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.

19.1. Foregoing annexes contain non-public, proprietary information and data involving SPI's power rate calculations, financial model, as well as the manner by which these were derived. Furthermore, these information and data are not generally available to the public. SPI's competitiveness will seriously be prejudiced if this information is unduly disclosed.

⁵ Section 1, Rule 4, Rules of Practice and Procedure of the Energy Regulatory Commission.

19.2. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*,⁶ the Supreme Court defined “trade secrets” and explained that:

*“A trade secret is defined as a **plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it.** The definition also extends to a **secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having a commercial value.** A trade secret may consist of any **formula, pattern, device, or compilation of information** that: (1) **is used in one’s business;** and (2) **gives the employer an opportunity to obtain an advantage over competitors who do not possess the information.** Generally, a **trade secret is a process or device intended for continuous use in the operation of the business,** for example, a machine or formula, but can be a price list or catalogue or specialized customer list. **It is indubitable that trade secrets constitute proprietary rights.**” (Emphasis supplied.)*

19.3. Moreover, the Honorable Commission categorically acknowledged in its Decision in ERC Case No. 2015-111 RC⁷ that formulas and pricing structures of a generation company must be accorded confidential protection, to wit:

*“In the case of PNOC RC, the documents sought to be protected from disclosure contain formula and pricing structures used in arriving at their proposed tariff. In fact, all three (3) documents were used by the Commission in evaluating the reasonableness of the proposed rate. **In the electric power industry w(h)ere prices is[sic] a major consideration in selecting one’s supplier, it is apparent that the assumptions used in arriving at one’s proposed tariff is considered a competitive leverage by one player against its competitors.**”*

***Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed.**” (Emphasis supplied).*

20. Clearly, the Honorable Commission recognizes the importance of treating pricing structures as confidential in order to ensure competitiveness of the generation sector. This information, which falls within the definition of a trade secret as defined by

⁶ 564 Phil. 774 (2007), G.R. No. 172835.

⁷ Decision, ERC Case No. 2015-111 RC dated 30 May 2017 entitled “*In the Matter of the Application for Approval of the Power Supply Agreement Between Nueva Ecija II Electric Cooperative, Inc.-Area 2 (NEECO II – Area 2) and PNOC Renewables Corporation (PNOC RC).*”

jurisprudence, merits the confidential treatment provided for under Rule 4 of the ERC Rules of Practice and Procedure.

21. In view thereof, in accordance with Section 1 (b), Rule 4 of the ERC Revised Rules of Practice and Procedure, SPI submits one (1) copy of their respective confidential documents to the Honorable Commission in a sealed envelope, with the envelope and each page of the document marked with the word “Confidential”.⁸

22. Further, all parties who are furnished copies of the instant Joint Application are not furnished copies of the documents subject of the present motion.

23. In accordance with Sections 3 and 4, Rule 4 of the ERC Revised Rules of Practice and Procedure, SPI reserves the right to use the documents subject of the present motion and their contents as evidence, and respectfully moves for the issuance of a Protective Order.

MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY

24. A careful perusal of the supporting documents submitted by ILECO I will reveal that the cooperative joined the PGECPCI’s conduct of the Joint CSP with the aim of having the resulting PSA implemented in 2023 until 2031, with a eight (8)-year cooperation period, to secure a more stable and reliable power supply for its member-consumer-owners (MCOs), to ensure its continuous operation and meet the anticipated increasing demand in its franchise area.

25. Regrettably, due to reasons beyond the control of the EC members of PGECPCI, the procurement of supply for their required capacity and/or energy took a longer route than expected since they had to undergo two (2) rounds of the CSP, which both failed, and a negotiated procurement.

26. Though there was an eventual successful negotiated procurement for the power supply requirements of the PGECPCI members, it cannot be denied that the procuring ECs’ anticipated implementation of the resulting PSA, based on their projected demands, had already been delayed.

27. As shown in the above Rate Impact Simulation of ILECO I, the implementation of the PSA subject of this Joint Application will ultimately redound to the benefit of the MCOs, providing a continuous and reliable supply of electricity at affordable rates.

28. However, the subject PSA cannot lawfully be implemented absent an approval from this Honorable Commission, whether provisional, interim or final.

⁸ Electronic copies of the documents subject of the Motion for Confidential Treatment of Information are provided to this Honorable Commission in password protected files.

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29. Hence, in line with ILECO I's duty and mandate to provide a safe, reliable and continuous supply of electricity in the least cost manner, ILECO I moves for the issuance of a provisional authority to allow the cooperative to immediately implement the subject PSA even pending final evaluation from the Honorable Commission.

30. Any further delay in the implementation of the subject PSA will be tantamount to a denial of ILECO I's MCOs opportunity to enjoy its advantageous and beneficial effect, to wit, an estimated generation rate reduction of Php 0.5643/kWh, as discussed in the Rate Implication of this Joint Application.

31. In view of the foregoing, Applicants respectfully move for the issuance of a provisional approval of the instant Application pursuant to Rule 14 of the ERC Revised Rules of Practice and Procedure.

32. A copy of an Affidavit in Support of the Prayer for Provisional Authority is attached hereto as Annex "RR".

COMPLIANCE WITH PRE-FILING REQUIREMENTS

33. Finally, in compliance with the pre-filing requirements under the ERC Rules of Practice and Procedure, Applicants are submitting the following documents, to wit:

Description of Documents	Annex
Proof of furnishing copies of the Joint Application to the Offices of the Mayor and Sangguniang Bayan of Tigbauan and Governor and Sangguniang Panlalawigan of Iloilo, Offices of the Mayor and Sangguniang Panlungsod of Pasig City, Offices of the Mayor and Sangguniang Bayan of Sual and Governor and Sangguniang Panlalawigan of Pangasinan	"SS"
Proof of Publication of the Joint Application in a newspaper of general circulation in the Philippines	"TT"

PRAYER

WHEREFORE, premises considered, Applicants **ILOILO I ELECTRIC COOPERATIVE, INC. (ILECO I)** and **SUAL POWER, INC. (SPI)** respectfully pray that the Honorable Commission:

- (i) Issue an **Order** affording **Annexes "II" and series, and "JJ" confidential treatment** in the handling and evaluation thereof from the time these annexes are received by the Honorable Commission up to the termination of the instant case;
- (ii) Issue the corresponding **PROTECTIVE ORDER** in accordance with the said Rule 4 of the ERC Revised Rules of Practice and Procedure and its return/delivery to SPI;

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- (iii) Immediately issue an Order **GRANTING PROVISIONAL AUTHORITY or INTERIM RELIEF** to the subject PSA, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein; and
- (iv) After due hearing, render a **DECISION APPROVING** with finality the PSA subject of the instant Joint Application, including all the rates, fees, charges, and tariff adjustment mechanisms set out therein, and authorizing ILECO I to charge and collect such rates, fees, charges, and tariff adjustments therein from its customers reckoned from the actual delivery of supply.

Other kinds of relief, just and equitable under the premises, are likewise prayed for.

The Commission 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 thereof, pursuant to Resolution 09, Series of 2020⁹ and Resolution No. 01, Series of 2021¹⁰ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
14 April 2025 (Monday) at two o'clock in the afternoon (2:00 PM)	Microsoft Teams Application	Determination of compliance with the jurisdictional requirements and expository presentation
21 April 2025 (Monday) at two o'clock in the afternoon (2:00 PM)		Pre-Trial Conference and presentation of evidence

ILECO I and SPI are directed to host the virtual hearings at **ILECO I's Principal Office located at Namocan, Tigbauan, Iloilo**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, ILECO I and SPI shall guarantee that, during the conduct of the expository presentation, the participation of the public shall not be impaired.

⁹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

¹⁰ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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:

- 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 **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.

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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* through the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through 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 Chairperson and CEO **MONALISA C. DIMALANTA**, and Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 21st day of February 2025 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:


KRISHA MARIE T. BUELA
Director III, Legal Service


LS: EJD/JRBC/ARG