

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
EMERGENCY POWER SUPPLY
AGREEMENT BETWEEN
ENERGY DEVELOPMENT
CORPORATION AND SAMAR I
ELECTRIC COOPERATIVE,
INC., WITH MOTION FOR
CONFIDENTIAL TREATMENT
OF INFORMATION**

ERC CASE NO. 2024-017 RC

**ENERGY DEVELOPMENT
CORPORATION (EDC) AND
SAMAR I ELECTRIC
COOPERATIVE, INC.
(SAMELCO I),**

Applicants.

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Promulgated:
March 05, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 12 February 2024, Energy Development Corporation (EDC) and Samar I Electric Cooperative, Inc. (SAMELCO I) filed their *Joint Application (With Motion for Confidential Treatment of Information)* dated 19 July 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 said *Joint Application* are hereunder quoted, as follows:

1. Applicant SAMELCO I is a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal office at Barangay Carayman, Calbayog City, Samar, Philippines, where it may be

served with summons and other legal processes. SAMELCO I is represented here by its President, Engr. Arcadio C. Olaje, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated February 22, 2023, attached hereto as Annex "B-1".

2. Applicant EDC is a generation company duly organized, incorporated and registered under and by virtue of the laws of the Philippines, with principal office at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, represented in this instance by its Vice President, Marvin Kenneth S. Bailon, who has been authorized by its Board of Directors to file the Joint Application as evidenced by the Secretary's Certificate dated October 13, 2022, attached hereto as Annex "D-1".

- 2.1 EDC, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA").

- 2.2 Pursuant to the Honorable Commission's Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, EDC has joined in this Application as a co-applicant.

- 2.3 While EDC is a co-applicant, it manifests that this Joint Application shall neither modify, diminish, nor constitute as a waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

3. Applicant SAMELCO I is the exclusive franchise holder to own and operate a system for the distribution of electricity in the City of Calbayog and Municipalities of Gandara, Matuguinao, San Jorge, Sta. Margarita, Tarangnan, Pagsanghan, Sto. Nino, Almagro, Tagapul-an, all in the Province of Samar.

4. Applicant EDC owns and operates the approximately 592.33 MW Unified Leyte Geothermal Power Plant located in the Ormoc City and Kananga, Leyte ("Plant").

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

NATURE OF THE APPLICATION

6. This is a Joint Application for approval of the Emergency Power Supply Agreement ("EPSA") entered into by and between SAMELCO I and EDC dated November 7, 2022, being submitted to the Honorable Commission for its review and approval).

STATEMENT OF FACTS

7. SAMELCO I is in immediate need of 1MW contracted capacity for around one (1) month and 2 MW contracted capacity for the succeeding eleven (11) months¹. To maintain an uninterrupted and reliable power supply due to a high level of supply deficit of at least 1MW for one month and 2MW for the succeeding 11 months, SAMELCO I decided to source the needed power at affordable and cheaper generation rates to help minimize the exposure to the volatile Wholesale Electricity Spot Market (“WESM”) prices.
8. Pursuant to Department of Energy (“DOE”) Department Circular 2018-02-003, as amended by DC 2021-09-0030, SAMELCO I is allowed to enter into a negotiated procurement of emergency electric power supply agreements with a generation company for a period not exceeding one (1) year, subject to such terms and conditions provided under Section 2.2.1.2 of DC 2021-09-0030.
9. SAMELCO I wrote to the DOE requesting for the issuance of Certificate of Exemption for a negotiated procurement of initially 1 MW and then eventual 2MW emergency power supply from EDC. The Letter expressed SAMELCO I’s urgent need for supply of electricity due to circumstances beyond the control of SAMELCO I, and the limited time to conduct the said Competitive Selection Process (“CSP”).
10. On 9 September 2022, DOE issued Certificate of Exemption No. COE-CSP-2022-08-042 in response to SAMELCO I’s letter-request exempting it from the conduct of CSP for the procurement of emergency electric power supply.
11. In view of SAMELCO I’s supply deficit of at least 1MW for the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023, based on its Supply-Demand Scenario, and to protect its consumers from high electricity prices, SAMELCO I solicited for emergency power supply for one (1) year.
12. In response to SAMELCO I’s demand, EDC has offered to supply a portion of the emergency electric power supply requirements of SAMELCO I at a rate equivalent to or lower than the ERC-approved generation tariff for the same or similar technology in comparable areas and SAMELCO I accepted the offer of EDC. Applicants executed the subject Emergency Power Supply Agreement (“EPSA”) for the supply of 1MW for one month and 2 MW for the succeeding 11 months emergency power supply to SAMELCO I.

¹ Under the EPSA, the term shall end on the last day of the Cooperation Period, which shall not be later than the date prescribed by the DOE in the Certificate of Exemption; both the EPSA and the Certificate of Exemption provide for 1MW the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023.

**ABSTRACT OF THE POWER SUPPLY AGREEMENT AND
RELATED INFORMATION**

13. Under the EPSA, EDC shall supply power to SAMELCO I for the term of the Cooperation Period, or unless sooner terminated pursuant to the EPSA, with a Contracted Capacity of 1MW for the period of 26 August 2022 to 25 September 2022 and 2MW for the period of 26 September 2022 to 25 August 2023.²
- 13.1 Supply of Electricity – EDC shall make available to SAMELCO I the Contracted Capacity from the Power Plant and/or Other Sources throughout the duration of the Cooperation Period, subject to Section 2.2.1 of the EPSA. The Parties agree that EDC shall have no obligation to supply more than the Contracted Capacity to SAMELCO I. SAMELCO I shall submit to EDC the week-ahead and day-ahead Daily Generation Schedule. SAMELCO I shall purchase and EDC shall supply, for each Billing Month in accordance with Nomination and Dispatch Protocol.
- 13.2 Purchase of Electricity – SAMELCO I is obliged to purchase the Minimum Contracted Energy throughout the duration of the Cooperation Period.
- 13.3 Start of Supply of Electricity – The supply of electricity by EDC and acceptance by SAMELCO I shall start no later than Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent under Section 11 of the EPSA.
- 13.4 Electricity Fees – Electricity fees shall refer to 5.8798 PhP/kWh for the billing period August 26, 2022 to December 25, 2022. Beginning January 2023 billing period, the Electricity Fee shall be in accordance with the formula in Schedule 3, multiplied by (a) the Minimum Contracted Energy corresponding for the applicable billing period or (b) BCQ, whichever is higher. In relation to the supply of electricity, it is understood that any charges, costs, expenses, and fees that may be charged to, incurred and/or assumed by EDC or otherwise imposed by NGCP, any Governmental Authority or any third party, for transmission and/or Ancillary Services and other related services in connection with the delivery of electricity under the EPSA shall be paid by SAMELCO I.

RATE IMPACT ANALYSIS

14. SAMELCO I simulated a rate impact analysis which resulted in a PhP 1.6894/kWh decrease with the execution of the EPSA with EDC, as can be seen below:

² Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the EPSA.

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	Weighted Average Rate (Php/kW)
SAMELCO I: WITHOUT EDC EPSA	12.2834
SAMELCO I: WITH EDC EPSA	10.5939
Generation Impact: Increase /(Decrease)	(1.6894)

OTHER RELATED DOCUMENTS

15. To substantiate the instant application, Applicants most respectfully submit to the Honorable Commission the following documents.

ANNEX	DOCUMENTS
A	Articles of Incorporation and By-laws of SAMELCO I
B	List of Board of Directors and Board Members and related ultimate parent company, subsidiaries and affiliates of SAMELCO I
B-1	Secretary's Certificate of SAMELCO I
B-2	Board Resolution of SAMELCO II
C	Certificate of Incorporation of EDC and other relevant past Articles of Incorporation and By-laws
C-1	Latest Amended Articles of Incorporation of EDC
C-2	Latest Amended By-laws of EDC
D	General Information Sheet of EDC
D-1	Secretary's Certificate of EDC
D-2	Special Power of Attorney of EDC
E	Board of Investments Certificate of Registration
F	Environmental Compliance Certificate
G-series	Certificate of Compliance and/or Provisional Authority to Operate
H-series	DOE Certificates of Endorsement
I*	Renewable Energy Service Contracts
J	Certificate of Registration or Certificate of Commerciality
K	Rate Impact
L	Single Line Diagram Connection
M	Emergency Power Supply Agreement between SAMELCO I and EDC
N	DOE Certificate of Exemption
N-1	Letters to or from SAMELCO I
O	Verified Certification in relation to delivery of power in emergency circumstances
P	NGCP Certification on Service Agreements
P-1	Transmission Service Agreement between NGCP and SAMELCO I
Q	NGCP Certificate of Adequate Capacity
Q-1	Write up on TSC
R	Executive Summary of EPSA

S*	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T*	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U*	Bank Certifications
V*	Sworn statement on fuel procurement
W*	Relevant technical and economic characteristics of generation capacity
X	Supply Demand Scenario
Y	Estimation of Potential for Reduction in Load
Z	Latest Audited Financial Statements
AA	Certification of net heat rate
BB	WESM Registration
CC	Write-up on non-applicable items
CC-1	SAMELCO I Write-up on Demand Side Management
CC-2	EDC sample OR
DD	Water Permits from NWRB
EE	SAMELCO I's Reliability Indices
FF	PSPP and DDP

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

16. In compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the Office of the Mayor and Governor and the legislative bodies of the municipality and province wherein the principal place of business of SAMELCO I is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the Affidavits of Service to or Certifications issued by the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of Calbayog City, Samar and the Presiding Officer or Secretary of the legislative body and the Office of the Governor of Samar, or from their duly authorized representatives, attesting to the fact of service of the Application are attached hereto as Annexes "GG" to "GG-3", respectively.
17. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where EDC's principal place of business is located and to Ormoc City, Kananga, and Province of Leyte as EDC's place of operation. Copies of the certification of receipt from and/or affidavits of service to the Presiding Officer or Secretary of the legislative body and the Office of the Mayor of the City of Pasig City, and the place of operation in Ormoc City and Kananga, and the Province of Leyte, or from their duly authorized representatives attesting to the fact of service are attached hereto as Annexes "HH" to "HH-7".
18. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of SAMELCO I. Copies of the corresponding duly

notarized Affidavit of Publication and the newspaper publication are attached hereto as Annexes "II" and "JJ", respectively.

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

19. Applicants respectfully request that the information in the following documents be treated as confidential in nature:

ANNEX	DOCUMENTS
I	Renewable Energy Service Contract
S	Write up regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
T	Excel computations regarding Sources of Funds/Financial Plans, Generation Rate and Derivation, Cash Flow specifying breakdown of costs and expenses
U	Bank Certifications
V	Sworn statement on fuel procurement
W	Relevant technical and economic characteristics of generation capacity

20. Applicants treat the above-mentioned documents, such as related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.

21. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and a determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

22. Pursuant to the ERC Rules of Practice and Procedure, the Honorable Commission may exercise its discretion by granting a provisional authority or an Interim Relief prior to a final decision. It is understood that the provisional authority or Interim Relief sought by the Joint Applicants shall be subject to adjustments and other conditions that the Honorable Commission may impose.

PRAYER

WHEREFORE, premises considered, Applicants EDC and SAMELCO I respectfully pray of this Honorable Commission the following:

- a. After due hearing, render a decision approving with finality the EPSA subject of the instant Joint

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Application, thereby confirming the rates in the EPSA as implemented by the Applicants; and

- b. Issue an Order declaring the documents, and the information therein, duly marked as Annexes "I", "S", "T", "U", "V" and "W" as confidential information, within the purview of Rule 4 of the ERC Rules, thereby directing the same to be treated with confidentiality and be protected from public disclosure.

Other reliefs, just and equitable under the premises, 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 platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020³ and Resolution No. 01, Series of 2021⁴ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
16 April 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams Application	Determination of compliance with the jurisdictional requirements and Expository Presentation
23 April 2024 (Tuesday) at two o'clock in the afternoon (2:00 P.M)		Pre-Trial Conference and Presentation of Evidence

Accordingly, EDC and SAMELCO I are hereby directed to host the virtual hearings at **SAMELCO I's Principal Office located at Barangay Carayman, Calbayog City, Samar, Philippines**, as the designated venue for the conduct thereof, and ensure that the same is open to the public. Moreover, EDC and SAMELCO I 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

³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁴ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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, all persons who have 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 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.

Finally, all interested persons may be allowed to join the scheduled initial 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, FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 5th day of March 2024 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:



CATHERINE P. MACEDA
Commissioner

*and Officer-in-Charge of the
Office of the Chairperson and CEO*

LS: JPM/LSP

ERC

Office of the Chairperson and CEO



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