

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
JOINT APPLICATION FOR
APPROVAL OF POWER
SUPPLY AGREEMENT
BETWEEN SP NEW ENERGY
CORPORATION (FORMERLY
SOLAR PHILIPPINES NUEVA
ECIJA CORPORATION) AND
ANGELES ELECTRIC
CORPORATION (“AEC”)
WITH PRAYER FOR
PROVISIONAL AUTHORITY
OR INTERIM RELIEF AND
MOTION FOR CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2023-004 RC

Promulgated:
February 20, 2023

**SP NEW ENERGY
CORPORATION (FORMERLY
SOLAR PHILIPPINES NUEVA
ECIJA CORPORATION) AND
ANGELES ELECTRIC
CORPORATION (“AEC”),
Applicants.**
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ORDER

On 23 January 2023, SP New Energy Corporation (SPNEC), formerly Solar Philippines Nueva Ecija Corporation, and Angeles Electric Corporation (AEC) filed a *Joint Application* dated 28 October 2022, seeking the Commission’s approval of their Power Supply Agreement (PSA), with prayer for provisional authority and motion for confidential treatment of information.

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

1. AEC¹ is a distribution utility (“DU”) duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Don Juan D. Nepomuceno Avenue corner Doña Teresa Avenue, Nepo Mart Complex, Angeles City, Pampanga. AEC may be served with summons and other legal processes through its undersigned counsel at the address stated below. AEC is represented in this case by its President, Maria Rita Josefina V. Chua.
2. AEC is the franchise holder pursuant to Republic Act No. (“RA”) 2341, as amended by RA 4079 and RA 9381. Under said franchise, AEC was granted the authority to construct, operate and maintain in the public interest and for commercial purposes, a distribution system for the conveyance of electric power to the end-users in the City of Angeles, Province of Pampanga.²
3. SP New Energy Corporation³ is a generation company (“GenCo”) duly organized and existing under the laws of the Republic of the Philippines, with principal office at 112 Legaspi Street, Legaspi Village, Brgy. San Lorenzo, Makati City, Philippines. It may be served with summons and other legal processes at 22/F ACCRALAW Tower, 2nd Avenue corner 30th Street, Crescent Park West, Bonifacio Global City, 1635 Taguig, Metro Manila. SP New Energy Corporation is represented in this instance by its Assistant Corporate Secretary and Chief Project Officer, Hazel Iris P. Lafuente.
4. SP New Energy Corporation is a subsidiary of Solar Philippines Power Project Holdings, Inc. SP New Energy Corporation owns and is presently developing its Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) with a capacity of fifty (50) Megawatts of direct current (“MWdc”) and located in the Municipality of Penaranda, Province of Nueva Ecija⁴.
5. As a GenCo, it falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (“EPIRA”).
6. 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, Co-Applicants are jointly filing the instant Joint Application. Co-Applicants however respectfully manifest that this Joint Application shall neither modify, diminish, nor constitute as a waiver of their rights, nor expand their obligations and responsibilities as a GenCo and DU, respectively, under the EPIRA.

¹ A copy of the Articles of Incorporation of Angeles Electric Corporation is attached to the Application as Annex “B” and made integral parts hereof.

² Republic Act No. 9381.

³ A copy of the Articles of Incorporation of SP New Energy Corporation is attached to the Application as Annexes “A” to “A-2” and made integral parts hereof.

⁴ As amended under the Amendment to the Renewable Power Supply Agreement attached to the Application as “Annex T-1”.

7. AEC is a mandated participant under the Renewable Portfolio Standards (“RPS”) and is required under Department of Energy (“DOE”) Department Circular No. DC2017-12-0015, otherwise known as the RPS Rules for On-Grid Areas, to source a certain percentage of its wholesale power requirements from eligible Renewable Energy (“RE”) resources.
8. In relation to this, AEC is in need of a 13MW renewable energy power supply for ten (10) years. To comply with the requirements of the RPS for on-grid areas and to maintain an uninterrupted and reliable power supply due to an increasing demand by AEC’s new and existing customers, AEC decided to source the needed power at affordable and cheaper generation rates through the competitive selection process.
9. Pursuant to DOE rules, AEC, thru a submission for posting of the Terms of Reference in the CSP E-based Portal of the DOE website and an Invitation To Bid published on October 10 and 17, 2021 had initiated and conducted a competitive selection process to solicit the most competitive offer/s for its 13MW renewable energy power supply (“CSP”). After careful evaluation and review of the terms of the bid offers, AEC deemed that the proposal of SP New Energy Corporation was the most advantageous and beneficial for its end consumers and accordingly issued a Notice of Award on January 28, 2022. Thereafter, Co-Applicants executed a Power Supply Agreement (“PSA”) on February 7, 2022[,] in accordance with the terms of reference of the CSP and SP New Energy Corporation’s bid offer.
10. Co-Applicants come now to this Honorable Commission for the approval of the PSA, in compliance with the implementing rules and regulations (“IRR”) of the EPIRA and the rules and guidelines issued by the Energy Regulatory Commission (“ERC”).

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

11. Executive Summary. Under the PSA, SP New Energy Corporation shall supply power to AEC for a term of ten (10) years with a Bilateral Contract Quantity (“BCQ”) of daily total ninety-seven thousand eight hundred (97,800) kilowatt hours (“kWh”) or in accordance with Annex “A” of the PSA. AEC can nominate a BCQ higher than that provided in the said Annex “A”, with such nomination done in accordance with the Nomination Protocol in the PSA and that the nomination does not exceed one hundred seven percent (107%) of the Total kWh/day, which may be applied to any of the intervals, including the 13, 000 intervals.
12. Commencement Date. The PSA shall commence on 26 March 2023, or upon approval by the ERC, whichever comes later.

13. Cooperation Period. The PSA shall commence on Commencement Date, and shall expire ten (10) years after Commencement Date.
14. Nature of Supply. SP New Energy Corporation shall supply RE from the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) with a capacity of 50MWdc and located in the Municipality of Penaranda, Province of Nueva Ecija, to cater to the daytime peak hour power requirements of AEC from 6:00 a.m. to 6:00 p.m. as provided in accordance with Clause 1.6 of the PSA.
15. Contracted Quantity. The contracted quantity in kilowatt-hours (referred to as BCQ) shall be as specified in Clause 1.6 and in Annex "A" of the PSA which, among others, provides for a daily total of 97,800kWh and that AEC can opt to nominate a higher BCQ as long as it is done in accordance with the Nomination Protocol in the PSA and the nomination does not exceed 107% of the Total kWh/day which may be applied to any of the intervals. This notwithstanding, the PSA is a take and pay agreement and AEC shall pay only for the BCQ delivered.
16. Availability of Contracted Demand. SP New Energy Corporation shall supply the Contracted Demand from the Nominated RE Facility, which is the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) with a capacity of fifty (50) MWdc and located in the Municipality of Penaranda, Province of Nueva Ecija⁵.
17. Quality of Supply. The quality of supply made available to AEC at the point of delivery shall, at all times, comply with the Technical Requirements and the applicable provisions of the Philippine Grid Code and the Philippine Distribution Code. Should AEC provide competent and credible proof verified by a qualified and independent third Party that the supplied energy does not comply with such Technical Requirements, it shall immediately notify in writing SP New Energy Corporation of such non-compliance and providing the required proof required under this Clause 1.5 of the PSA. SP New Energy Corporation shall have [seven (7)] calendar days from receipt of notice of non-compliance to verify AEC assessment of the quality of the supply and undertake the necessary corrective action should the proof provided validate AEC's claim of non-compliance. In case of disagreement, the Parties shall agree on an independent technical audit of the claim to be conducted by an independent and qualified technical expert. The findings of such technical expert shall be binding on both Parties.
18. Connection Node, Delivery Point, and Metering Point. The Connection Node, Delivery Point, and Metering Point are designated in Annex "C" of the Amendment to the Renewable PSA and Annexes "D" and "E" of the PSA, respectively.

⁵ As amended under the Amendment to the Renewable Power Supply Agreement attached to the Application as "Annex T-1".

19. Replacement Energy. Should the Nominated RE Facility be unable to supply the contracted energy by the Commencement Date other than due to an event of Force Majeure, SP New Energy Corporation may source replacement energy from any RPS-eligible RE Facility in order to sell such energy to AEC in compliance with RE Supplier’s obligations under the PSA. Payment for such Replacement Energy shall be at the same rate as provided in Clause 1.13 of the PSA, unless the cause of inability is due to a Force Majeure Event and AEC requested SP New Energy Corporation to source energy from a third-Party supplier in which case the price shall be the price at which SP New Energy Corporation has procured such Replacement Energy or the Purchase Price, whichever is higher.
20. Metering Service Provider and Meter Reading Date and Time. The Metering Service Provider (MSP) who shall be solely responsible for measuring the BCQ delivered shall be as stipulated in Annex “F” of the PSA, and the meter reading date and time shall be as stipulated in Annex “G” of the PSA.
21. Contract Price. The purchase price shall be in Philippine Peso for the BCQ delivered shall be in accordance with the Schedule specified in Annex “H” of the PSA, which reads as follows:

Contract Year	Contract Price (PhP/kWh)
1	3.4567
2	3.4567
3	3.4567
4	3.4567
5	3.4567
6	3.4567
7	3.4567
8	3.4567
9	3.4567
10	3.4567

RATE IMPACT ANALYSIS

22. AEC simulated a rate impact analysis based on the assumed quantities and in comparison with the latest generation charge, which resulted in a decrease of 0.3484 after considering the projected line rental on SP New Energy Corporation generation component for the same month, as follows:

Generation Charge using July 2022 Power Bills
[without SP New Energy Corporation]

SUPPLIERS	AMOUNT (In Peso)	ENERGY (In kWh)	%	Ave (P/kWh)
GNPOWER (GMEC)	363,404,300.62	38,066,521	65	9.5466
ANDA POWER (ANDA)	83,203,087.49	10,800,000	18	7.7040
ANGELES POWER (API)	20,288,257.41	330,477	1	61.3908
WESM	95,670,237.36	9,167,770	16	10.4355
NET METERING	1,469,246.69	153,666	0.3	9.5613
TOTAL	564,035,129.57	58,518,434	100	9.6386

LESS: ADJUSTMENTS			
PPD & Other Discounts	(3,969,945.97)		(0.0678)
Pilferage Recoveries	(125,949.78)		(0.0022)
NET GC	559,939,233.82	58,518,434	9.5686
GENERATION CHARGE (P/kWh)	9.5686		

Simulation of Generation Charge for July 2022
[with SP New Energy Corporation]

SUPPLIERS	AMOUNT (In Peso)	ENERGY (In kWh)	%	Ave (P/kWh)
GNPOWER (GMEC)	363,404,300.62	38,066,521	65	9.5466
ANDA POWER (ANDA)	83,203,087.49	10,800,000	18	7.7040
ANGELES POWER (API)	20,288,257.41	330,477	1	61.3908
SP New Energy Corporation	10,232,031.60	2,934,000	5	3.4874 ⁶
WESM	65,052,488.83	6,233,770	11	10.4355
NET METERING	1,469,246.69	153,666	0.3	9.5613
TOTAL	543,649,412.64	58,518,434	100	9.2902
LESS: ADJUSTMENTS				
PPD & Other Discounts	(3,969,945.97)			(0.0678)
Pilferage Recoveries	(125,949.78)			(0.0022)
NET GC	539,553,516.89	58,518,434		9.2202
GENERATION CHARGE (P/kWh)	9.2202			
INCREASE (DECREASE) P/kWh	(0.3484)			

Indicative SP New Energy Corporation Power Bill with line rental component:			
	Amount	Estimated BCQ (kWh)	Average P/kWh
Base price	P 10,141,957.80	2,934,000	P 3.4567
Line rental	(P) 90,073.80	2,934,000	0.0307 ⁷
Total	P 10,232,031.60	2,934,000	P 3.4874

OTHER RELATED DOCUMENTS

23. In further support of the Joint Application, Co-Applicants most respectfully submit to the Honorable Commission the following documents:

ANNEX	DOCUMENTS
A	SP New Energy Corporation's Certificate of Incorporation
A-1	SP New Energy Corporation's Articles of Incorporation and By-laws
A-2	SP New Energy Corporation's Amended Articles of Incorporation
A-3	SP New Energy Corporation's Amended By-laws
A-4	SP New Energy Corporation's Amended Annual General Information Sheet
B	AEC's Amended Articles of Incorporation
B-1	AEC's Amended By-laws
B-2	AEC's General Information Sheet
C	SP New Energy Corporation's write up on Shareholder's Agreement
D	SP New Energy Corporation's Verified Certification of BOD Composition

⁶ See total in Indicative SP New Energy Corporation Power Bill with line rental component in immediately succeeding table.
⁷ Amount pertains to average line rental as of bidding date.

ANNEX	DOCUMENTS
E	SP New Energy Corporation’s BOI Certificate of Registration
F	Environmental Compliance Certificate
G	SP New Energy Corporation’s write up on ERC Certificate of Compliance
H	SP New Energy Corporation’s write up on DOE Certification
I-series	DOE RESC and Operating Contract
J-series	DOE Certificate of Registration
K	SP New Energy Corporation’s write up on NPC Certification for Transition Supply Contract
L	Single Line Diagram Connection
M	Proposed DSM Program
N	Average Daily Load
O	Supply Demand Scenario
P	Reliability Performance
Q	Estimation Retail Competition
R	Inconsistencies analysis
S-series*	Competitive Selection Process
T	Power Supply Agreement
T-1	Amendment to the Renewable Power Supply Agreement
U	Matrix of Comparison
V	SP New Energy Corporation’s write up on Transmission or Grid Connection Projects
V-1	System Impact Study
W	Transmission Service Agreement
X-series	Write up on Related Agreements
X-1	Project Feasibility Study
Y	Executive Summary
Z*	Source of Funds
AA*	Financial Model
BB*	Project Cost Breakdown
CC*	Breakdown and Description of Project
DD*	Cash Flow
EE	Write up on certification from the Banks for Loans
FF	Write up on Life of Asset versus Term of Loan
GG	Write up on Bank Certification of Long-term Loans
HH	Write up on Sample Computation of Power Rates
II	Write up on Basis rationale of indexation
JJ	Write up on Basis of Other Charges
KK	Write up on equivalent for foreign [-] denominated rates
LL	Write up on Updated Costs
MM	Write up on Procurement Process of Fuel
MM-1	Write up on [the] sworn statement of fuel procurement
NN	Technical and economic characteristics of the generation capacity

ANNEX	DOCUMENTS
NN-1	SP New Energy Corporation’s write up on Scheduled and Unscheduled Outages, and Basis/Justification of Day Used
OO	Write up on Cost Analysis
PP-series	DDP and PSPP
QQ	Audited Financial Statements
RR	Write up on the Certification of Net Heat Rate
SS	Simulation of Operating Units
SS-1	PVsyst – Simulation Report
TT	Write up on Potential Cost of Ancillary Services
UU	Write up on Distribution Wheeling Service Agreement
VV	Write up on WESM Registration of SP New Energy Corporation
WW	Affidavit of Service or Certification - Office of the Mayor of Penaranda
XX	Affidavit of Service or Certification - Sanggunian of Penaranda
YY	Affidavit of Service or Certification - Office of the Governor of Nueva Ecija
ZZ	Affidavit of Service or Certification - Sanggunian of Nueva Ecija
AAA	Affidavit of Service or Certification - Office of the Mayor of Makati City
BBB	Affidavit of Service or Certification - Sanggunian of Makati City
CCC	Affidavit of Service or Certification - Office of the Mayor of Angeles City
DDD	Affidavit of Service or Certification - the Sanggunian of Angeles City
EEE	Certificate of Registration (RER) of AEC
FFF	Certificate of Registration (RER) of SP New Energy Corporation
GGG	Affidavit of Publication
HHH	Copy of the Newspaper of General Circulation

** Subject to Motion for Confidential Treatment of Information*

COMPLIANCE WITH PRE-FILING REQUIREMENTS

24. In Compliance with the ERC Rules of Practice and Procedure, Co-Applicants have furnished the legislative bodies of the city wherein the principal place of operation and business of AEC is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the certifications of receipt from the Head of the executive body and the Presiding Officer or Secretary of the legislative bodies, or from their duly authorized representative or the corresponding Affidavits of Service, attesting to the fact of service are attached hereto as Annexes “CCC” and “DDD”.
25. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the

local government unit of SP New Energy Corporation’s principal place of operation and business. Copies of the certification of receipt from the Governor, Mayor and the Presiding Officer or Secretary of the legislative body, or from their duly authorized representatives, or the corresponding Affidavits of Service attesting to the fact of service are attached hereto as Annexes “WW” to “BBB”.

- 26. Co-Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation. Copies of the corresponding duly notarized Affidavit of Publication and copy of the newspaper are attached hereto as Annexes “GGG” and “HHH”, respectively.

MOTION FOR CONFIDENTIAL TREATMENT OF
INFORMATION

- 27. Rule 4 of the ERC Revised Rules of Practice and Procedure provide that information submitted to this Honorable Commission may be treated as confidential.
- 28. AEC respectfully requests that the information in the following documents, submitted in compliance with the said rule, be treated as confidential in nature pursuant to [the] afore-stated provision:

Annex	Document
S-series	Competitive Selection Process

- 29. SP New Energy Corporation likewise respectfully requests that the information in the following documents, submitted in compliance with the said rule, be treated as confidential in nature pursuant to [the] afore-stated provision:

Annex	Document
Z	Source of Funds
AA	Financial Model
BB	Project Cost Breakdown
CC	Breakdown and Description of Project
DD	Cash Flow

- 30. The above-mentioned documents of Co-Applicants contain information, which is not available to the public, and information involving, among others, bidding information showing trade secrets and business calculations of third parties including the different bidders, as well as trade secrets reflecting SP New Energy Corporation’s investment, business calculations, and pricing structures.
- 31. The information, which should be treated as absolutely confidential, is submitted solely for the purposes of the evaluation and approval of the Joint Application, to be examined only by this Honorable Commission, and treated as confidential against all else, including but not limited to an applicant’s co-applicant.

32. Further, Annexes “Z” to “DD” contain proprietary information, and financial, investment and business calculations of SP New Energy Corporation. The data and information contained therein comprise the overall formula and process in arriving at competitive rates which it specifically developed. If the information contained in these annexes are unduly disclosed, this will seriously prejudice the competitiveness of SP New Energy Corporation as it may be used by other GenCo’s in designing their offers/tariff structure/rate design and would undermine competition. As such, they are solely for SP New Energy Corporation’s use and [are] treated as a trade secret.

33. A trade secret has been defined in jurisprudence as follows:

“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. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information ‘in confidence’ or through a ‘confidential relationship.’”⁸

34. To this end, the confidentiality of trade secrets is protected by various laws and rules,⁹ and no less than the Supreme Court has emphasized that the privileged nature of trade secrets is “beyond quibble.”¹⁰

⁸ Air Philippines Corp. v. Pennswell, Inc., G.R. No. 172835, 13 December 2007.

⁹ Rules of Court, Rule 130, Sec. 26; Section 4, Rule 3 of the Interim Rules of Procedure on Government Rehabilitation; Section 66 of the Securities Regulation Code of 2000; Rev. Penal Code, Art 291-292; Rep. Act No. 8424, Sec. 278; Rep. Act No. 6969, Sec. 12.

¹⁰ Air Philippines Corp. v. Pennswell, Inc., G.R. No. 172835, 13 December 2007.

35. Likewise, this Honorable Commission has previously held that in the electric power industry, information relating to pricing structures are confidential and may not be disclosed, 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 there (*sic*) (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.”¹¹

36. Indeed, the information contained in the above-stated documents is vital to the determination of SP New Energy Corporation’s pricing structure and competitive advantage. The competitive selection process, likewise, contains bid proposals of other GenCo’s. These undoubtedly constitute proprietary information or trade secrets as defined.
37. Co-Applicants therefore respectfully move that the above information be treated as confidential even as against the other applicant, and that the information contained therein be solely used for the purposes of examination and evaluation by this Honorable Commission.

**MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY
OR INTERIM RELIEF**

38. Under Section 4(e), Rule 3 of the EPIRA IRR and Rule 14 of the ERC Revised Rules of Practice and Procedure, this Honorable Commission may grant a provisional authority or an interim relief.
39. As can be gleaned from the rate impact study above, clearly and without [an] iota of doubt, the approval of the demand at the rate applied for as specified in the PSA, will generally benefit the consumers of AEC as it will reduce the generation charge significantly, where the simulated generation charge decreased from Php 9.5686 per kWh to Php 9.2202 per kWh, or a decrease of Php 0.3484 per kWh.
40. The implementation of the PSA with SP New Energy Corporation will also enable AEC to comply with the requirements of the Renewable Portfolio Standards (RPS) for on-grid areas and accommodate the rapidly increasing demand of AEC from its new and current customers which, if

¹¹ 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), ERC Case No. 2015-11 RC, 30 May 2017.

not immediately addressed could adversely affect the supply and the current generation charge of AEC, to the prejudice of its end-users. The approval and immediate implementation of the PSA with SP New Energy Corporation will enable AEC to continuously provide the end-users with stable, uninterrupted, and reliable power supply at an affordable rate.

41. As discussed in this Application and as shown in the various supporting documents/annexes, Phase 1A of the Sta. Rosa Nueva Ecija 2 Solar Power Plant is more than capable of catering to the daytime peak hour requirements of AEC as well as enabling the DOE to meet its renewable energy goals by the 2030 deadline.
42. The competitive price provided by the subject PSA would provide stability in the supply of energy at a low cost. The first half of 2022 has seen drastic and constant price increases in fuel,¹² commodities¹³ as well as power prices. In March 2022, the peak electricity demand exceeded the annual figures from 2019 and 2021 as prices at the WESM remained high due to the thinning of reserves in the Luzon grid.¹⁴ Higher coal and fuel prices abroad,¹⁵ exacerbated by the depreciation of the Philippine Peso, which shows no indication of slowing down,¹⁶ will ultimately lead to further increases in price. The immediate operations of SP New Energy Corporation would therefore alleviate stress on the supply side while providing consumers with clean locally sourced energy. The operation of the Sta. Rosa Nueva Ecija 2 Solar Power Plant is also expected to generate over five hundred (500) jobs which will spur economic activity in the region.¹⁷ As the competitive price provided by the subject PSA would provide stability in the supply of energy at a low cost. The first half of 2022 has seen drastic and constant price increases in fuel,¹⁸ commodities¹⁹ as well as power prices. In March 2022, the peak electricity

¹² DOE expects more fuel price increases in the coming weeks, Philstar, 8 June 2022, available at <https://www.philstar.com/headlines/2022/06/08/2186937/doe-expects-more-fuel-price-increases-coming-weeks>, (last accessed on 13 June 2022).

¹³ Supermarket industry warns of rising prices due to higher material costs, Business World, 6 March 2022, available at <https://www.bworldonline.com/economy/2022/03/06/434156/supermarket-industry-warns-of-rising-prices-due-to-higher-materials-costs/>, (last accessed on 13 June 2022).

¹⁴ Power rates up in April as generation charges rise, Business World, 12 April 2022, available at [https://www.bworldonline.com/corporate/2022/04/12/441805/electricity-rates-rise-in-april-as-power-generation-charge-climbs-meralco/#:~:text=\(Meralco\)%20will%20see%20more%20than,5363%20per%20kWh%20to%20P10](https://www.bworldonline.com/corporate/2022/04/12/441805/electricity-rates-rise-in-april-as-power-generation-charge-climbs-meralco/#:~:text=(Meralco)%20will%20see%20more%20than,5363%20per%20kWh%20to%20P10), (last accessed on 13 June 2022).

¹⁵ Power rates headed upward due to more expensive coal, Business World, 6 March 2022, available at <https://www.bworldonline.com/economy/2022/03/06/434154/power-rates-headed-upward-due-to-more-expensive-coal/>, (last accessed 13 June 2022).

¹⁶ Peso skids past P53:\$1 level to hit a fresh 3-year low, Ramon Royandoyan, PhilStar, 13 June 2022, available at <https://www.philstar.com/business/2022/06/13/2188106/peso-skids-past-p531-level-hit-fresh-3-year-low>, (last accessed 13 June 2022).

¹⁷ SPNEC starts construction of its solar ranch, James Loyola, Manila Bulletin, 27 December 2021, available at <https://mb.com.ph/2021/12/27/spnec-starts-construction-of-its-solar-ranch/>, (last accessed on 13 June 2022).

demand exceeded the annual figures from 2019 and 2021 as prices at the WESM remained high due to the thinning of reserves in the Luzon grid.²⁰ Higher coal and fuel prices abroad,²¹ exacerbated by the depreciation of the Philippine Peso, which shows no indication of slowing down,²² will ultimately lead to further increases in price. The immediate operations of SP New Energy Corporation would therefore alleviate stress on the supply side while providing consumers with clean locally sourced energy.

43. Thus, in view of the urgency above-mentioned, AEC respectfully moves for the issuance of a provisional authority or interim relief in this instant case in order to immediately proceed in implementing the PSA, and for the lower rate and benefits derived therein to be immediately enjoyed by the customers of AEC. In support of the Motion for Issuance of Provisional Authority or Interim Relief, AEC has prepared the Affidavit in Support of the Prayer for Issuance of Provisional Authority, Annex “III” of the instant Application.
44. Applicants aver that should this Honorable Commission grant the Parties’ prayer for provisional authority or interim relief, the Parties shall commence their commercial undertakings as provided under Section 1.1 of the PSA. As maybe (*sic*) deemed necessary and practicable, and subject to mutual discussions in good faith, the Parties may adjust and/or cause any amendments to the Commencement Date and/or the Cooperation Period to reflect the actual start of the commercial undertakings under the PSA as the Commencement Date.

PRAYER

WHEREFORE, premises considered, Co-Applicants ANGELES ELECTRIC CORPORATION (“AEC”) and SP NEW ENERGY CORPORATION respectfully pray that this Honorable Commission issue an order:

- a) GRANTING the *Motion for Issuance of Provisional Authority or Interim Relief* and immediately ISSUING a Provisional Authority or Interim Relief authorizing SP New Energy Corporation and AEC to implement the PSA, including the rates;
 - b) GRANTING the *Motion for Confidential Treatment of Information* and treat the documents, and the information therein, duly marked as Annexes “S-series”, “Z” to “DD” as CONFIDENTIAL;
 - c) After due notice and hearing and consideration, the Provisional Authority be made PERMANENT and FINAL; and
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- d) GRANTING the *Joint Application (With Prayer for the Issuance of Provisional Authority or Interim Relief and Motion for Confidential Treatment of Information)*.

Co-Applicants likewise pray for such further or other relief as may be deemed just or equitable.

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 platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020²³ and Resolution No. 01, Series of 2021²⁴ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
23 March 2023 (Thursday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
30 March 2023 (Thursday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial conference and presentation of evidence

Accordingly, SPNEC and AEC are hereby directed to host the virtual hearing at **AEC's principal office located at Don Juan D. Nepomuceno Avenue corner Doña Teresa Avenue, Nepo Mart Complex, Angeles City, Pampanga** 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, SPNEC and AEC shall guarantee that, during the conduct of the expository presentation, the participation of the public** shall not be impaired.

RELATIVE THERETO, SPNEC and AEC are hereby directed to:

²³ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
²⁴ 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 Office of the Provincial Governor, the Mayor, and the Local Government Unit (LGU) legislative body within AEC's franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within AEC'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, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days before the date of the virtual hearing, SPNEC and AEC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through 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 affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual*

Hearing were 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 Governor, Mayor, and LGU legislative body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by SPNEC and AEC to inform the consumers within AEC's franchise area of the filing of the *Joint Application*, its reasons therefor, and of the scheduled hearings 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, except those subject of a motion for confidential treatment of information, by all those making requests therefor; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, SPNEC and AEC 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 Offices of the Mayors, Provincial Governor, and Local Legislative Bodies, and to submit proof of their posting thereof.

SPNEC and AEC and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through 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; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

SPNEC and AEC 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 SPNEC and AEC 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.

SPNEC and AEC 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.

SPNEC and AEC are hereby directed to file a copy of their **Expository Presentation** via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. SPNEC and AEC 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.

SPNEC and AEC 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.

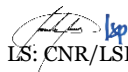
Finally, **SPNEC and AEC, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this Order.** The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 20 February 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


FLORESINDA G. BOLDO-DIGAL
Commissioner

 
LS: CNR/LSP/MCCG

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Copy Furnished:

1. SP New Energy Corporation (SPNEC)
Applicant
112 Legaspi Street, Legaspi Village, Brgy. San Lorenzo,
Makati City, Philippines
Email Address: accra@accralaw.com;
2. ANGARA ABELLO CONCEPCION REGALA & CRUZ
Atty. Antonio Jose Gerardo T. Paz, Atty. Jonn Kenneth Laurence A. Gonzales,
Atty. Amelea Christine L Tapel, and Atty. Gino Ismael S. Gerodias
Counsels for SPNEC
33rd Floor, The Podium West Tower 12 ADB Avenue,
Ortigas Center, Mandaluyong City
Email Address: accra@accralaw.com; atpaz@accralaw.com; jagonzales@accralaw.com;
altapel@accralaw.com; gsggerodias@accralaw.com
3. Angeles Electric Corporation (AEC)
Co-Applicant
Don Juan D. Nepomuceno Avenue corner
Doña Teresa Avenue, Nepo Mart Complex,
Angeles City, Pampanga
Email Address: qmbti@qmbti.com;
4. QUIASON MAKALINTAL BAROT TORRES IBARRA SISON & DAMASO
Atty. Manuel L.M. Torres, Atty. Miguel K. Mathay,
Atty. Gianna Maria C. Comsti, and Atty. Jose Antonio S. Reyes
Counsel for AEC
21st Floor, Robinsons-Equitable Tower, 4 ADB Avenue corner
Poveda Street, 1605 Ortigas Center, Pasig City
Email Address: qmbti@qmbti.com;
5. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
Email Address: docket@osg.gov.ph
6. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
Email Address: citizensdesk@coa.gov.ph
7. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
Email Address: senateenergycommittee@gmail.com
8. House Committee on Energy
Batasan Hills, Quezon City
Email Address: committee.energy@house.gov.ph
9. Regulatory Operations Service
Energy Regulatory Commission
14th Floor, Exquadra Tower, 1 Jade Drive,
Ortigas Center, San Antonio, Pasig
Email Address: ros@erc.ph
10. Office of the City Mayor
Angeles, Pampanga
11. Office of the Sangguniang Panlungsod
Angeles, Pampanga
12. Office of the Governor
Province of Pampanga
13. Office of the Sangguniang Panlalawigan
Province of Pampanga