

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City

PSALM CORP.	
OFFICE OF THE GENERAL COUNSEL	
RECEIVED	
BY: <u>RANDY</u>	
DATE: <u>MAR 28 2011</u>	
TIME: <u>5PM</u>	
CONTROL NO. <u>11-0717</u>	

IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF THE CONTRACT FOR THE SUPPLY OF ELECTRIC ENERGY (CSEE) AND LETTERS OF AGREEMENT (LOA) ENTERED INTO WITH THE DISTRIBUTION UTILITIES (DUs) LOCATED IN THE VISAYAS GRID, WITH PRAYER FOR THE ISSUANCE OF PROVISIONAL AUTHORITY (PA)

ERC CASE NO. 2011- 021 RC

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION (PSALM),

Applicant.

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DOCKETED  
Date: MAR 28 2011  
By: [Signature]

### NOTICE OF PUBLIC HEARING

#### TO ALL INTERESTED PARTIES:

Notice is hereby given that on February 23,, 2011, the Power Sector Assets and Liabilities Management Corporation (PSALM) filed an application for the approval of the Contract for the Supply of Electric Energy (CSEE) and Letters of Agreement (LOAs) entered into with the Distribution Utilities (DUs) located in the Visayas Grid, with prayer for the issuance of provisional authority.

In the said application, PSALM alleged, among others, the following:

1. It filed the instant application for the approval of the terms and conditions of the CSEE and LOAs it entered into with the twelve (12) DUs pursuant to Section 67 of Republic Act No. 9136 (R.A. 9136);
2. On July 7, 2005, the Commission issued Resolution No. 08, Series of 2005 approving and adopting the template for the Transition Supply Contract (TSC). On August 9, 2005, said template for the TSC was later amended by the Commission in its Resolution No. 15, Series of 2005;

3. On various dates, the National Power Corporation (NPC) filed applications for the approval of the CSEE/TSC for the Visayas Grid, which were correspondingly approved on October 19, 2006 and September 22, 2008;
4. It is a government-owned and controlled corporation created by virtue of R.A. 9136, with principal office address at 7/F Bankmer Building, 6756 Ayala Avenue, Makati City;
5. Pursuant to Sec. 49 of RA 9136 and the consequent assignment on May 11, 2009 of all Power Supply Contracts (PSCs) of NPC to it, NPC assigned and transferred to it all of its rights and obligations in, to, and under its CSEE and other similarly or substantially equivalent PSCs with NPC's power customers;
6. On and from May 11, 2009, the PSCs are deemed amended as follows: (i) all references to NPC in the supply contracts shall be treated as references to it; (ii) it shall be deemed the Supplier under the PSCs; and (iii) the rights and obligations of the Parties shall be governed by and construed in accordance with the PSCs, as amended by the LOA dated May 11, 2009. Thus, it filed the instant application;
7. The LOAs are executed between the parties in case of changes in the provisions of the CSEE other than the terms and conditions appearing in the template for the TSC as approved by the Commission in Resolution No. 08, Series of 2005. These changes include duration of the CSEE/TSC and monthly contracted energy. Pursuant to Section 67 of RA 9136 and in compliance to the Commission's Order dated December 1, 2010 in ERC Case No. 2010 – 079, the LOAs it executed with the DUs in the Visayas Grid are hereby submitted for the Commission's approval:
  - 7.1 Biliran Electric Cooperative, Inc. (BILECO);
  - 7.2 Northern Samar Electric Cooperative, Inc. (NORSAMELCO);
  - 7.3 Samar I Electric Cooperative, Inc. (SAMELCO I); and
  - 7.4 Visayan Electric Company (VECO).
8. The said LOAs extended the duration of the DUs' respective CSEEs to December 25, 2011. The LOAs, however, decreased their 2011 Contracted Energies compared to the previous year's Contracted Energies. This is due to the decreasing Electric Energy available for contracting as it continues to privatize its generation assets. The other terms and conditions of the above-mentioned Visayas customers' CSEEs/TSCs as approved by the Commission on separate dates in October 2006 and September 2008 remain applicable and have not been changed by these subsequent LOAs being submitted;
9. Pursuant to Section 5, Article III of the Commission's "Guidelines for the Recovery of Costs for the Generation Component of the Distribution Utilities' Rates", it is, likewise, filing the instant application for the approval of CSEEs/TSCs duly negotiated and executed with the following DUs located in the Visayas Grid:
  - 9.1 Central Negros Electric Cooperative, Inc. (CENECO);
  - 9.2 Leyte I Electric Cooperative, Inc. (LEYECO I); and
  - 9.3 Leyte II Electric Cooperative, Inc. (LEYECO II).

10. The said TSCs/CSEEs were executed using the template approved by the Commission in its Resolution No. 8, Series of 2005, as amended by Resolution No. 15, Series of 2005. The above CSEEs are renewals of the previous Commission-approved contracts and provide, among others, the following terms and conditions:
  - 10.1 *Contract Energy* - The Contract Energy shall not be changed by either party, except in cases as provided for in the contract.
  - 10.2 *Buy-out* - Customer shall be entitled to a reduction in its Contract Energy only upon written application to Supplier and payment of the corresponding buy-out fee at least sixty (60) days prior to the effectivity of the buy-out.
  - 10.3 *Security Deposit* - The Security Deposit shall be equivalent to one hundred percent (100%) of the estimated average monthly power bill during the first (1<sup>st</sup>) year of the Contract and shall be updated annually.
  - 10.4 *Assignability* - Supplier may assign or transfer part or all of its rights and obligations in the supply of Contract Energy provided that prior written notice is given to Customer thirty (30) days before the actual transfer.
  - 10.5 *Basic Energy Charge* - The Commission - approved generation rates and other charges exclusive of penalties, bonuses, shall be applied to the Customer's contracted monthly or hourly energy consumption. Upon commercial operation of the WESM, the Basic Energy Charge to be applied to the contracted energy shall be in accordance with the price settlement mechanism during the Wholesale Electricity Spot Market (WESM) operation (Section 8.1 of the CSEE).
  - 10.6 *Bandwidth* - For consumption higher than one hundred twenty percent (120%) of the contracted level prior to commercial operation of the WESM, the Basic Energy Charge to be applied shall be the prevailing Commission - approved rate and other adjustments plus twenty percent (20%) of such rate for the incremental increase beyond the one hundred twenty percent (120%) of Contract Energy.
  - 10.7 *Maintenance Service Adjustment* - Customer may avail of the service adjustment during the scheduled maintenance of its facilities, not to exceed two (2) billing periods in one (1) year.
  - 10.8 *Minimum Charge* - Customer shall pay the minimum charge based on the Contract Energy per billing period as indicated in Section 4.1 of the CSEE using the Basic Energy Charge if Customer has not fully taken or failed to consume the Contract Energy, subject to deductions and adjustments as expressly provided in the Contract.
  - 10.9 *Overdue Account* - In the event that a power bill remains unpaid within five (5) days after its due date, Supplier has the option to call on or draw against the Security Deposit as provided for under Section 5 (Security Deposit) of the Contract.

10.10 *Contract Termination* - Either party will have the right to terminate the Contract upon failure of the other to perform its obligation under the Contract.

11. In compliance with Section 4(e) of Rule 3 of the Implementing Rules and Regulations (IRR) of R.A. 9136 and the Commission's Resolution No. 38, Series of 2006 and in support of the instant application for the approval of the CSEEs and LOAs, a copy of the said application (including annexes) was furnished to the Sangguniang Panlungsod of Makati City. The application (excluding annexes) was also published in a newspaper of general circulation; and
12. It prays that the duly negotiated LOAs and CSEEs with various DUs in the Visayas Grid be approved and that a provisional authority be issued authorizing it to implement the subject LOAs and CSEEs with the concerned DUs in the Visayas Grid.

The Commission has set the application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

DATE	TIME	VENUE	PARTICULARS
April 19, 2011 (Tuesday)	Nine o' clock in the morning (9:00 A.M)	ERC Visayas Field Office, Machay Building, Gorordo Avenue, Lahug, Cebu City	Jurisdictional Hearing, Expository Presentation, Pre- Trial Conference and Evidentiary Hearing
May 10, 2011 (Tuesday)	Two o' clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 <sup>th</sup> Floor, Pacific Center Bldg., San Miguel Avenue, Pasig City	Continuation of Evidentiary Hearing, if necessary

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (1) the petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

**WITNESS**, the Honorable Chairperson, **ZENaida G. CRUZ-DUCUT**, and the Honorable Commissioners, **ALEJANDRO Z. BARIN**, **MARIA TERESA A. R. CASTAÑEDA**, and **JOSE C. REYES**, Energy Regulatory Commission, this 21st day of March 2011 at Pasig City.

  
Rfm/njs

  
**ATTY. FRANCIS SATURNINO C. JUAN**  
Executive Director III