

SECURITIES AND EXCHANGE COMMISSION

SEC FORM 17-C

CURRENT REPORT UNDER SECTION 17
OF THE SECURITIES REGULATION CODE
AND SRC RULE 17.2(c) THEREUNDER

1. September 26, 2024
Date of Report (Date of earliest event reported)
2. SEC Identification Number 4620 3. BIR Tax Identification No. 000-088-802-000
4. ANGELES ELECTRIC CORPORATION
Exact name of issuer as specified in its charter
5. ANGELES CITY, PAMPANGA, PHILIPPINES 6. (SEC Use Only)
Province, country or other jurisdiction of Industry Classification Code:
incorporation
7. DON JUAN D. NEPOMUCENO AVENUE, NEPOMART COMPLEX, ANGELES CITY, PAMPANGA 2009
Address of principal office and Postal Code
8. +63908880567/ (632)8636-6485
Issuer's telephone number, including area code
9. N/A
Former name or former address, if changed since last report

10. Securities registered pursuant to Sections 8 and 12 of the SRC or Sections 4 and 8 of the RSA

Title of Each Class	Number of Shares of Common Stock Outstanding and Amount of Debt Outstanding
<u>COMMON SHARES</u>	<u>1,178,448,402</u>

11. Indicate the item numbers reported herein: ITEM 5 - LEGAL PROCEEDINGS

Angeles Electric Corporation (“AEC”) reports on the Order dated June 6, 2023 issued by the Energy Regulatory Commission (“ERC”), granting interim relief to implement the Power Supply Agreement with SPNEC New Energy Corporation (“SPNEC”), per ERC Case No. 2023-004 RC entitled “In the Matter of the Joint Application for Approval of the Power Supply Agreement between SPNEC and AEC, with Prayer for Provisional Authority or Interim Relief.

The ERC Order was dated and promulgated on June 6, 2023 and received by AEC on September 2, 2024. A copy of the ERC Notice and Order is hereto attached as “Annex A”.

SIGNATURES

Pursuant to the requirements of the Securities Regulation Code, the issuer has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ANGELES ELECTRIC CORPORATION

Issuer

September 26, 2024

Date



CRISTINA L. ARBOLEDA

Compliance Officer



NOTICE

Sirs/Mesdames:

Please take notice that on **06 June 2023**, the Commission issued an **Order** in the following case, the original was received by this Office on 30 August 2024:

ERC CASE NO. 2023-004 RC, 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 – SP NEW ENERGY CORPORATION (FORMERLY SOLAR PHILIPPINES NUEVA ECIJA CORPORATION) AND ANGELES ELECTRIC CORPORATION ("AEC"), Applicants.

Attached is an electronic copy.

Please be reminded of the Commission's existing rules on electronic service of orders and decisions provided under **Rule VI of Resolution No. 9, Series of 2020**¹, which became effective on 17 November 2020.

Thank you.

Very truly yours,

MARIA LUCILA M. GIRON
Administrative Officer V
OGCS-Central Records Division

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission

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

**SP NEW ENERGY
CORPORATION (FORMERLY
SOLAR PHILIPPINES NUEVA
ECIJA CORPORATION) AND
ANGELES ELECTRIC
CORPORATION (AEC),**

Applicants.

X-----X

Promulgated:
June 06, 2023

ORDER

Before the Commission for resolution are the following:

- (1) The prayer for provisional authority or interim relief contained in the *Joint Application* dated 28 October 2022 filed by SP New Energy Corporation (SPNEC)¹ and Angeles Electric Corporation (AEC); and
- (2) *Urgent Motion (to Resolve Motion for Provisional Authority or Interim Relief)* dated 28 February 2023 filed by SPNEC and AEC on even date.

¹ Formerly referred to as Solar Philippines Nueva Ecija Corporation.

FACTUAL ANTECEDENT

On 23 January 2023, SPNEC and 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 provisions of the *Joint Application* relevant to the Applicants' prayer for the issuance of provisional authority or interim relief are hereunder quoted as follows:

xxx

**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 interim relief.
39. As can be gleaned from the rate impact study above, clearly and without 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 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,² commodities³ 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.⁴ Higher coal and fuel prices abroad,⁵ exacerbated by the depreciation of the Philippine Peso, which shows no indication of slowing down,⁶ 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.⁷ 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 (sic) commodities¹⁹ (sic) 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. ²⁰(sic) Higher coal and fuel prices abroad,²¹ (sic) exacerbated by the depreciation of the Philippine Peso, which shows no indication of slowing down, ²² (sic) 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

² 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).

³ 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).

⁴ 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).

⁵ 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).

⁶ 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).

⁷ 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).

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 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.

Further, in support of their motion for the issuance of provisional authority or interim relief, Applicants AEC and SPNEC submitted the *Judicial Affidavit* of Mr. Aldrin Erwin James T. Nepomuceno (Mr. Nepomuceno),⁸ Corporate Planning Manager of AEC. The pertinent portions of the said *Judicial Affidavit* are hereunder quoted as follows:

2. The provisional approval of the aforementioned Application is necessary in view of the fact that this will be used by AEC in its compliance with the requirements of the Renewable Portfolio Standards ("RPS") for on-grid areas. Also, this is necessary to serve as additional capacity to secure more stable, reliable and efficient source of power supply with reasonable rate;
 3. 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 Php9.5686 per kWh to Php 9.2202 per kWh, or a decrease of Php 0.3484 per kWh;
 4. In addition, with the increasing demand of AEC from its new and current customers, as well as in consideration of the volatility of WESM prices, the supply of AEC and its generation charge will consequently be adversely affected to the prejudice of its end-users. The immediate implementation of the PSA with SPNEC will enable AEC to continuously provide the end-consumers with a stable and reliable power supply at an affordable rate;
- xxx
6. There is an urgent necessity for the issuance of provisional authority or interim relief, pending final resolution of this instant Application, in order to ensure that AEC can timely and duly comply with the RPS requirements, and that AEC's

⁸ Annex "III" of the *Joint Application* dated 28 October 2022.

consumers will enjoy stable and reliable supply of electric power;

Proceedings Conducted by the Commission

In an *Order* and a *Notice of Virtual Hearing*, both dated 20 February 2023, the Commission set the instant *Joint Application* for hearing on the following dates: (a) 23 March 2023 for the determination of compliance with the jurisdictional requirements and expository presentation; and (b) 30 March 2023 for Pre-Trial Conference and presentation of evidence.

On 28 February 2023, SPNEC and AEC filed the instant *Urgent Motion (To Resolve Motion for Provisional Authority or Interim Relief)* of even date.

On 17 March 2023, SPNEC and AEC filed a *Joint Compliance with Jurisdictional Requirements* of even date. Likewise, SPNEC and AEC filed a *Joint Submission* and attached their respective expository presentations.

During the hearing held on 23 March 2023, only SPNEC and AEC appeared. There was no intervenor or oppositor who appeared nor was there any petition to intervene or opposition that was filed.

In the said hearing, SPNEC and AEC presented their *Joint Compliance with Jurisdictional Requirements* with the attached proof of its compliance with the Commission's posting and publication requirements as stated in the *Order* dated 20 February 2023:

EXHIBIT	DOCUMENT
JJJ	<i>Affidavit of Publication</i> showing that the <i>Notice of Virtual Hearing</i> dated February 20, 2023 was published in the February 27, 2023 and March 7, 2023 issues of "Business Mirror".
KKK	Complete Copy of the February 27, 2023 issue of "Business Mirror".
KKK-1	The <i>Notice of Virtual Hearing</i> appearing in the February 27, 2023 issue of "Business Mirror".
LLL	Complete Copy of the March 7, 2023 issue of "Business Mirror".
LLL-1	The <i>Notice of Virtual Hearing</i> appearing in the March 7, 2023 issue of "Business Mirror".
MMM	<i>Affidavit of Publication</i> showing that the <i>Notice of Virtual Hearing</i> dated February 20, 2023 was published in the

EXHIBIT	DOCUMENT
	February 27, 2023 and March 7, 2023 issues of "The Manila Times".
NNN	Complete Copy of the February 27, 2023 issue of "The Manila Times".
NNN-1	The <i>Notice of Virtual Hearing</i> appearing in the February 27, 2023 issue of "The Manila Times".
OOO	Complete Copy of the March 7, 2023 issue of "The Manila Times".
OOO-1	The <i>Notice of Virtual Hearing</i> appearing in the March 7, 2023 issue of "The Manila Times".
PPP	Certification from the Office of the Governor of Pampanga showing that the Order and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the provincial bulletin board of the Office of the Governor of Pampanga
PPP-1	Affidavit of Service showing that copies of the Order and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the provincial bulletin board were sent to the Office of the Governor of Pampanga
QQQ	Certification from the Office of the Sangguniang Panlalawigan of Pampanga showing that the Order and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the sanggunian bulletin board of the Office of the Sangguniang Panlalawigan of Pampanga
QQQ-1	Affidavit of Service showing that copies of the Order and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the Sanggunian bulletin board were sent to the Office of the Sangguniang Panlalawigan of Pampanga
RRR	Certification from the Office of the Mayor of Angeles showing that the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the city bulletin board of the Office of the Mayor of Angeles
RRR-1	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the city bulletin board were sent to the Office of the Mayor of Angeles
SSS	Certification from the Sangguniang Panglunsod of Angeles showing that the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the sanggunian bulletin board of the Office of the Sangguniang Panglunsod of Angeles
SSS-1	Affidavit of Service showing that copies of the Order and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the sanggunian bulletin board were sent to the Sangguniang Panglunsod of Angeles
TTT	Certification from the Office of the Mayor of Penaranda showing that the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the municipal bulletin board of the Office of the Mayor of Penaranda
TTT-1	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the municipal bulletin board were sent to the Office of the Mayor of Penaranda

EXHIBIT	DOCUMENT
UUU	Certification from the Sangguniang Bayan of Penaranda showing that the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the Sanggunian bulletin board of the Office of the Sangguniang Bayan of Penaranda
UUU-1	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the Sanggunian bulletin board were sent to the Sangguniang Bayan of Penaranda
VVV	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the provincial bulletin board were sent to the Office of the Governor of Nueva Ecija
WWW	Certification showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 was posted on the Sanggunian bulletin board of the Office of the Sangguniang Panlalawigan of Nueva Ecija
WWW-1	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the Sanggunian bulletin board were sent to the Office of the Sangguniang Panlalawigan of Nueva Ecija
XXX	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the city bulletin board were sent to the Office of the Mayor of Makati
YYY	<i>Affidavit of Service</i> showing that copies of the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 with a request for posting on the Sanggunian bulletin board were sent to the Sangguniang Panglunsod of Makati
ZZZ to ZZZ-3	Letters showing that a complete copy of the Application and the <i>Order</i> and <i>Notice of Virtual Hearing</i> dated February 20, 2023 were sent to and duly received by: <ul style="list-style-type: none"> a) Office of the Solicitor General; b) Commission on Audit; c) Committee on Energy, House of Representatives; and d) Committee on Energy, Senate of the Philippines.
AAA	<i>Affidavit of Posting</i> of Allan M. Santillan
AAA-1	<i>Affidavit of Posting</i> of Hazel Iris P. Lafuente
BBB	<i>Affidavit of Publication</i> of Reynaldo G. Navales of Sunstar Pampanga
BBB-1	March 4-5, 2023 issue of Sunstar Pampanga
CCC	<i>Affidavit of Posting</i> on SPNEC's website

* The table above is quoted from the *Joint Compliance with Jurisdictional Requirements* dated 17 March 2023 of SPNEC and AEC.

After finding the foregoing submissions of SPNEC and AEC compliant with the *Order* dated 20 February 2023, the Commission declared that it had acquired jurisdiction over the instant *Application*.

Thereafter, AEC conducted its expository presentation through Engr. Allan M. Santillan (Engr. Santillan), the Planning and Regulatory Officer of AEC. Engr. Santillan discussed under oath the following topics: (1) Legal basis of the *Joint Application*; (2) Company background and System data; (3) Energy and demand profile; (4) Competitive Selection Process (CSP); (5) Salient provisions of the PSA; and (6) Rate impact.

At the end thereof, SPNEC conducted its expository presentation through Ms. Kristin Sue Jimenez (Ms. Jimenez), Project Manager of Solar Philippines Power Project Holdings, Inc. who was assigned to its subsidiaries SPNEC. Ms. Jimenez discussed under oath the following topics: (1) Company background of SPNEC; (2) Sta. Rosa Nueva Ecija 2 SPP (Phase 1A); and (3) AEC-SPNEC PSA.

Thereafter, the Commission propounded clarificatory questions which were addressed by the Applicants. Subsequently, the Commission directed the Applicants to submit additional documents within ten (10) days from the date of the said hearing.

Subsequently, SPNEC and AEC moved for the issuance of an *Order* of general default, which was granted by the Commission considering that there was no intervenor or oppositor in this case. Thereafter, the expository presentation was terminated and the hearing was adjourned.

On 24 March 2023, SPNEC filed a *Joint Pre-Trial Brief* of even date with attached *Judicial Affidavits* of Ms. Jimenez, Messrs. Nepomuceno, Kervin John P. Picones (Mr. Picones), and Atty. Ranulfo Ocampo (Atty. Ocampo).

During the hearing on 30 March 2023, SPNEC and AEC appeared. The Pre-Trial Conference proceeded as scheduled and the Commission noted the proposed stipulations of facts and issues as stated in the *Joint Pre-Trial Brief* of the Applicants. Thereafter, the Commission terminated the Pre-Trial Conference.

Subsequently, the presentation of evidence commenced. AEC presented as its first witness, Mr. Nepomuceno, Corporate Planning Manager of AEC. Mr. Nepomuceno testified under oath on matters stated in his *Judicial Affidavits*, as follows:

1. To testify on the allegations made in the Application, and that he participated in the preparation of the Application and some of the supporting documents;
2. To identify the documentary evidence mentioned in his Affidavit in support of the Application; and
3. To testify a) on the terms and conditions of the Power Supply Agreement (“PSA”) executed on February 7, 2022; b) that the PSA is not only necessary, appropriate and responsive to the needs of AEC but likewise advantageous and beneficial to its consumers; c) that AEC has an urgent need to address its power supply requirements considering the current supply and demand scenario in its service area; d) that the terms and conditions set in the PSA are reasonable; and e) the impact of the PSA on AEC and its rate, and all other items relevant to the approval of the Application.

In the course of his direct examination, Mr. Nepomuceno identified his *Judicial Affidavit* and his signature thereon, which were marked as Exhibits “HHHH” and “HHHH-1”, respectively.

Thereafter, AEC presented its last witness, Atty. Ocampo, Chairperson of AEC’s Third-Party Bids and Awards Committee (TPBAC), who testified under oath on matters stated in his *Judicial Affidavits*, as follows:

1. To testify on the allegations made in the Application in relation to the Competitive Selection Process (“CSP”), and that he supervised or participated in the preparation of the supporting documents in the Application relating to the said CSP[;]
2. To identify the documentary evidence mentioned in his Affidavit in support of the Application[;] [and]
3. To testify that the [A]pplication and the PSA complied with the requirements provided for under existing laws, rules and regulations, including those in relation to CSP.

In the course of his direct examination, Atty. Ocampo identified his *Judicial Affidavit* and his signature thereon, which were marked as Exhibits “IIII” and “IIII-1”, respectively.

Thereafter, SPNEC presented Ms. Jimenez as its first witness, who testified under the same oath on matters stated in her *Judicial Affidavits*, follows:

1. SP New Energy Corporation (“SPNEC”), formerly Solar Philippines Nueva Ecija Corporation, is a generation company (“GenCo”) duly organized and existing under the laws of the Republic of the Philippines[;]
2. SPNEC owns and is presently developing its Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase1A) with a capacity of fifty (50) Megawatts of direct current (“MWd”), which is located in the Municipality of Pe[ñ]aranda, Province of Nueva Ecija[;]
3. On 7 February 2022, SPNEC and AEC executed a *Renewable Power Supply Agreement* (“PSA”) in accordance with the Terms of Reference of the CSP and SPNEC’s bid offer[;]
4. Under the PSA, SPNEC shall supply Renewable Energy (“RE”) from the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase1A) with a capacity of 50MWdc and located in the Municipality of Pe[ñ]aranda, 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. [;]
5. SPNEC is legally and technically capable to execute the PSA and to comply with the terms thereof[;]
6. The identification and authentication of documents in this judicial affidavit[;] [and]
7. Such other matters material and relevant to the Joint Application of AEC and SPNEC.

In the course of his direct examination, Ms. Jimenez identified her *Judicial Affidavit* and her signature thereon, which were marked as Exhibits “FFFF” and “FFFF-1”, respectively.

Thereafter, SPNEC presented its last witness Mr. Picones, Senior Corporate Finance Manager of Solar Philippines Power Project Holdings, Inc., and is from time to time, assigned to its subsidiaries including SPNEC, who testified under oath on matters stated in his *Judicial Affidavits*, as follows:

1. SP New Energy Corporation (“SPNEC”), formerly Solar Philippines Nueva Ecija Corporation, is a generation company (“GenCo”) duly organized and existing under the laws of the Republic of the Philippines[;]
2. SPNEC owns and is presently developing its Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase1A) with a capacity of fifty (50) Megawatts of direct current (“MWd”), which is located in the Municipality of Penaranda (*sic*), Province of Nueva Ecija[;]

3. On 7 February 2022, SPNEC and AEC executed a *Renewable Power Supply Agreement* (“PSA”) in accordance with the Terms of Reference of the CSP and SPNEC’s bid offer[;]
4. Under the PSA, SPNEC shall supply Renewable Energy (“RE”) from the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase1A)[;]
5. SPNEC is financially capable to execute the PSA and to comply with the terms thereof[;]
6. On 23 January 2023, AEC and SPNEC jointly filed its Joint Application (with Prayer for the Issuance of Provisional Authority or Interim Relief and Motion for Confidential Treatment of Information) dated 28 October 2022 (“Joint Application”) [;]
7. The identification and authentication of documents in his judicial affidavit[;][and]
8. Such other matters material and relevant to the Joint Application of AEC and SPNEC.

In the course of his direct examination, Mr. Picones identified his *Judicial Affidavit* and his signature thereon, which were marked as Exhibits “GGGG” and “GGGG-1”, respectively.

Subsequently, the Commission directed SPNEC and AEC to file their respective formal offer of evidence within ten (10) days from the said hearing.

On 11 April 2023, SPNEC and AEC submitted their *Formal Offer of Evidence* of even date, and offered the following documents as part of its documentary evidence, *to wit*:

EXHIBIT	DESCRIPTION	PURPOSE
A	SPNEC Certificate of Filing of Amended Articles of Incorporation	The Co-Applicants are offering Exhibits “A” to “A-4” to prove, <i>inter alia</i> , the following: <ol style="list-style-type: none"> 1. SPNEC is duly organized and existing under the laws of the Republic of the Philippines. 2. SPNEC is legally capable of fulfilling its obligations under the Power Supply Agreement (“PSA”). 3. Co-Applicants’ compliance with the Pre-Filing Requirements.
A-1	SPNEC Certificate of Incorporation	
A-2	SPNEC Amended Articles of Incorporation	
A-3	SPNEC Certificate of Filing of Amended By-Laws	
A-4	SPNEC General Information Sheet for the year 2022	

EXHIBIT	DESCRIPTION	PURPOSE
		<p>4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application.</p> <p>5. The existence and due execution of the exhibits.</p>
B	AEC's Amended Articles of Incorporation	<p>The Co-Applicants are offering Exhibits "B" to "B-2" to prove, <i>inter alia</i>, the following:</p>
B-1	AEC's Amended By-laws	
B-2	AEC's General Information Sheet	
C	Item 05 Shareholder's Agreement	<p>The Co-Applicants are offering Exhibit "C" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. SPNEC's Articles of Incorporation and the By-Laws show the provisions governing the rights and obligations between SPNEC and its shareholders and therefore a separate shareholder's agreement is not applicable. 2. SPNEC is legally capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application.

EXHIBIT	DESCRIPTION	PURPOSE
		5. The existence and due execution of the write-up on the Shareholder's Agreement.
D	Secretary's Certificate dated 28 June 2022 (SP New Energy Corporation's Verified Certification of BOD Composition)	The Co-Applicants are offering Exhibit "D" to prove, <i>inter alia</i> , the following: <ol style="list-style-type: none"> 1. SPNEC is duly organized and existing under the laws of the Republic of the Philippines. 2. SPNEC is legally capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the Secretary's Certificate dated 28 June 2022.
E	SP New Energy Corporation's BOI Certificate of Registration No 2-18-008	The Co-Applicants are offering Exhibits "E" and "F" to prove, <i>inter alia</i> , the following: <ol style="list-style-type: none"> 1. SPNEC is a Generation Company ("GenCo") and a Renewable Energy ("RE") developer and supplier.
F	Environmental Compliance Certificate	<ol style="list-style-type: none"> 2. SPNEC is legally capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
G	Item 11 Certificate of Compliance (COC) issued by the ERC	The Co-Applicants are offering Exhibits "G" and "H" to prove, <i>inter alia</i> , the following:
H	Item 12 Certification from DOE regarding the Philippine Development Plan (PDP) or Certificate of Endorsement	<ol style="list-style-type: none"> 1. SPNEC is in the process of obtaining the respective certificates from the Energy Regulatory Commission ("ERC").

EXHIBIT	DESCRIPTION	PURPOSE
		<ol style="list-style-type: none"> 2. SPNEC is legally capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
I	Solar Service Energy Contract SESC No. 2017-06-404	The Co-Applicants are offering Exhibits "I" to "J-1" to prove, <i>inter alia</i> , the following:
I-1	Assignment of Solar Service Energy Contract SESC No. 2017-06-404	<ol style="list-style-type: none"> 1. SPNEC is a GenCo and a RE developer and supplier.
J	DOE Certificate of Registration (Registration No. SESC 2017-06-404-AF1)	<ol style="list-style-type: none"> 2. SPNEC is, through the approved assignment of the Solar Services Energy Contract, constituted as having the exclusive right to explore, develop and utilize the Solar Energy Resource within the contract area pertaining to the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) site.
J-1	Certificate of Confirmation of Commerciality No. SCC-2021-10-110	<ol style="list-style-type: none"> 3. SPNEC is certified as an RE Developer of Solar Energy Resources and that the Department of Energy ("DOE") has duly confirmed the commerciality of the Sta. Rosa Nueva Ecija 2 Solar Power Project. 4. SPNEC is legally capable of fulfilling its obligations under the PSA. 5. Co-Applicants' compliance with the Pre-Filing Requirements. 6. As part of the testimony of Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 7. The existence and due execution of the exhibits.
K	Item 16 Certification by NPC whether Transition Supply Contract (TSC) capacity and energy are	The Co-Applicants are offering Exhibit "K" to prove, <i>inter alia</i> , the following:

EXHIBIT	DESCRIPTION	PURPOSE
	<p>expected to be available during the contractual period. Include relevant supporting documentation, data and analysis supporting each statement</p>	<ol style="list-style-type: none"> 1. The Transition Supply Contract is not applicable to SPNEC since the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) is owned by SPNEC. 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
L	Single Line Diagram Connection	<p>The Co-Applicants are offering Exhibit "L" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. The Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) will be connected to the national grid for distribution. 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Connection points and technical matters in relation to the grid and/or AEC's distribution system; 4. Co-Applicants' compliance with the Pre-Filing Requirements. 5. As part of the testimony of Ms. Kristin Sue Jimenez and Mr. Aldrin Erwin James T. Nepomuceno, and all other relevant matters in support of the instant Joint Application. 6. The existence and due execution of the Single Line Diagram.
M	Proposed DSM Program	<p>The Co-Applicants are offering Exhibit "M" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. AEC is capable of fulfilling its obligations under the PSA.

EXHIBIT	DESCRIPTION	PURPOSE
		2. Co-Applicants' compliance with the Pre-Filing Requirements. 3. As part of the testimony of Mr. Aldrin Erwin James T. Nepomuceno and all other relevant matters in support of the instant Joint Application. 4. The existence and due execution of the exhibit.
N	Average Daily Load	The Co-Applicants are offering Exhibit "N" to prove, <i>inter alia</i> , the following: 1. The power situation in AEC; 2. The rate impact of the PSA on the overall generation charge of AEC; 3. AEC is capable of fulfilling its obligations under the PSA; 4. Co-Applicants' compliance with the Pre-Filing Requirements; 5. As part of the testimony of Mr. Aldrin Erwin James T. Nepomuceno and all other relevant matters in support of the instant Joint Application. 6. The existence and due execution of the exhibits.
O	Supply Demand Scenario	
P	Reliability Performance	
Q	Estimation Retail Competition	
R	Item 22 Inconsistencies/Differences from documents presented shall be supported by relevant analysis	The Co-Applicants are offering Exhibit "R" to prove, <i>inter alia</i> , the following: 1. To clarify inconsistencies and differences in the documents submitted by SPNEC. a. That the Nueva Ecija-1 Solar Storage Plant and the 300 MW Cabanatuan Solar Power Plant include the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) in their project descriptions. b. That the Solar Energy Service Contract was awarded to Solar Philippines Commercial Rooftop Projects Inc. and its subsequent assignment to SPNEC was approved by the DOE.

EXHIBIT	DESCRIPTION	PURPOSE
		<ol style="list-style-type: none"> 2. SPNEC is legally capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the write-up on Inconsistencies and Differences.
S-series*	Competitive Selection Process	<p>The Co-Applicants are offering Exhibit "S-series" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Compliance with the requirements under existing laws, rules and regulations, particularly those relating to Competitive Selection Process; 2. Co-Applicants' compliance with the Pre-Filing Requirements. 3. As part of the testimonies of Mr. Aldrin Erwin James T. Nepomuceno and Atty. Ranulfo M. Ocampo and all other relevant matters in support of the instant Joint Application. 4. The existence and due execution of the exhibits.
T	Renewable Power Supply Agreement	<p>The Co-Applicants are offering Exhibits "T", "T-1", "U" and "Y" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Co-Applicants entered into a PSA, as amended, and agreed to the provisions therein. 2. Terms and conditions of the PSA, as amended; 3. The basis of the tariff/fees under the PSA, as amended, and how they are computed; 4. Co-Applicants' compliance with the Pre-Filing Requirements.
T-1	Amendment to the Renewable Power Supply Agreement	
U	Item 31 Power Supply Agreement/Energy Conversion Agreement Contract for Application including the Original and Amended/Supplemental/Addendum, provide a Matrix to show comparison of the amendments made	

EXHIBIT	DESCRIPTION	PURPOSE
		<p>5. As part of the testimony of Ms. Kristin Sue Jimenez, Mr. Kervin John P. Picones, Mr. Aldrin Erwin James T. Nepomuceno and Atty. Ranulfo M. Ocampo and all other relevant matters in support of the instant Joint Application.</p> <p>6. The existence and due execution of the exhibits.</p>
V	Item 32 Transmission Project or Grid Connection Projects	The Co-Applicants are offering Exhibits "V" and "V-1" (<i>sic</i>) to prove, <i>inter alia</i> , the following:
V-1	System Impact Study 300 MW Cabanatuan Solar Power Plant Project	1. The current grid condition of the National Grid Corporation of the Philippines ("NGCP") can accommodate the 13 MW contracted capacity under the PSA, and no separate transmission projects are necessary.
W	Transmission Service Agreement between NGCP and SPNEC for the 300 MW Cabanatuan Solar Power Plant	<p>2. SPNEC and the NGCP entered into a Transmission Service Agreement where the NGCP is designated as the Transmission Service Provider.</p> <p>3. SPNEC is technically capable of fulfilling its obligations under the PSA.</p> <p>4. Co-Applicants' compliance with the Pre-Filing Requirements.</p> <p>7. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application.</p> <p>8. The existence and due execution of the exhibits.</p>
X	Item 34 Copy of Related Agreements	The Co-Applicants are offering Exhibits "X" to "X-4", to prove, <i>inter alia</i> , the following:
X-1	50 MWp Sta. Rosa Nueva Ecija 2 (Phase1A) Solar Power Project Feasibility Study	1. SPNEC entered into the Construction Support Services Agreement dated 29 September 2022 between SPNEC and Solar Philippines Commercial Rooftop Projects Inc., Construction Support Services Agreement dated 29 September 2022 between SPNEC and Solar Philippines Power Project
X-2	Construction Support Services Agreement dated 29 September 2022 between SPNEC and Solar Philippines Commercial Rooftop Projects Inc.	

EXHIBIT	DESCRIPTION	PURPOSE
X-3	Construction Support Services Agreement dated 29 September 2022 between SPNEC and Solar Philippines Power Project Holdings, Inc.	Holdings, Inc., and the Support Services Agreement dated 29 September 2022 between SPNEC and Solar Maintenance Services Corporation for the construction and development of the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A).
X-4	Support Services Agreement dated 29 September 2022 between SPNEC and Solar Maintenance Services Corporation.	<ol style="list-style-type: none"> 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
Y	Executive Summary	<p>The Co-Applicants are offering Exhibits "T", "T-1", "U" and "Y" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Co-Applicants entered into a PSA, as amended, and agreed to the provisions therein. 2. Terms and conditions of the PSA, as amended; 3. The basis of the tariff/fees under the PSA, as amended, and how they are computed; 4. Co-Applicants' compliance with the Pre-Filing Requirements. 5. As part of the testimony of Ms. Kristin Sue Jimenez, Mr. Kervin John P. Picones, Mr. Aldrin Erwin James T. Nepomuceno, and Atty. Ranulfo M. Ocampo, and all other relevant matters in support of the instant Joint Application. 6. The existence and due execution of the exhibits.
Z*	Source of Funds (36.1 Project Cost, 36.2 Debt-Equity Ratio, 36.3 WACC Computation)	The Co-Applicants are offering Exhibits "Z", to "DD", to prove, <i>inter alia</i> , the following:

EXHIBIT	DESCRIPTION	PURPOSE
AA*	40.1 Financial Model	<ol style="list-style-type: none"> 1. SPNEC's calculations in determining the generation charge under the PSA. 2. SPNEC is financially capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Kervin John P. Picones and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
BB*	41.1 Project Cost Breakdown, CRF, Fixed and Variable O&M	
CC*	42.1 Breakdown of Project Cost and O&M Cost	
DD*	48.1 Cash Flow	
EE	Item 37 Certification from Bank/Lending Institution	<p>The Co-Applicants are offering Exhibits "EE" to "GG", to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. No debt-financing was availed of by SPNEC in the development of the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) and therefore the respective certifications are not applicable. 2. SPNEC is financially capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Kervin John P. Picones and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
FF	Item 38 Life of Asset versus Term of Loan (Computation of levelized cost)	
GG	Item 39 Bank Certification of Long-term Loans	
HH	Item 43 Sample Computation of Power Rates	
II	Item 45 Basis/Rationale of Indexation	<ol style="list-style-type: none"> 1. The generation charge under the PSA of 3.4567 PhP/kWh already includes charges/costs incurred by SPNEC and is therefore a straight and constant rate, not subject to any indexation.
JJ	Item 46 Basis/Rationale/Derivation of Other Charges	
KK	Item 47 Equivalent Php/kWh with	

EXHIBIT	DESCRIPTION	PURPOSE
LL	<p>assumptions for foreign denominated rates</p> <p>Item 46 Updated Costs</p>	<p>2. SPNEC is financially capable of fulfilling its obligations under the PSA.</p> <p>3. Co-Applicants' compliance with the Pre-Filing Requirements.</p> <p>4. As part of the testimony of Mr. Kervin John P. Picones and all other relevant matters in support of the instant Joint Application.</p> <p>5. The existence and due execution of the exhibits.</p>
MM	Item 50 Procurement Process of Fuel	<p>The Co-Applicants are offering Exhibits "MM" and "MM-1", to prove, <i>inter alia</i>, the following:</p>
MM-1	<p>Item 51 Sworn Statement (Fuel Contract)</p>	
NN	Item 52 All relevant technical and economic characteristics of generation capacity	<p>The Co-Applicants are offering Exhibits "NN", "NN-1" and "RR" to prove, <i>inter alia</i>, the following:</p>
NN-1	Item 52.2 Scheduled and Unscheduled Outages; Basis/Justification of Day Used	

1. That the installed capacity, mode of operation, dependable capacity, and auxiliary load of the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) is sufficient to cater to the energy requirements under the PSA.

EXHIBIT	DESCRIPTION	PURPOSE
		<ol style="list-style-type: none"> 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
OO	Item 53 Cost Analysis	<p>The Co-Applicants are offering Exhibits "HH" to "LL", and "OO" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. The generation charge under the PSA of 3.4567 PhP/kWh already includes charges/costs incurred by SPNEC and is therefore a straight and constant rate, not subject to any indexation. 2. SPNEC is financially capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Mr. Kervin John P. Picones and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
PP-series	DDP and PSPP	<p>The Co-Applicants are offering Exhibit "PP-series" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. The power situation in AEC; 2. AEC is capable of fulfilling its obligations under the PSA; 3. Co-Applicants' compliance with the Pre-Filing Requirements;

EXHIBIT	DESCRIPTION	PURPOSE
		<p>4. As part of the testimony of Mr. Aldrin Erwin James T. Nepomuceno and all other relevant matters in support of the instant Joint Application.</p> <p>5. The existence and due execution of the exhibits.</p>
QQ	SPNEC's Audited Financial Statements for the year ended 30 June 2021 and 2020	<p>The Co-Applicants are offering Exhibit "QQ", to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. SPNEC is financially fulfilling its obligations under the PSA. 2. Co-Applicants' compliance with the Pre-Filing Requirements. 3. As part of the testimony of Kervin John P. Picones and all other relevant matters in support of the instant Joint Application. 4. The existence and due execution of SPNEC's Audited Financial Statements.
RR	Item 55 Certification of the Net Heat Rate	<p>The Co-Applicants are offering Exhibits "NN", "NN-1" and "RR" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. That the installed capacity, mode of operation, dependable capacity, and auxillary load of the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) is sufficient to cater to the energy requirements under the PSA. 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
SS	Item 56 Simulation of the no. of operating units necessary to meet the	<p>The Co-Applicants are offering Exhibits "SS", to "SS-1", to prove, <i>inter alia</i>, the following:</p>

EXHIBIT	DESCRIPTION	PURPOSE
SS-1	MEOT and/or additional energy demand requirements of the DU PVsyst - Simulation Report	<ol style="list-style-type: none"> 1. The Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A)'s capacity is sufficient to supply the hourly minimum and maximum Bilateral Contract Quantity under the PSA. 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
TT	Item 57 Potential Cost of Ancillary Services	The Co-Applicants are offering Exhibit "TT" [and "UU"], to prove, <i>inter alia</i> , the following:
UU	Item 58 Distribution Wheeling Services (DWS) Agreement	<ol style="list-style-type: none"> 1. The Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) does not require ancillary services to support the transmission capacity and energy and the requirement for the submission of the potential cost of ancillary services is not applicable. 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the exhibits.
VV	Item 59 WESM Registration	<p>The Co-Applicants are offering Exhibit "VV", to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. SPNEC is in the process of obtaining its WESM registration.

EXHIBIT	DESCRIPTION	PURPOSE
		<ol style="list-style-type: none"> 2. SPNEC is technically capable of fulfilling its obligations under the PSA. 3. Co-Applicants' compliance with the Pre-Filing Requirements. 4. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 5. The existence and due execution of the write-up on the WESM Registration.
WW	Affidavit of Service or Certification - Office of the Mayor of Penaranda	<p>The Co-Applicants are offering Exhibits "WW" to "DDD" to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Co-Applicants duly served the instant Joint Application and its annexes on the respective government units of their principal place of operations. 2. Co-Applicants' compliance with the Pre-Filing Requirements. 3. The existence and due execution of the exhibits.
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	<ol style="list-style-type: none"> 1. The email addresses of Co-Applicants and their counsels are duly registered with the ERC.

EXHIBIT	DESCRIPTION	PURPOSE
		2. Co-Applicants' compliance with the Pre-Filing Requirements. 3. The existence and due execution of the exhibits.
GGG HHH	Affidavit of Publication Copy of the Newspaper of General Circulation	The Co-Applicants are offering Exhibits "GGG" and "HHH" to prove, <i>inter alia</i> , the following: 1. Co-Applicants duly published the instant Joint Application and its annexes in a newspaper of general circulation. 2. Co-Applicants' compliance with the Pre-Filing Requirements. 3. The existence and due execution of the exhibits.
III	Affidavit in Support of the Prayer for Issuance of Provisional Authority	The Co-Applicants are offering Exhibit "III", to prove, <i>inter alia</i> , the following: 1. The terms and conditions of the PSA. 2. The basis of the tariff/fees under the PSA and how they are computed. 3. The power situation in AEC. 4. The rate impact of the PSA on the overall generation charge of AEC. 5. The necessity for the urgent implementation of the PSA. SPNEC is duly organized and existing under the laws of the Republic of the Philippines 6. The existence and due execution of the Affidavit in Support of the Prayer for Issuance of Provisional Authority.
JJJ	Affidavit of Publication showing that the Notice of Virtual Hearing dated February 20, 2023 was published in the February 27, 2023 and March 7, 2023 issues of "Business Mirror".	The Co-Applicants are offering Exhibits "JJJ" to "YYY-1", to prove, <i>inter alia</i> , the following: 1. Co-Applicants duly published and served the Order dated 20 February 2023 and Notice of Virtual Hearing on the respective government units

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EXHIBIT	DESCRIPTION	PURPOSE
KKK	Complete Copy of the February 27, 2023 issue of "Business Mirror".	<p>of their principal place of operations, and that the same were posted on the respective bulletin boards of said government units, in compliance with the Order dated 20 February 2023.</p> <p>2. Co-Applicants' compliance with the Jurisdictional Requirements.</p> <p>3. The existence and due execution of the exhibits.</p>
KKK-1	The Notice of Virtual Hearing appearing in the February 27, 2023 issue of "Business Mirror".	
LLL	Complete Copy of the March 7, 2023 issue of "Business Mirror".	
LLL-1	The Notice of Virtual Hearing appearing in the March 7, 2023 issue of "Business Mirror".	
MMM	Affidavit of Publication showing that the Notice of Virtual Hearing dated February 20, 2023 was published in the February 27, 2023 and March 7, 2023 issues of "The Manila Times".	
NNN	Complete Copy of the February 27, 2023 issue of "The Manila Times".	
NNN-1	The Notice of Virtual Hearing appearing in the February 27, 2023 issue of "The Manila Times".	
OOO	Complete Copy of the March 7, 2023 issue of "The Manila Times".	
OOO-1	The Notice of Virtual Hearing appearing in the March 7, 2023 issue of "The Manila Times".	
PPP	Certification from the Office of the Governor of Pampanga showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the provincial bulletin board of the Office of the Governor of Pampanga	
PPP-1	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the provincial bulletin	

EXHIBIT	DESCRIPTION	PURPOSE
	board were sent to the Office of the Governor of Pampanga	
QQQ	Certification from the Office of the Sangguniang Panlalawigan of Pampanga showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the sanggunian bulletin board of the Office of the Sangguniang Panlalawigan of Pampanga	
QQQ-1	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the sanggunian bulletin board were sent to the Office of the Sangguniang Panlalawigan of Pampanga	
RRR	Certification from the Office of the Mayor of Angeles showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the city bulletin board of the Office of the Mayor of Angeles	
RRR-1	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the city bulletin board were sent to the Office of the Mayor of Angeles	
SSS	Certification from the Sangguniang Panglunsod of Angeles showing that the Order and Notice of Virtual Hearing dated February	

EXHIBIT	DESCRIPTION	PURPOSE
	20, 2023 was posted on the sanggunian bulletin board of the Office of the Sangguniang Panglunsod of Angeles	
SSS-1	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the sanggunian bulletin board were sent to the Sangguniang Panglunsod of Angeles	
TTT	Certification from the Office of the Mayor of Penaranda showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the municipal bulletin board of the Office of the Mayor of Penaranda	
TTT-1	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the municipal bulletin board were sent to the Office of the Mayor of Penaranda	
UUU	Certification from the Office of the Sangguniang Bayan of Penaranda showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Sangguniang Bayan of Penaranda	
UUU-1	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the municipal bulletin board were sent to the	

EXHIBIT	DESCRIPTION	PURPOSE
	Office of the Sangguniang Bayan of Penaranda	
VVV	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the provincial bulletin board were sent to the Office of the Governor of Nueva Ecija	
VVV-19	Certification from the Office of the Governor of Nueva Ecija showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Governor of Nueva Ecija	
WWW	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the bulletin board were sent to the Office of the Sangguniang Panlalawigan of Nueva Ecija	
WWW-1 ¹⁰	Certification from the Office of the Sangguniang Panlalawigan of Nueva Ecija showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Sangguniang Panlalawigan of Nueva Ecija	

⁹ The Certification from the Office of the Governor of Nueva Ecija is attached to the *Compliance* dated 11 April 2023, as Exhibit "VVV-1", in compliance with the ERC's directives during the hearings held on 23 and 30 March 2023.

¹⁰ The Certification from the Office of the Sangguniang Panlalawigan of Nueva Ecija is attached to the *Compliance* dated 11 April 2023, as Exhibit "WWW-1", in compliance with the ERC's directives during the hearings held on 23 and 30 March 2023.

EXHIBIT	DESCRIPTION	PURPOSE
XXX	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the city bulletin board were sent to the Office of the Mayor of Makati	
XXX-1 ¹¹	Certification from the Office of the Mayor of Makati showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Mayor of Makati	
YYY	Affidavit of Service showing that copies of the Order and Notice of Virtual Hearing dated February 20, 2023 with a request for posting on the sanggunian bulletin board were sent to the Sangguniang Panglunsod of Makati	
YYY-1 ¹²	Certification from the Sangguniang Panglunsod of Makati showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Sangguniang Panglunsod of Makati	
ZZZ	Letters showing that a complete copy of the Application and the Order and Notice of Virtual Hearing dated February 20, 2023 were sent to and duly received by the Office of the Solicitor General	
		The Co-Applicants are offering Exhibits "ZZZ", to "ZZZ-3", to prove, <i>inter alia</i> , the following: 1. Co-Applicants duly served a copy of the instant Joint Application and its annexes and the Order dated 20 February 2023 and Notice of Virtual Hearing on the respective

¹¹ The Certification from the Office of the Mayor of Makati is attached to the *Compliance* dated 11 April 2023, as Exhibit "XXX-1", in compliance with the ERC's directives during the hearings held on 23 and 30 March 2023.

¹² The Certification from the Office of Sangguniang Panglunsod of Makati is attached to the *Compliance* dated 11 April 2023, as Exhibit "YYY-1", in compliance with the ERC's directives during the hearings held on 23 and 30 March 2023.

EXHIBIT	DESCRIPTION	PURPOSE
ZZZ-1	Letters showing that a complete copy of the Application and the Order and Notice of Virtual Hearing dated February 20, 2023 were sent to and duly received by the Commission on Audit	<p>government offices in compliance with the Order dated 20 February 2023.</p> <p>4. (sic) Co-Applicants' compliance with the Jurisdictional Requirements.</p> <p>5. The existence and due execution of the exhibits.</p>
ZZZ-2	Letters showing that a complete copy of the Application and the Order and Notice of Virtual Hearing dated February 20, 2023 were sent to and duly received by the Committee on Energy, House of Representatives	
ZZZ-3	Letters showing that a complete copy of the Application and the Order and Notice of Virtual Hearing dated February 20, 2023 were sent to and duly received by the Committee on Energy, Senate of the Philippines	
AAAA ¹³	Affidavit of Posting of Allan M. Santillan	<p>The Co-Applicants are offering Exhibits "AAAA", to "AAAA-1", to prove, <i>inter alia</i>, the following:</p> <p>1. Co-Applicants duly posted the Order dated 20 February 2023 and Notice of Virtual Hearing on their respective bulletin boards in compliance with the Order dated 20 February 2023.</p> <p>2. Co-Applicants' compliance with the Jurisdictional Requirements.</p> <p>3. The existence and due execution of the exhibits.</p>
AAAA-1 ¹⁴	Affidavit of Posting of Hazel Iris P. Lafuente	

¹³ During the Hearing on 23 March 2023, counsels for applicants moved for the correction of the exhibit letters of the Affidavit of Posting of Allan M. Santillan from Exhibit "AAA" in the Joint Compliance with Jurisdictional Requirements dated 17 March 2023 to Exhibit "AAAA", as herein reflected.

¹⁴ During the Hearing on 23 March 2023, counsels for applicants moved for the correction of the exhibit letters of the Affidavit of Posting of Hazel Iris P. Lafuente from Exhibit "AAA-1" in the Joint Compliance with Jurisdictional Requirements dated 17 March 2023 to Exhibit "AAAA-1", as herein reflected.

EXHIBIT	DESCRIPTION	PURPOSE
BBBB ¹⁵	Affidavit of Publication of Reynaldo G. Navales of Sunstar Pampanga	<p>The Co-Applicants are offering Exhibits “BBBB”, “BBBB-1”, and “CCCC” to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Co-Applicants undertook other means to inform the consumers of AEC of the Order dated 20 February 2023 and Notice of Virtual Hearing in compliance with the Order dated 20 February 2023. 2. Co-Applicants’ compliance with the Jurisdictional Requirements. 3. The existence and due execution of the exhibits.
BBBB-1 ¹⁶	March 4-5, 2023 issue of Sunstar Pampanga	
CCCC ¹⁷	Affidavit of Posting on SPNEC’s website	
DDDD	Hard copy of the Expository Presentation AEC given during the March 23, 2023 hearing	<p>The Co-Applicants are offering Exhibits “DDDD” to “EEEE-1”, to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Co-Applicants explained in simple terms the instant Joint Application to the consumers of AEC in compliance with the Order dated 20 February 2023. 2. The existence and due execution of the exhibits.
DDDD-1	Hard copy of the updated Expository Presentation of SP New Energy Corporation given during the March 23, 2023 hearing	
EEEE ¹⁸	Soft copy of the Expository Presentation of AEC given during the March 23, 2023 hearing	
EEEE-1 ¹⁹	Soft Copy of the updated Expository Presentation of SP New Energy Corporation given during the March 23, 2023 hearing	

¹⁵ During the Hearing on 23 March 2023, counsels for applicants moved for the correction of the exhibit letters of the Affidavit of Publication of Reynaldo G. Navales of Sunstar Pampanga from Exhibit “BBB” in the Joint Compliance with Jurisdictional Requirements dated 17 March 2023 to Exhibit “BBBB”, as herein reflected.

¹⁶ During the Hearing on 23 March 2023, counsels for applicants moved for the correction of the exhibit letters of the March 4-5, 2023 issue of Sunstar Pampanga from Exhibit “BBB-1” in the Joint Compliance with Jurisdictional Requirements dated 17 March 2023 to Exhibit “BBBB-1”, as herein reflected.

¹⁷ During the Hearing on 23 March 2023, counsels for applicants moved for the correction of the exhibit letters of the Affidavit of Posting on SPNEC’s website from Exhibit “CCC” in the Joint Compliance with Jurisdictional Requirements dated 17 March 2023 to Exhibit “CCCC”, as herein reflected.

¹⁸ The hard copy of the updated Expository Presentation of SPNEC is attached to the *Compliance* dated 11 April 2023, as Exhibit “DDDD-1”, in compliance with the ERC’s directives during the hearings held on 23 and 30 March 2023.

¹⁹ The soft copy of the updated Expository Presentation of SPNEC is attached to the *Compliance* dated 11 April 2023, as Exhibit “EEEE-1”, in compliance with the ERC’s directives during the hearings held on 23 and 30 March 2023.

EXHIBIT	DESCRIPTION	PURPOSE
FFFF	Judicial Affidavit of Kristin Sue Jimenez dated 17 March 2023	<p>The Co-Applicants are offering Exhibits [“FFFF”], [“FFFF-1”], and [“FFFF-2”], to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Kristine Sue Jimenez duly executed a Judicial Affidavit, attached as Exhibit “FFFF” to the Joint Pre-Trial Brief dated 24 March 2023, in support of the instant Joint Application, which partakes of her testimonial evidence. 2. That Kristine Sue Jimenez the Project Manager of SPNEC’s Solar the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) project. 3. The existence and due execution of the exhibits.
FFFF-1	Signature of Kristin Sue Jimenez	
FFFF-2	Identification Card of Kristin Sue Jimenez	
GGGG	Judicial Affidavit of Kervin John P. Picones dated 17 March 2023	<p>The Co-Applicants are offering Exhibits [“GGGG”], [“GGGG-1”], and [“GGGG-2”], to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Mr. Kervin John P. Picones duly executed a Judicial Affidavit, attached as Exhibit “GGGG” to the Joint Pre-Trial Brief dated 24 March 2023, in support of the instant Joint Application, which partakes of his testimonial evidence. 2. That Mr. Kervin John P. Picones is the Senior Corporate Finance Manager of SPNEC’s Solar the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) project. 3. The existence and due execution of the exhibits.
GGGG-1	Signature of Kervin John P. Picones	
GGGG-2	Identification Card of Kervin John P. Picones	
HHHH	Judicial Affidavit of Aldrin Erwin James T. Nepomuceno dated 3 March 2023	<p>The Co-Applicants are offering Exhibits [“HHHH”] [and] [“HHHH-1”], to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. Mr. Erwin James T. Nepomuceno duly executed a Judicial Affidavit, attached as Exhibit “HHHH” to the Joint Pre-Trial Brief dated 24 March 2023, in support of the instant Joint Application, which partakes of his testimonial evidence;
HHHH-1	Signature of Aldrin Erwin James T. Nepomuceno	

EXHIBIT	DESCRIPTION	PURPOSE
		<ol style="list-style-type: none"> 2. That Mr. Aldrin Erwin James T. Nepomuceno is the Corporate Planning Manager of AEC; 3. The existence and due execution of exhibits; 4. Allegations made in the Application, and that he participated in the preparation of the Application and some of the supporting documents; 5. Terms and conditions of the PSA executed on February 7, 2022; 6. The PSA is not only necessary, appropriate and responsive to the needs of AEC but likewise advantageous and beneficial to its consumers; 7. AEC has an urgent need to address its power supply requirement considering the current supply and demand scenario in its service area; 8. The terms and conditions set in the PSA are reasonable; 9. The impact of the PSA on AEC and its rate, and all other items relevant to the approval of the Application.
<p>III</p>	<p>Judicial Affidavit of Ranulfo M. Ocampo dated 10 March 2023</p>	<p>The Co-Applicants are offering Exhibits "III-1", to prove, <i>inter alia</i>, the following:</p>
<p>III-1</p>	<p>Signature of Ranulfo M. Ocampo</p>	<ol style="list-style-type: none"> 1. Atty. Ranulfo M. Ocampo duly executed a Judicial Affidavit, attached as Exhibit "III" to the Joint Pre-Trial Brief dated 24 March 2023, in support of the instant Joint Application, which partakes of his testimonial evidence. 2. Atty. Ranulfo M. Ocampo is the Chairman of AEC's Third Party Bids and Awards Committee; 3. The existence and due execution of exhibits; 4. Allegations made in the Application, and that he participated in the

EXHIBIT	DESCRIPTION	PURPOSE
		<p>preparation of the Application and some of the supporting documents relating to the Competitive Selection Process;</p> <p>5. The Application and the PSA complied with the requirements provided under existing laws, rules and regulations, including those in relation to Competitive Selection Process.</p>
JJJJ ²⁰	DOE Certification approving the revisions to the Work Program for the Sta. Rosa Nueva Ecija 2 Solar Power Project with attached Catch-Up Plan	<p>The Co-Applicants are offering Exhibits “JJJJ”, to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. The DOE has approved SPNEC’s Revised Work Program/Catch-up Plan for the completion of the Sta. Rosa Nueva Ecija 2 Solar Power Project including the Sta. Rosa Nueva Ecija 2 Solar Power Project (Phase 1A). 2. The existence and due execution of the exhibits.
KKKK* ²¹	Clarification on Line Rental	<p>The Co-Applicants are offering Exhibits “KKKK”, to prove, <i>inter alia</i>, the following:</p> <ol style="list-style-type: none"> 1. SPNEC’s calculations of the line rental rate as used in its bid submission with AEC on 25 November 2021. 2. SPNEC complied with the Pre-Filing Requirements. 3. As part of the testimony of Ms. Kristin Sue Jimenez and all other relevant matters in support of the instant Joint Application. 4. The existence and due execution of the exhibits.

²⁰ The DOE Certification approving the revisions to the Work Program for the Sta. Rosa Nueva Ecija 2 Solar Power Project with attached Catch-Up Plan is attached to the *Compliance* dated 11 April 2023, as Exhibit “JJJJ”, in compliance with the ERC’s directives during the hearings held on 23 and 30 March 2023.

²¹ The Clarification on Line Rental is attached to the *Compliance* dated 11 April 2023, as Exhibit “IIII”, in compliance with the ERC’s directives during the hearings held on 23 and 30 March 2023.

EXHIBIT	DESCRIPTION	PURPOSE
LLLL	Letter from The Manila Times regarding the date of execution of the Affidavit of Publication	The Co-Applicants are offering Exhibit "LLL", to prove, <i>inter alia</i> , the following: 1. Compliance with this Honorable Commission's directive during the hearing last 23 March 2023; 2. The date of execution of the Affidavit of Publication issued by The Manila Times to Co-Applicants as part of their documentary submissions in compliance with the jurisdictional requirements.

**Subject to Motion for Confidential Treatment of Information.*

***All the allegations stated above are quoted from the FOE dated 11 April 2023 of SPNEC and AEC.*

Likewise, on 11 April 2023, SPNEC and AEC filed their *Joint Compliance* of even date, attaching therewith the following documents pursuant to the Commission's directive during the hearing on 23 March 2023 and 30 March 2023:

- a) Certification from the Office of the Governor of Nueva Ecija showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Governor of Nueva Ecija as Exhibit VVV-1;
- b) Certification from the Office of the Sangguniang Panlalawigan of Nueva Ecija showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Sangguniang Panlalawigan of Nueva Ecija as Exhibit WWW-1;
- c) Certification from the Office of the Mayor of Makati showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Office of the Mayor of Makati as Exhibit XXX-1;
- d) Certification from the Sangguniang Panlungsod of Makati showing that the Order and Notice of Virtual Hearing dated February 20, 2023 was posted on the bulletin board of the Sangguniang Panlungsod of Makati as Exhibit YYY-1;
- e) Hard and soft copy of the updated Expository Presentation of SP New Energy Corporation given during the March 23, 2023 hearing as Exhibits DDDD-1 and EEEE-1;
- f) DOE Certification approving the revisions on the Work Program for the Sta. Rosa Nueva Ecija 2 Solar Power Project with attached Catch-Up Plan, attached hereto as Exhibit JJJJ;

- g) Clarification on Line Rental, attached hereto as Exhibit KKKK; and
- h) Letter from The Manila Times regarding the date of execution of the Affidavit of Publication, attached hereto as Exhibit LLLL.

ISSUE

For purposes of this *Order*, the only issue that the Commission should resolve, is whether or not the Applicants' prayer for interim relief and their *Urgent Motion (to Resolve Motion for Provisional Authority or Interim Relief)* should be granted.

THE COMMISSION'S RULING

After due deliberation and thorough evaluation of the documents submitted and information gathered by the Commission pursuant to its regulatory powers, the Commission resolves to **GRANT** the Applicants' prayer for interim relief as contained in their *Joint Application* and their *Urgent Motion (to Resolve Motion for Provisional Authority or Interim Relief)*.

DISCUSSION

Authority of the Commission to Grant Interim Relief in the Instant *Joint Application*

The authority of the Commission to grant interim relief is provided for in Section 8 of Executive Order No. 172,²² *to wit*:

Sec. 8. Authority to Grant Provisional Relief. **The Board may, upon the filing of an application, petition or complaint or at any stage thereafter and (1) without prior hearing, on the basis of supporting papers duly verified or authenticated, grant provisional relief on motion of a party in the case** or (2) on its own initiative without prejudice to a final decision after hearing, should the Board find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support the provisional order: Provided, That the Board shall immediately schedule and conduct a hearing

²² Entitled, "Creating the Energy Regulatory Board."

thereon within thirty (30) days thereafter, upon publication and notice to all affected parties.

(Emphasis and underscoring supplied.)

The transfer of the Energy Regulatory Board's (ERB) authority to issue provisional authority or interim relief to the Commission was upheld by the Supreme Court in the landmark case of *Freedom from Debt Coalition (FDC) v. Energy Regulatory Commission (ERC)*:²³

The ERC is endowed with the statutory authority to approve provisional rate adjustments under the aegis of Sections 44 and 80 of the EPIRA. The sections read, thus:

SEC. 44. Transfer of Powers and Functions. – The powers and functions of the Energy Regulatory Board not inconsistent with the provisions of this Act are hereby transferred to the ERC. The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property and personnel as may be necessary.

xxx

SEC. 80. Applicability and Repealing Clause. – The applicability provisions of Commonwealth Act No. 146, as amended, otherwise known as the "Public Services Act;" Republic Act 6395, as amended, revising the charter of NPC; Presidential Decree 269, as amended, referred to as the National Electrification Decree; Republic Act 7638, otherwise known as the "Department of Energy Act of 1992;" Executive Order 172, as amended, creating the ERB; Republic 7832 otherwise known as the "Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994;" shall continue to have full force and effect except insofar as they are inconsistent with this Act.

xxx

Similarly, Sections 8 and 14 of E.O. No. 172 or the ERB Charter continue to be in full force by virtue of Sections 44 and 80 of the EPIRA.

Relative thereto, the Commission's *Revised Rules of Practice and Procedure (RRPP)*, particularly Sections 2, 3, and 4 of Rule 14 thereof provide:

²³ G.R. No. 161113, 15 June 2004.

Section 2. Allegations in Support of the Motion and Supporting Documents. – The motion must allege such facts and circumstances that would justify the Commission’s exercise of discretion in granting provisional authority or interim relief prior to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegations therein.

Section 3. Action on the Motion. – The Commission shall act on the motion for provisional authority or interim relief on the basis of the allegations in the application or petition, supporting documents and other pieces of evidence that the applicant or petitioner has submitted, as well as the comments or oppositions filed by interested persons, if there be any.

Motions for provisional authority or interim relief may be acted upon with or without hearing.

Section 4. Effect of Final Determination. – The provisional authority or interim relief granted by the Commission shall be subject to adjustment, if upon final evaluation of the case, the Commission determines that the applicant or petitioner was not entitled to the full amount of the provisional or interim rate allowed. The Commission may likewise impose such other conditions as it may deem necessary.

As elucidated by the Supreme Court in the case of *Romeo Gerochi et al. v. Department of Energy (DOE) et al.*,²⁴ “electric power generation and distribution is a traditional instrument of economic growth that affects not only a few but the entire nation. It is an important factor in encouraging investment and promoting business. The engines of progress may come to a screeching halt if the delivery of electric power is impaired. Billions of pesos would be lost as a result of power outages or unreliable electric power services.”

Significantly, in the same case, the Supreme Court declared that “the State thru the ERC should be able to exercise its police power with great flexibility, when the need arises.”

This flexibility was reiterated in *National Association of Electricity Consumers for Reforms (NASECORE) v. ERC*,²⁵ wherein the Supreme Court held that the Commission, as a regulator, should have sufficient power to respond in real-time to changes wrought by multifarious factors affecting public utilities.

²⁴ G.R. No. 159796, 17 July 2007.

²⁵ G.R. No. 163935, 02 February 2006, 481 SCRA 480, 515–516, citing *Freedom from Debt Coalition v. Energy Regulatory Commission*.

This is consistent with Section 41²⁶ of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), which mandated the Commission to promote and protect the interest of all electricity consumers against possible future power supply curtailment.

Commission's Evaluation for the Issuance of Interim Relief

The Commission finds merit in the Applicants' allegations. The factual milieu surrounding the instant *Joint Application*, as discussed herein below, has satisfied the substantial requirements for the grant of interim relief.

Nonetheless, the Commission shall further evaluate the subject *Joint Application* towards its final resolution with the end-view of ensuring that the generation and distribution of electricity shall be undertaken in the least cost manner to the captive market. Pursuant thereto, the interim relief granted to the Applicants shall only be valid for a period of twelve (12) months from the issuance of this *Order*.

A. Amendment of the Power Supply Agreement

On 04 February 2022, AEC and SPNEC entered into a Renewable Power Supply Agreement (Original PSA) with the stipulated Nominated RE Facility, among others, *to wit*:

- 1.3. Nominated RE Facility – The Nominated RE Facility shall mean the RE Supplier's Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1) with a capacity of 225 MWdc and located in the Municipality of Peñaranda, Province of Nueva Ecija.

Subsequently, on 14 July 2022, AEC and SPNEC executed an Amendment to the Renewable Power Supply Agreement (Amendment to the PSA), amending certain provisions of the Original PSA, as follows:

WHEREFORE, for and in consideration of the foregoing premises, the Parties execute this Amendment Agreement under the following terms and conditions:

²⁶ Sec. 41. Promotion of Consumer Interests. – The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.

1. Clause 1.3 of the REPSA is hereby amended to read as follows:

“1.3 Nominated RE Facility – The Nominated RE Facility shall mean the RE Supplier’s Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) with a capacity of 50MWdc and located in the Municipality of Peñaranda, Province of Nueva Ecija.”

2. Annex “C” (Connection Node) of the REPSA, which sets out where the Connection Assets of the Nominated RE Facility of RE Supplier will connect to the Transmission grid or Distribution System, is hereby amended to reflect the foregoing amendment and shall be replaced by the herein attached Revised Annex “C”.

x x x

(Underscoring provided, for reference)

In relation to the foregoing amendments to the Original PSA, the Commission revisited the Invitation to Bid (ITB) and the Terms of Reference (TOR) of the subject PSA to determine whether the PSA, as amended, is still consistent with the TOR.

In the ITB,²⁷ which AEC published for its Renewable Energy Requirement, the following terms are provided:

Contract Term	10 Years
Start of Supply	March 26, 2023 or upon ERC Approval, whichever comes later.
Name of Proposed Plant	<p>Bidder must identify the proposed power plant (“Nominated Power Plant”).</p> <ol style="list-style-type: none"> 1. If already operating, the Nominated Plant must be capable of supplying the Contract Energy to AEC for the required Contract Period beginning on the Target Commercial Sale Date, after considering energy and capacity already committed to other off-takers. 2. If the electricity shall be sourced from a new RE Plant, Bidder shall state Capacity (kW) to be put up and the Plant Factor, depending on the technology to be used.

²⁷ Annex “S-Series”, 1.7 of the *Joint Application* dated 28 October 2022.

	<p>3. Bidder shall specify the location of the metering point and connection node of its RE plant.</p> <p>4. A grid-connected RE Plant is preferred as any ancillary charges that may be imposed by the grid operator against an embedded RE plant shall be for the sole account of the RE plant operator/supplier.</p>
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On the other hand, in the TOR,²⁸ of AEC, as amended, on 04 November 2021, provided the following minimum contract requirements for the supply of its Renewable Portfolio Standard (RPS) requirement for the period 26 March 2023 to 25 March 2033. Under this TOR, these minimum requirements of AEC are non-negotiable, and the bidder must meet all of these, *to wit*:

Contract Term	10 Years
Start of Supply	March 26, 2023 or upon ERC Approval, whichever comes later. If the ERC approval comes later than 26 March 2023, the contract terms shall be adjusted accordingly
Contract Energy, kWh per year and/or daily average	<ol style="list-style-type: none"> 1. 35,697,000 kWh/year (97,800 kWh/day average) 2. Take-and-pay scheme. AEC will pay only for the contracted RE produced. 3. The BCQ Nomination (kWh) shall be as per Annex 3, AEC Load Profile to be Procured. The peak demand to be procured under the CSP is 13,000 kW.
Name of Proposed Plant	<p>Bidder must identify [the] location of the proposed power plant (“Nominated Power Plant”).</p> <ol style="list-style-type: none"> 1. If already operating, the Nominated Plant must be capable of supplying the Contract Energy to AEC for the required Contract Period beginning on the Target Commercial Sale Date, after considering energy and capacity already committed to other off-takers. 2. If the electricity shall be sourced from a new RE Plant, Bidder shall state Capacity (kW) to be put up and the Plant Factor, depending on the technology to be used. 3. Bidder shall specify the location of the metering point and connection node of its RE plant.

²⁸ Annex “S-Series”, 2 of the *Joint Application* dated 28 October 2022

	4. A grid-connected RE Plant is preferred as any ancillary charges that may be imposed by the grid operator against an embedded RE plant shall be for the sole account of the RE plant supplier/operator.
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In the *Bid Proposal*²⁹ of SPNEC, it designated its nominated power plant, as follows:

Nominated Power Plant	Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1)
Location	Barangay Sinasajan and Barangay Las Piñas, Peñaranda, Nueva Ecija
Connection Node	Cabanatuan 230 kV Substation
Technology	Solar
Contract Energy, kWh/year	35,697,000 up to 38,195,790
Equivalent Capacity, kW	13,000 up to 13,910

Table 1 shows the comparison of the terms pertaining to the Power Plant as stated in the TOR, the Original PSA, and the amendment to the PSA:

Table 1. Comparison of Original and Revised Provisions

TOR		Related Provision under the PSA	
Term	Requirements	Original PSA	Amendment to the PSA
Name of Proposed Plant	<p>Bidder must identify [the] location of the proposed power plant (“Nominated Power Plant”).</p> <p>1. If already operating, the Nominated Plant must be capable of supplying the Contract Energy to AEC for the required Contract Period beginning on the Target Commercial Sale Date, after considering energy and capacity already committed to other off-takers.</p> <p>2. <u>If the electricity shall be sourced from a new RE</u></p>	<p>1.3. Nominated RE Facility – The Nominated RE Facility shall mean the RE Supplier’s Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1) with a capacity of 225 MWdc and located in the Municipality of Peñaranda, Province of Nueva Ecija.</p>	<p>1. Clause 1.3 of the REPSA is hereby amended to read as follows:</p> <p>“1.3 Nominated RE Facility – The Nominated RE Facility shall mean the RE Supplier’s Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase <u>1A</u>) with a capacity of <u>50</u>MWdc and located in the Municipality of Peñaranda, Province of Nueva Ecija.”</p>

²⁹ Annex “S-Series”, 3 of the *Joint Application* dated 28 October 2022.

TOR		Related Provision under the PSA	
Term	Requirements	Original PSA	Amendment to the PSA
	<p><u>Plant, Bidder shall state Capacity (kW) to be put up and the Plant Factor, depending on the technology to be used.</u></p> <p>3. <u>Bidder shall specify the location of the metering point and connection node of its RE plant.</u></p> <p>4. A grid-connected RE Plant is preferred as any ancillary charges that may be imposed by the grid operator against an embedded RE plant shall be for the sole account of the RE plant supplier/operator.</p> <p><i>(Underscoring provided, for reference)</i></p>	<p>xxx</p> <p>1.8. Connection Node – The Connection Node, where the Connection Assets of the Nominated RE Facility of RE Supplier connect to the Transmission Grid or Distribution System, shall be described in Annex “C” hereof.</p> <p>xxx</p> <p>1.10. Metering Point – The Metering Point, where the BCQ is measured and used as basis for billing purposes, shall be as designated in Annex “E” hereof.</p> <p>RE Supplier shall give AEC reasonable access to the metering data registered at the Metering Point pertaining only to the energy metered, delivered and billed to AEC pursuant to this Agreement; provided always that, such access shall not in any way apply to metering data</p>	<p>2. Annex “C” (Connection Node) of the REPSA, which sets out where the Connection Assets of the Nominated RE Facility of RE Supplier will connect to the Transmission grid or Distribution System, is hereby amended to reflect the foregoing amendment and shall be replaced by the herein attached <u>Revised Annex “C”</u>.</p> <p>xxx</p> <p><i>(Underscoring provided, for reference)</i></p>

TOR		Related Provision under the PSA	
Term	Requirements	Original PSA	Amendment to the PSA
		for other customers of the RE Supplier using the same Metering Point.	

Based on Table 1, under the TOR, the Bidder must identify the location of the Nominated Power Plant. Further, the TOR requires that if the electricity shall be sourced from a new Renewable Energy (RE) Plant, the Bidder shall state the Capacity (kW) to be put up and the Plant Factor, depending on the technology to be used. The Commission notes that the TOR itself did not provide for the plant specifications, but rather it specifically requires the bidder to state the location, capacity, and plant factor of the power plant.

In the Bid Proposal, the Nominated Power Plant of SPNEC is identified as the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1) located at Barangay Sinasajan and Barangay Las Piñas, Peñaranda, Nueva Ecija. The proposed Equivalent Capacity for the Plant is at 13,000 kW up to 13,910 kW.

In the Original PSA, the Nominated RE Facility of SPNEC is likewise identified as the Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1) with a capacity of 225 MWdc and located in the Municipality of Peñaranda, Province of Nueva Ecija. On the other hand, in its Amendment to the PSA, the Nominated Power Plant is identified as Sta. Rosa Nueva Ecija 2 Solar Power Plant (Phase 1A) with a capacity of 50MWdc and located in the Municipality of Peñaranda, Province of Nueva Ecija.

Moreover, the Commission notes that the TOR requires the Bidder to specify the location of the metering point and connection node of the RE plant. In the Original PSA, the Applicants attached the Connection Node for its Nominated Power as described under *Annex "C"* thereof. On the other hand, in the Amendment to the PSA, the Applicants replaced this Connection Node and attached a *Revised Annex C* thereof.

In the "Whereas Clause" of the Amendment to the PSA, the Applicants explained the foregoing amendments, as follows:

Whereas, the RE Supplier proposed to amend certain provisions in REPSA to align the actual capacity and the

development plans for its Sta. Rosa Nueva Ecija 2 Solar Power Plant to ensure uniformity with regulatory submissions and corporate disclosures, and to which AEC accepted as it will not affect the RE Supplier's ability to deliver AEC's power requirements or the Contract Price as agreed upon;

In *Malaga v. Penachos, Jr.*,³⁰ the Supreme Court discussed the three (3) principles of public bidding and the rule that these principles cannot be excluded even through regulation, *to wit*:

It has been held that the three principles in public bidding are the **offer to the public, an opportunity for competition and a basis for exact comparison of bids**. A regulation of the matter which excludes any of these factors destroys the distinctive character of the system and thwarts and purpose of its adoption.

The Supreme Court discussed in *Caltex (Philippines) Inc. v. Delgado Brothers, Inc., et al.*³¹ that the parties in a contract resulting from public bidding are prohibited from altering or changing its terms without another public bidding, *to wit*:

The Court agrees with the contention of counsel for the plaintiffs that **the due execution of a contract after public bidding is a limitation upon the right of the contracting parties to alter or amend it without another public bidding**, for otherwise what would a public bidding be good for it after the execution of a contract after public bidding, the contracting parties may alter or amend the contract, or even cancel it, at their will? Public bidding are held for the protection of the public, and to give the public the best possible advantages by means of open competition between the bidders. He who bids or offers the best terms is awarded the contract subject of the bid, and **it is obvious that such protection and best possible advantages to the public will disappear if the parties to a contract executed after public bidding may alter or amend it without another previous public bidding**.

(Emphasis supplied.)

The Commission notes that while there are pronouncements that prohibit the amendment of a contract acquired through public bidding without undergoing new public bidding, the same only pertains to substantial amendments, or those amendments which would contain substantially different

³⁰ G.R. No. 86695.

³¹ G.R. No. L-5439, 29 December 1954.

terms and conditions that would have the effect of altering the technical and/or financial proposals previously submitted by other bidders, as held in the case of *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*,³² to wit:

While we concede that a winning bidder is not precluded from modifying or amending certain provisions of the contract bidden upon, **such changes must not constitute substantial or material amendments that would alter the basic parameters of the contract and would constitute a denial to the other bidders of the opportunity to bid on the same terms.** Hence, the determination of whether or not a modification or amendment of a contract bidden out constitutes a substantial amendment rests on whether the contract, when **taken as a whole, would contain substantially different terms and conditions that would have the effect of altering the technical and/or financial proposals previously submitted by other bidders.** The alterations and modifications in the contract executed between the government and the winning bidder must be such as to render such executed contract to be an entirely different contract from the one that was bidden upon.

In the case of *Caltex (Philippines), Inc. v. Delgado Brothers, Inc.*,³³ this Court quoted with approval the ruling of the trial court that an amendment to a contract awarded through public bidding, when such subsequent amendment was made without a new public bidding, is null and void:

The Court agrees with the contention of counsel for the plaintiffs that the due execution of a contract after public bidding is a limitation upon the right of the contracting parties to alter or amend it without another public bidding, for otherwise what would a public bidding be good for if after the execution of a contract after public bidding, the contracting parties may alter or amend the contract, or even cancel it, at their will? Public biddings are held for the protection of the public, and to give the public the best possible advantages by means of open competition between the bidders. He who bids or offers the best terms is awarded the contract subject of the bid, and it is obvious that such protection and best possible advantages to the public will disappear if the parties to a contract executed after public bidding may alter or amend it without another previous public bidding

³² G.R. Nos. 155001, 155547 & 155661, 05 May 2003.

³³ G.R. No. L-5439, 29 December 1954.

Based on the discussions above, substantial amendments are those matters which substantially or materially change the parameters of the project, including the essential terms and conditions of the contract bid upon.

In the instant case, the TOR of AEC only requires that the Nominated Power Plant must be identified and that the bidder must state its capacity and plant factor.

The Commission notes that the changes in the Nominated RE Facility location from Phase 1 to Phase 1A, as well as in the Nominated RE Facility's capacity from 225MWdc to 50MWdc, would not constitute a substantial amendment that would have an effect of altering the technical and/or financial proposals submitted by the other bidders.

In the Evaluation of Bids,³⁴ AEC evaluated all those that submitted their Bids not based on the specific location of the power plant and the plant capacity but based on the following terms: (1) RE Technology; (2) Contract Energy/Capacity, Plant Factor; (3) Contract Period; (4) Average Price (PhP/kWh); (5) Discounts (if any); (6) Line rental (if any); (7) Transmission cost (if any); and (8) Total Calculated Bid.

In view thereof, the Commission finds that the Amendment to the PSA did not violate the TOR, the policy in public bidding, and the Department of Energy's (DOE) Department Circular No. DC 2021-09-0030 (DOE 2021 CSP Circular).³⁵

B. Procurement Process

Shown in Table 2 are the relevant dates concerning the CSP conducted:

Table 2. Relevant Dates (CSP conducted)

Date	Event/s Transpired
10 July 2019	Through an Inter-Office Memo, AEC formally created its Bids and Awards Committee – Technical Working Group (BAC-TWG) for the conduct of a Competitive Selection Process (CSP) for Renewable Portfolio Standards (RPS) compliance.

³⁴ Annex "S-Series", 4.1 of the *Joint Application* dated 28 October 2022.

³⁵ Entitled, "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."

Date	Event/s Transpired
20 November 2020	DOE uploaded in EVOSS the approval of AEC's Selection Process for TPBAC Customer Representatives. ⁴⁴
26 August 2021	AEC received a letter from DOE requesting to revise its submitted Invitation to Bid (ITB) and Terms of Reference (TOR).
06 October 2021	AEC resubmitted its TOR for posting in the CSP E-based Portal of the DOE website as there were revisions, particularly on the timetable for the first and second pre-bid conferences.
10 October 2021	AEC published the ITB in the Manila Times (first publication) – with Erratum published on 15 and 16 October 2021 ⁴⁵
17 October 2021	AEC published the ITB in the Manila Times (<i>sic</i>) (second publication)
21 October 2021	A first pre-bid conference was conducted
28 October 2021	A second pre-bid conference was conducted
26 November 2021	AEC TPBAC, TWG, and Secretariat held its Virtual CSP Bid Opening Also, a copy of the Bid Evaluation ⁴⁶ and Bid Ranking ⁴⁷ for the bidders was attached in the <i>Joint Application</i> .
03 December 2021	TPBAC, TWG, and Secretariat, and the qualified bidders met for the Presentation of Qualified Bids
07 December 2021	The TPBAC (AEC TPBAC Resolution No. 2021-12-01) ⁴⁸ approved the recommendation, evaluation, and ranking of the TWG, where SPNEC ranked First with the lowest total calculated bid of PhP 3.4874 per kWh, without any escalation throughout the 10-year contract
20 December 2021	AEC TPBAC (AEC TPBAC Resolution No. 2021-12-02) ⁴⁹ endorsed and recommended the REPSA with SPNEC and the joint filing to ERC for approval by the AEC Board of Directors
26 January 2022	AEC Board of Directors approved the REPSA with SPNEC and the joint filing to ERC through Board Resolution No. 01-02, Series of 2022 ⁵⁰
28 January 2022	AEC sends the REPSA Notice of Award ⁵¹ to SPNEC
07 February 2022	REPSA was signed by both parties, AEC and SPNEC

On 08 September 2022, Atty. Ocampo, Chairperson of AEC's TPBAC, alleged that the TPBAC was duly organized by

⁴⁴ Annex "S-Series", DOE Approval of AEC TPBAC of the *Joint Application* dated 28 October 2022.

⁴⁵ Annex "S-Series", Items 1.1 to 1.7 of the *Joint Application* dated 28 October 2022.

⁴⁶ Annex "S-Series", Item 4.1 of the *Joint Application* dated 28 October 2022.

⁴⁷ Annex "S-Series", Item 4.2 of the *Joint Application* dated 28 October 2022.

⁴⁸ Annex "S-Series", Item 4.3 of the *Joint Application* dated 28 October 2022.

⁴⁹ Annex "S-Series", Item 4.4 of the *Joint Application* dated 28 October 2022.

⁵⁰ Annex "S-Series", Affidavit of Ranulfo M. Ocampo dated 08 September 2022, par.12 of the *Joint Application* dated 28 October 2022.

⁵¹ Annex "S-Series", Affidavit of Ranulfo M. Ocampo dated 08 September 2022, par.13 of the *Joint Application* dated 28 October 2022.

AEC and in the conduct of the CSP, and after due evaluation of all of the participants, the SPNEC was determined to have submitted the lowest total calculated bid. Thus, after negotiation between AEC and SPNEC, a PSA was entered into by the parties which brought about the instant *Joint Application*.⁵²

It is worth noting that AEC, through the TPBAC, invited all interested and qualified Bidders to participate in the competitive selection process for the procurement of 97,800kWh/day average Renewable Energy for Power Supply Agreement. Said TOR contains the following details:

Below are the minimum contract requirements of AEC for the supply of its RPS Energy requirement for the period 26 March 2023 to 25 March 2033. The terms of reference indicated below are non-negotiable and bidder must meet all requirements of AEC.

<i>Contract Term</i>	<i>10 Years</i>
<i>Start of Supply</i>	<i>26 March 2023, or upon ERC Approval, whichever comes later. If the ERC approval comes later than 26 March 2023, the contract terms shall be adjusted accordingly.</i>
<i>Nature of Requirement</i>	<i>Wholesale supply of RPS-eligible Renewable Energy (RE) catering to daytime peak load from 6[:00] am to 6[:00] pm.</i>
<i>Contract Energy, kWh per year and/or daily average</i>	<i>1. 35,697,000 kWh/year (97,800 kWh/day average) 2. Take-and-pay scheme. AEC will pay only for the contracted RE produced. 3. The BCQ Nomination (kWh) shall be as per Annex 3, AEC Load Profile to be Procured. The peak demand to be procured under the CSP is 13,000 kW.</i>
<i>Nominated Power Plant</i>	<i>Bidder must identify location of the proposed power plant ("Nominated Power Plant") 1. If already operating, Nominated Plant must be capable of supplying the Contract Energy to AEC for the required Contract Period beginning on target Commercial Sale Date, after</i>

⁵² Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.

	<p>considering energy and capacity already committed to other off takers.</p> <p>2. If the electricity will be sourced from a new RE plant, Bidder shall state Capacity (kW) to be constructed and the Plant Factor, depending on the technology to be used.</p> <p>3. Bidder shall specify location of the metering point and connection node of its RE plant.</p> <p>4. A grid connected RE plant is preferred as any ancillary charges that may be imposed by the grid operator against an embedded RE plant shall be for the sole account of the RE plant supplier/operator</p>
Contract Price, PhP/kWh	<p>1. Bidders shall submit a rate in PhP/kWh for each contract year (See Annex "H" of RE PSA Template).</p> <p>2. Bidder with the Lowest Complying Calculated Bid shall be ranked first if its proposed contract terms meet the minimum contract terms of AEC.</p> <p>3. The Lowest Complying Calculated Bid includes: (a) the Average Offered Price per kWh for the term of the PSA, (b) Line Rental, Page 5 of 19 (c) Systems Loss, and (d) Transmission Charge. 4. If there is no meeting of the minds with the Lowest Complying Bidder, AEC shall move to the next Lowest Complying Bidder, and so on and so forth.</p>
Reserve Price	<p>AEC has established a Reserve Price, or a price cap, upon which the bid price of the qualified bidders cannot exceed. The Reserve Price will not be disclosed to the bidders until the Bid Opening Date.</p>
Price Components	<p>Price/kWh at current prices, preferably without indexations, covering the following, as applicable:</p> <ol style="list-style-type: none"> 1. Energy (Fuel) fee, if any; 2. Discount/s, if any; 3. Other proposed terms, if any.
Billing & Settlement	<ol style="list-style-type: none"> 1. Wholesale RE Supplier to follow WESM Billing Cycle. 2. Stipulated currency shall be in Philippine Peso. 3. AEC shall settle all power bills in Philippine Peso.
Period of Validity of Bids	<p>Bids shall remain valid for One Hundred Eighty (180) days from date of deadline for the submission of bids.</p>

<i>Bid Security</i>	<i>Proponent shall post a bid bond in the amount of PhP1 Million to guarantee validity of bid.</i>
<i>Power Supply Agreement (PSA)</i>	<i>Pro-forma PSA template supplied with the Bid Package shall be used as primary reference.</i>
<i>Performance Bond</i>	<i>Winning Bidder shall post a Performance Bond of PhP 15 Million as a condition precedent to the signing of the PSA. The Performance Bond shall be in the form of Cash, Manager's/Cashier's check from a reputable bank, or a Stand-By Letter of Credit (SBLC) from a reputable bank. The Performance Bond should be valid until May 25, 2023. If an SBLC will be used, it must be callable upon demand without need for clearance or approval from winning bidder.</i>
<i>Penalties for Delay</i>	<i>Winning Bidder shall be penalized PhP5/kWh multiplied by the contract energy for every day of delay from target Commercial Operation Date.</i>
<i>Joint Filing to ERC</i>	<i>Winning Bidder undertakes to make a Joint Filing with AEC to ERC for the approval of the RE PSA.</i>
<i>Non-fulfillment of RE PSA conditions subsequent as ground/s for PSA Termination</i>	<i>Non-acquisition of requisite permits and agreements (ECC, DAR conversion, NCIP clearance, if applicable, CoC, TSA, etc.); submission of proof of ownership of land, or land lease agreement, where power plant is to locate; and financial closing for the power plant, within one (1) year from signing of the RE PSA, shall constitute grounds for termination of the PSA and forfeiture of the Performance Bond</i>

Meanwhile, AEC's evaluation of the bids is discussed below:

On 25 November 2021, the TPBAC received the bids from the following participating bidders: GIGASOL3, SNAP-BI, PAVI Green, BGI, and SPNEC.

On 3 December 2021, the TPBAC, TPBAC-TWG, Secretariat and the bidders met for the presentation of qualified bids, wherein SPNEC got the lowest total calculated bid.

On 7 December 2021, the TPBAC issued Resolution No. 2021-12-01 approving the recommendation, evaluation and

ranking of the TWG, with SPNEC as having the lowest total calculated bid.

On 20 December 2021, after negotiations and upon reaching an agreement on the terms and conditions to be provided in the Renewable Energy Power Supply Agreement (“PSA”), the TPBAC issued Resolution No. 2021-12-02 endorsing and recommending the PSA with SPNEC and the joint filing of an application for approval of the same to the ERC, for approval by the AEC Board of Directors. On 26 January 2022, AEC Board of Directors signified their approval of the PSA, as well as the said joint filing, through Board Resolution No. 01-02, series of 2022.

On 28 January 2022, the Notice of Award was sent to SPNEC. The DOE and Energy Regulatory Commission (“ERC”) were also furnished with copies of the Notice of Award to SPNEC on 2 February 2022.

On 28 January 2022, the Notice of Award was sent to SPNEC. The said bid price by SPNEC shall be discussed further in the latter part of this *Order*.

Based on the foregoing discussion, the Applicants’ summary of the procurement process based on its application *vis-à-vis* the required CSP procedure are summarized as follows:

Table 3. Competitive Selection Process

	CSP Requirement	Remarks
1	Distribution Development Plan (DDP) and Power Supply Procurement Plan (PSPP) ⁵³	The DOE 2021 CSP Circular requires Applicants to submit their DDP, which includes their PSPP. In their <i>Application</i> , Applicants submitted AEC’s DDP and PSPP. ⁵⁴
2	Composition of the Independent Third Party Bids and Awards Committee (TPBAC) or Joint TPBAC (for aggregated DUs)	The DOE 2021 CSP Circular requires the establishment of a dedicated group in facilitating the said procurement process. Particularly, under the DOE 2021 CSP Circular, ⁵⁶ the TPBAC shall be comprised of: 1) One (1) lawyer; 2) One (1) finance officer or accountant that has knowledge of electricity pricing; and 3) One (1) Technical person or person with knowledge and/or experience with any local or international competitive bidding procedures.

⁵³ Section 3 of the DOE 2021 CSP Circular.

⁵⁴ Annex “PP-Series” of the *Joint Application* dated 28 October 2022.

⁵⁶ Sec. 5 of DOE Dept. Circular 2018-02-0003, as amended.

	CSP Requirement	Remarks																								
	or Third Party Auctioneer (TPA) ⁵⁵	<p>Applicants attached in their <i>Joint Application</i> a <i>Letter</i> dated 20 November 2020 from the DOE which approved the selection process to be adopted by AEC.⁵⁷</p> <p>Based on its submissions, AEC alleges that the following compose the TPBAC established for the procurement of energy by AEC:⁵⁸</p> <p style="padding-left: 40px;">Representatives from AEC: Engr. Michael Angelo D. Colle – Distribution Manager Aldrin Erwin James T. Nepomuceno – Corporate Planning Manager Atty. Ranulfo M. Ocampo – AEC Regulatory Counsel</p> <p style="padding-left: 40px;">Representatives from captive market: Pio Angelo P. Sicangco – PICPA nominee Engr. Edilberto B. Mallari – PSME nominee</p> <p>AEC also submitted a copy of an <i>Inter-Office Memo</i> dated 09 March 2021 which formally announces the composition of the AEC TPBAC as created through Resolution No. 12-01, Series of 2020.</p> <p>In addition, based on AEC's submissions, the following comprise of the TWG:⁵⁹</p> <table border="1" data-bbox="711 1283 1339 1532" style="margin-left: 40px;"> <tbody> <tr> <td>Member</td> <td>-</td> <td>Mr. Jesus P. Soriano</td> </tr> <tr> <td>Member</td> <td>-</td> <td>Engr. Roderico Q. Catacutan</td> </tr> <tr> <td>Advisor</td> <td>-</td> <td>Engr. Manolito R. Ocampo</td> </tr> <tr> <td>Advisor</td> <td>-</td> <td>Ms. Cristina L. Arboleda</td> </tr> <tr> <td>Secretariat</td> <td>-</td> <td>Engr. Allan M. Santillan</td> </tr> <tr> <td>Secretariat Assistants</td> <td>-</td> <td>Engr. Dan King P. Lapuz</td> </tr> <tr> <td></td> <td></td> <td>Ms. Theresa Allison L. Lazatin</td> </tr> <tr> <td></td> <td></td> <td>Mr. Melchor A. Raymundo</td> </tr> </tbody> </table>	Member	-	Mr. Jesus P. Soriano	Member	-	Engr. Roderico Q. Catacutan	Advisor	-	Engr. Manolito R. Ocampo	Advisor	-	Ms. Cristina L. Arboleda	Secretariat	-	Engr. Allan M. Santillan	Secretariat Assistants	-	Engr. Dan King P. Lapuz			Ms. Theresa Allison L. Lazatin			Mr. Melchor A. Raymundo
Member	-	Mr. Jesus P. Soriano																								
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		Ms. Theresa Allison L. Lazatin																								
		Mr. Melchor A. Raymundo																								
3	CSP Observers ⁶⁰	<p>The parties in their <i>Joint Application</i> alleged that the required CSP Observers in the DOE 2021 CSP Circular were invited to attend AEC's CSP, specifically the DOE.⁶¹</p> <p>The Applicants also alleged that DOE attended several parts of the CSP.⁶²</p> <p>The Commission notes that the Applicants did not submit any proof in support of this allegation.</p>																								

⁵⁵ Section 4 of the DOE 2021 CSP Circular.

⁵⁷ Annex "S-Series" of the *Joint Application* dated 28 October 2022.

⁵⁸ Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.

⁵⁹ Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.

⁶⁰ Section 6 of the DOE 2021 CSP Circular.

⁶¹ Annex "S-Series", AEC – Affidavit re CSP, par. 7 of the *Joint Application* dated 28 October 2022.

⁶² Annex "S-Series", CSP Chronology of Events of the *Joint Application* dated 28 October 2022.

	CSP Requirement	Remarks
		Due to the lack of proof that the required CSP Observers were invited and/or attended the CSP, the Commission shall conduct further evaluation regarding the Applicants compliance with this parameter.
4	Initial Documents to be Submitted ⁶³	<p>Apart from the DDP and the PSPP, the DOE 2021 CSP Circular also requires the submission of the Distribution Impact Study (DIS)/Load Flow Analysis.</p> <p>As earlier stated, Applicants submitted AEC's DDP and PSPP. Further, Applicants attached in the <i>Joint Application</i> the following documents:</p> <ul style="list-style-type: none"> a. DDP and PSPP;⁶⁴ and b. Load Curve Requirements.⁶⁵
5	Terms Reference (TOR) ⁶⁶ of	<p>The DOE 2021 CSP Circular requires that the TOR should contain the following information: (1) General Supply Description; (2) Terms of Supply; (3) Cost and Tariff; (4) Payment Modalities; (5) Outage Allowance; (6) Replacement Power; (7) Force Majeure; and (8) Grounds for Contract Termination; (9) Liquidated damage; (10) Reduction of Contract Capacity; (11) Obligations of the DU; (12) Bidder's qualifications.</p> <p>In their <i>Joint Application</i>, AEC and SPNEC attached the TOR as part of Annex "S-Series" which contained the following information:</p> <ul style="list-style-type: none"> a. Contracted Capacity; b. Start of Supply; c. Nature of Requirement; d. Contract Energy; e. Nominated Power Plant; f. Contract Price; g. Reserve Price; h. Price Components; i. Billing and Settlement; j. Period of Validity of Bids; k. Bid Security; l. Power Supply Agreement; m. Performance Bond; n. Penalties for Delay o. Joint Filing to ERC <p>Non-fulfillment of RE PSA conditions subsequent as grounds/s for PSA Termination.</p>

⁶³ Section 3 of the DOE 2021 CSP Circular.

⁶⁴ Annex "PP-Series" of the *Joint Application* dated 28 October 2022.

⁶⁵ Annex "N" of the *Joint Application* dated 28 October 2022.

⁶⁶ Section 8.1.1 and Annex "B" of the DOE 2021 CSP Circular.

	CSP Requirement	Remarks
		<p>Furthermore, Applicants also attached a copy of the Notice to Proceed issued by the DOE through its <i>Letter</i> dated 16 September 2021.⁶⁷</p> <p>The Commission noted that the attached TOR does not contain a provision on Payment Modalities, Outage Allowance, Replacement Power, Force Majeure, Reduction of Contract Capacity.</p> <p>Based on the foregoing observation, the Commission shall conduct further evaluation regarding the Applicants compliance with this parameter.</p>
6	Invitation to Bid (ITB) ⁶⁸	<p>Similar to the TOR, the DOE 2021 CSP Circular prescribes the following minimum requirements for ITB: (1) Cooperation Period/Contract Year; (2) Demand and Energy; (3) Eligibility Requirements; (4) Schedule and deadlines from the issuance of Certificate to Posting (COP); and (5) Terms of Reference (TOR).</p> <p>In their <i>Joint Application</i>, Applicants attached the ITB,⁶⁹ with the following details:</p> <ol style="list-style-type: none"> 1. Contract Term; 2. Instructions to Bidders; 3. Deadline of Submission of Bids; 4. Eligibility Requirements; 5. Date and Time of Opening of Bids; and 6. TOR. <p>The Commission notes that the information on demand and energy, which is required under the DOE 2021 CSP Circular, is found under the TOR, particularly on the term of Contract Energy, <i>to wit</i>:</p> <ol style="list-style-type: none"> 1. 35,697,000 kWh/year (97,800 kWh/day average) 2. Take-and-pay scheme. AEC will pay only for the contracted RE produced. 3. The BCQ Nomination (kWh) shall be as per Annex 3, AEC Load Profile to be Procured. The peak demand to be procured under the CSP is 13,000 kW.
7	Instructions to Bidders ⁷⁰	Under the DOE 2021 CSP Circular, the Instructions to Bidders shall contain, at least, the following provisions:

⁶⁷ Annex "S-Series" of the *Joint Application* dated 28 October 2022.

⁶⁸ Section 8.1.2 of the DOE 2021 CSP Circular.

⁶⁹ Annex "S-Series", item "1.1" to "1.7" of the *Joint Application* dated 28 October 2022.

⁷⁰ Section 8.1.3 of the DOE 2021 CSP Circular.

	CSP Requirement	Remarks
		<p>(1) Corporate Profile of Bidders; (2) Technical Proposal's Requirements; (3) Financial Proposal's Requirements; (4) Method and Criteria for Evaluation; (5) Bidding Procedure; (6) Awarding, Signing of Contract, and Notice of Implementation; (7) Acceptable Form of Bid and Performance Securities; (8) Proposed Timelines or Milestones; (9) PSA Template; (10) Notarized Statement attesting to the information submitted for the bid; (11) Protest Mechanism; and (12) Other documents required and mandated by other government agencies.</p> <p>The Instructions to Bidders submitted by the Applicants contained the foregoing information.⁷¹</p> <p>(1) Corporate Profile of Bidders; (2) Technical Component; (3) Financial Component; (4) Bid Evaluation; (5) Bidding Procedure; (6) Notice of Award and Signing of Contract; (7) Acceptable Form of Bid and Performance Securities; (8) Timetable; (9) PSA Template; (10) Notarized Statement attesting to the information submitted for the bid; (11) Protest Mechanism; and (12) Under the Qualification Documents, the other documents required and mandated by other government agencies are enumerated.</p>
8	Posting of Invitation to Bid ⁷²	<p>The DOE 2021 CSP Circular requires that the ITB shall be posted in the DOE CSP E-based portal, and DU website, if available.</p> <p>The Applicants submitted a <i>Letter</i> dated 16 September 2021 from the DOE which confirms receipt of the revised TOR and the Revised ITB, with the directives to AEC to proceed with the publication of the ITB, among others.⁷³</p> <p>The Commission also confirms that the TOR⁷⁴ and the ITB⁷⁵ were duly posted in the DOE CSP E-based portal.</p>
9	Publication of Invitation to Bid ⁷⁶	<p>The DOE 2021 CSP Circular requires that the ITB be published in a newspaper of general circulation once (1x) weekly for two (2) consecutive weeks.</p> <p>AEC published the ITB in <i>The Manila Times</i> on 10 October 2021 and 17 October 2021.⁷⁷</p>

⁷¹ Annex "S-Series" of the *Joint Application* dated 28 October 2022.

⁷² Section 8.3 of the DOE 2021 CSP Circular.

⁷³ Annex "S-Series" of the *Joint Application* dated 28 October 2022.

⁷⁴ https://doe.gov.ph/sites/default/files/pdf/du_csp/01%20AEC-RPS-CSP-TOR.pdf (Last accessed on 13 August 2024)

⁷⁵ https://doe.gov.ph/sites/default/files/pdf/du_csp/02%20Annex%2001-AEC-RPS-CSP-ITB.pdf (Last accessed on 13 August 2024)

⁷⁶ Section 8.3 of the DOE 2021 CSP Circular.

⁷⁷ Annex "S-Series" of the *Joint Application* dated 28 October 2022.

	CSP Requirement	Remarks
		<p>In relation thereto, Applicants submitted the <i>Affidavit of Publication</i> executed by Ma. Cristina N. Ambas.⁷⁸</p> <p>Furthermore, AEC published an <i>Erratum</i> in <i>The Manila Times</i> on 15 October 2021 regarding the Price Components, and an <i>Erratum</i> also in <i>The Manila Times</i> regarding the Price Components and Penalties.</p> <p>Both <i>Erratum</i> are supported by an <i>Affidavit of Publication</i> executed by Ma. Cristina N. Ambas.</p>
10	Pre-Bid Conference ⁷⁹	<p>The DOE 2021 CSP Circular requires the conduct of a Pre-Bid Conference in order to address queries and clarifications from prospective bidders relative to the conduct of CSP, as well as to discuss, among other things, the eligibility requirements, the Terms of Reference, and the technical, legal, and financial components of the PSA to be procured.</p> <p>The Applicants submitted an <i>Affidavit</i> dated 08 September 2022, and a document entitled “CSP Chronology of Events” in their <i>Joint Application</i> to prove that the Pre-Bid Conference was conducted on 21 October 2021, and 28 October 2021.⁸⁰</p> <p>Furthermore, the Commission also verified that several supplemental bid bulletins were posted in the DOE CSP E-based portal.⁸¹</p>
11	Bid Evaluation Criteria and Process ⁸²	<p>The DOE 2021 CSP Circular prescribes that the TPBAC and its TWG shall evaluate the Power Supplier’s legal, technical, and financial qualifications based on the criteria indicated in the Bid Documents.</p> <p>Applicants, in their submitted Instructions to Bidder and TOR,⁸³ provided information in relation to deadline for submissions of bids, late bids, modification and withdrawal of bids, opening of bids, clarifications of bids, preliminary examination of bids, bid evaluation, post qualification, notice of award, signing of contract, and filing of PSA with the ERC.</p>
12	Submission, Receipt and	Under the DOE 2021 CSP Circular, prospective bidders are required to submit their bids on or before the deadline stipulated in the bid documents. Furthermore,

⁷⁸ Annex “S-Series” of the *Joint Application* dated 28 October 2022.

⁷⁹ Section 8.4 of the DOE 2021 CSP Circular.

⁸⁰ Annex “S-Series”, AEC – Affidavit re CSP, par. 7 of the *Joint Application* dated 28 October 2022.; *Id.*, CSP Chronology of Events

⁸¹ <https://doe.gov.ph/ducsp/profile/aec> (Last accessed on 13 August 2024)

⁸² Section 8.5 of the DOE 2021 CSP Circular.

⁸³ Annex “S-Series” of the *Joint Application* dated 28 October 2022.

	CSP Requirement	Remarks
	Opening of Bids ⁸⁴	<p>the opening of bids shall be made in the presence of all qualified bidders and the TPBAC.</p> <p>In the ITB submitted by the Applicants, the rules for the conduct of the receipt and opening of bids were provided. In the same ITB, Applicants provided the checklist of criteria and the bid which is determined to be the lowest calculated bid shall be subjected to post qualification.</p> <p>Based on the TOR, the deadline for the submission of bids is set on 25 November 2021 at 4:00 P.M.</p> <p>Based on the records of this case, five (5) bids were received by the TPBAC of AEC on 25 November 2021 which were all received within the deadline set.</p> <p>On 03 December 2021, the TPBAC, TPBAC-TWG, Secretariat and the bidders met for the presentation of the qualified bids, wherein SPNEC was found to have submitted the lowest total calculated bid, <i>to wit</i>:⁸⁵</p> <p style="padding-left: 40px;">On 25 November 2021, the TPBAC received the bids from the following participating bidders: GIGASOL3, SNAP-BI, PAVI Green, BGI, and SPNEC.</p> <p style="padding-left: 40px;">On 3 December 2021, the TPBAC, TPBAC-TWG, Secretariat and the bidders met for the presentation of qualified bids, wherein SPNEC got the lowest total calculated bid.</p> <p>In support, the Applicants attached in the <i>Joint Application</i> a copy of the Bid Evaluation,⁸⁶ and Bid Ranking.⁸⁷</p>
13	Determination of the Winning Bidder ⁸⁸	<p>The DOE 2021 CSP Circular provides that the TPBAC shall proceed to determine the lowest calculated bid, using the valuation criteria prescribed in the Bid Documents. In the same Circular, the TPBAC, through a Resolution, shall recommend the award of the contract to the Board of Directors of the DU.</p> <p>The Applicants submitted the Evaluation of Bids, Ranking of Bids, AEC TPBAC Resolution No. 2021-12-01, AEC TPBAC Resolution No. 2021-12-01, AEC Board Resolution No. 01-01, Series of 2022, Notice of Award to AEC.</p>

⁸⁴ Section 8.6 of the DOE 2021 CSP Circular.

⁸⁵ Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.

⁸⁶ Annex "S-Series", Item 4.1 of the *Joint Application* dated 28 October 2022.

⁸⁷ Annex "S-Series", Item 4.2 of the *Joint Application* dated 28 October 2022.

⁸⁸ Sections 8.6.5 and 8.6.8 of the DOE 2021 CSP Circular.

	CSP Requirement	Remarks		
14	Conduct of Post-Qualification Process ⁸⁹	<p>The DOE 2021 CSP Circular requires that the lowest calculated bid shall undergo a post-qualification process to determine its compliance with all the requirements and conditions, as specified in the TOR and other pertinent bidding documents.</p> <p>In the ITB, it was published that after determining the lowest bidder, AEC and the winning bidder shall negotiate the PSA and at the same time, conduct the Post-Qualification of the Lowest Competitive Bidder to ensure meeting of minds, <i>to wit</i>:</p> <table border="1" data-bbox="690 779 1446 879"> <tr> <td data-bbox="690 779 1255 879">Contract Negotiation and Post-Qualification of Lowest Competitive Bidder to ensure meeting of minds. If successful, move on to the next stage. If unsuccessful, move on to next lowest competitive bidder.</td> <td data-bbox="1255 779 1446 879">13-17, Dec. 2021</td> </tr> </table> <p>The Commission notes that the Applicants did not attach any Post-Qualification Report or any proof that a post-qualification regarding the bid submissions of SPNEC was conducted, but instead negotiations was conducted regarding the terms and conditions of the PSA.</p> <p>Applicants alleged that on 09 December 2021, AEC and SPNEC conducted a negotiation which was attended by the DOE representatives as observers and on 20 December 2021, AEC and SPNEC reached a meeting of the minds on the terms and conditions of the Renewable Energy Power Supply Agreement, this fact is supported by an Affidavit,⁹⁰ AEC TPBAC Resolution No. 2021-12-02,⁹¹ and AEC Board Resolution No. 01-02, Series of 2022.⁹²</p> <p>For the absence of the post-qualification report and/or proof of the conduct of post-qualification the Commission shall conduct further evaluation regarding the Applicants compliance with this parameter upon submission of the post-qualification report and supporting documents thereto.</p>	Contract Negotiation and Post-Qualification of Lowest Competitive Bidder to ensure meeting of minds. If successful, move on to the next stage. If unsuccessful, move on to next lowest competitive bidder.	13-17, Dec. 2021
Contract Negotiation and Post-Qualification of Lowest Competitive Bidder to ensure meeting of minds. If successful, move on to the next stage. If unsuccessful, move on to next lowest competitive bidder.	13-17, Dec. 2021			

Based on the requirements and parameters outlined in the above table, the Commission needs to further evaluate and/or determine the due compliance of AEC and SPNEC with the DOE 2021 CSP Circular specifically on the following parameters:

- 1) CSP Observers;
- 2) Terms of Reference; and

⁸⁹ Section 8.6.6 of the DOE 2021 CSP Circular.
⁹⁰ Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.
⁹¹ Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.
⁹² Annex "S-Series", AEC – Affidavit re CSP of the *Joint Application* dated 28 October 2022.

3) Conduct of a Post Qualification Process.

Based on the foregoing discussions the Commission shall further evaluate and verify AEC’s compliance with the DOE 2021 CSP Circular upon receipt of AEC’s submission of several documents and/or information relating to the above enumerated parameters.

C. Supply and Demand Scenario

Table 3 shows AEC’s Historical and Forecasted Supply-Demand Scenario from 2016 to 2031, as submitted by AEC:⁹³

Table 3. AEC’s Historical and Forecasted Supply-Demand Scenario

	Historical					Current Year	Forecasted									
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Peak Demand (MW)	105.2	110.2	119.0	127.5	124.2	134.7	140.	146.9	152.99	160.2	167.3	174.7	181.99	190.6	199.0	207.9
Supplier/s:																
GN Power Mariveles Energy Center Ltd. Co. (GN Power)	82.6	69.2	78.4	83.8	91.8	89.6	75.0	75.0	75.0	75.0	75.0	75.0	75.0			
Angeles Power Inc. (API)	10.1	15.5	14.8	18.8	-	15.3	22.0	22.0	22.0	22.0	22.0					
Anda Power Corp. (ANDA)		10.0	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0	15.0					
Retail Electricity Suppliers (RES)					7.4	7.1	7.4	7.8	8.1	8.5	8.8	9.2	9.6	10.1	10.5	10.97
Renewable Portfolio Standards (RPS)								13.0	13.0	13.0	13.0	13.0	13.0	13.0	13.0	13.0
Mid-Merit Supply														75.0	75.0	75.0
RPS										13.0	26.0	39.0	39.0	39.0	65.0	65.0
Total Supply (MW)	92.7	94.7	103.2	112.6	109.2	121.9	119.4	132.8	133.1	146.5	159.8	136.2	136.6	137.1	163.5	163.97
(Deficit/ Surplus)	(12.5)	(15.5)	(15.8)	(14.9)	(14.98)	(12.8)	(21.2)	(14.1)	(19.9)	(13.8) ⁹⁷	(7.5)	(38.5)	(45.4)	(53.5)	(35.5)	(43.9)

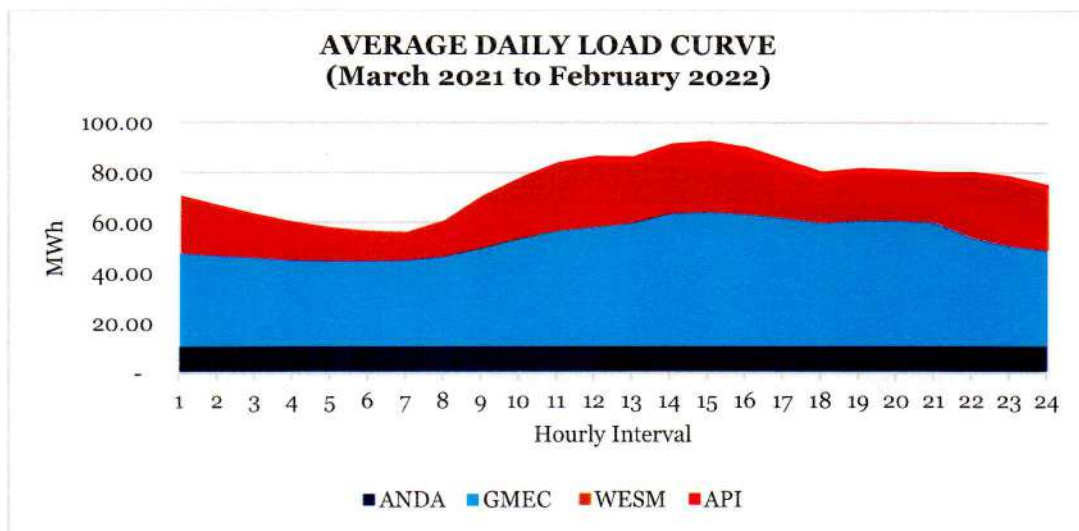
As shown in Table 3, GN Power Mariveles Energy Center Ltd. Co. (GNPOWER) and Anda Power Corporation (ANDA) provide AEC with 75 MW and 15 MW baseload supply, respectively, in 2023. Meanwhile, a 22 MW peaking supply is coming from Angeles Power Inc. (API). Upon verification, said capacities are those indicated in each of the PSAs. Further, it is observed that AEC included the supply coming from its Retail Electricity Suppliers at 7.8 MW which cater its contestable customers. Considering this, the Peak Demand for 2023, excluding the contestable demand should have been 139.10 MW. On the other hand, the PSA subject of the instant *Joint*

⁹³ Annex “O” of the *Joint Application* dated 28 October 2022.
⁹⁴ Rounding off difference should be (15.00).
⁹⁵ Rounding off difference should be (21.30).
⁹⁶ Rounding off difference should be (19.89).
⁹⁷ Rounding off difference should be (13.70).
⁹⁸ Rounding off difference should be (45.39).
⁹⁹ Rounding off difference should be (45.93).

Application is entered into for RPS Compliance. However, it can be noted that even with the said supply, AEC would still have to address the remaining deficit of 14.1 MW from the Peak Demand of 139.10 MW in 2023.

Meanwhile, the submitted Average Daily Load Curve from March 2021 to February 2022 (the last twelve months at the time of filing of the instant *Joint Application*), as well as the Forecasted Average Daily Load Curve considering the supply from SPNEC, are as follows:¹⁰⁰

Figure 1. Average Daily Load Curve (last twelve (12) months at the time of filing of the *Joint Application*)

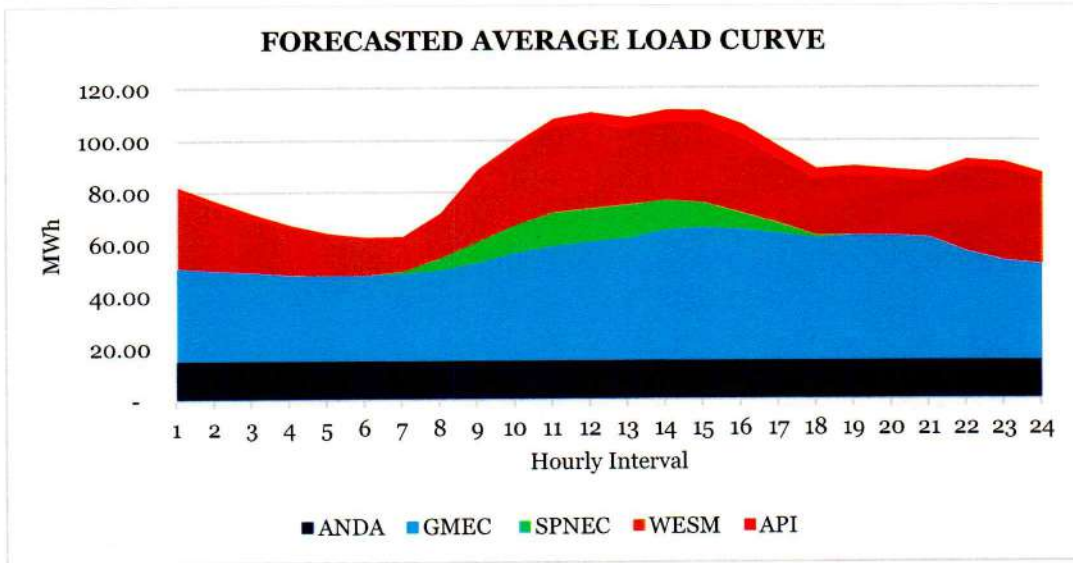


Based on Figure 1, AEC's supply requirements is being sourced mainly from GNPOWER and followed by ANDA for baseload, while API is for its peaking requirements. AEC also sources through WESM to fill the gap of supply and demand.

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¹⁰⁰ Annex "N" of the *Joint Application* dated 28 October 2022.

Figure 2. Forecasted Average Daily Load Curve



Based on Figure 2, SPNEC is forecasted to serve daytime peaking requirements, particularly from 6:00 A.M. to 6:00 P.M.

In the *Joint Application*, AEC alleged that the subject PSA would help AEC to comply with the RPS requirement for on-grid areas. Likewise, AEC averred that the contracted supply would help in providing its customers with stable, uninterrupted, and reliable power supply at an affordable rate.¹⁰¹

To further determine AEC’s actual supply-demand profile, the Commission examined AEC’s submitted Uniform Reportorial Requirement (URR) from February 2022 to January 2023 billing (latest available data, submitted as part of AEC’s monthly reportorial requirements) as presented below:

Table 4. AEC’s Energy Data (per URR)

Period	26 December 2021 to 25 December 2022	
Supplier	Energy Purchased by AEC per supplier, In kWh	Percentage Share To the Total Energy Purchased, Percentage (%)
WESM	113,413,310	16.44%
ANDA	124,113,750	17.99%
API	10,526,040	1.53%
GNPOWER	441,986,300	64.05%
Total	690,039,400	100.00%

¹⁰¹ Par. 40 of the *Joint Application* dated 28 October 2022.

Based on Table 4, it can be confirmed that the bulk of AEC's actual energy requirements is being served by GNPOWER at more than 64% for the specified period. Meanwhile, ANDA supplies around 18%, API at 1.53% (peaking), and AEC also sources from the Wholesale Electricity Spot Market (WESM) at 16% of the total requirement. While AEC contracted SPNEC to fulfill requirements under the DOE's mandated RPS, it can also help lessen AEC's exposure to the volatile prices in the WESM.

D. Technical Characteristics of the Power Plant

Shown in Table 5 are the technical characteristics of SPNEC's plant:

Table 5. Technical Characteristics of the Power Plant¹⁰²

Installed Capacity	The Sta. Rosa Nueva-Ecija 2 Solar Power Plant (SPP) – Phase 1A has an installed capacity of 50.04 MWp with estimated annual energy production of 75.76 GWh and capacity factor of 25.92% (1 st year).
Mode of Operation	The SPP will operate during peak hours from 6[:00] am to 6[:00] pm daily for ten (10) years to supply the daytime demand of Angeles Electric Corporation with a peaking load of 13,000 kW.
Dependable Capacity	The SPP has a 33.35 MWac dependable capacity
Auxiliary Load	The auxiliary load consumption amounts to 5.0 W/kW (limited to the plant only).

E. Compliance with other Government Requirements

The following documents and permits concerning SPNEC's power plant were submitted as annexes in the instant *Joint Application*:

E.1. Board of Investment (BOI) Certificate of Registration¹⁰³

On 12 January 2018, the BOI issued a Certificate of Registration to SPNEC with Reference No. 2018-008.

¹⁰² Annex "NN" of the *Joint Application* dated 28 October 2022.

¹⁰³ Annex "E" of the *Joint Application* dated 28 October 2022.

E.2. DOE Certificates/Issuances

DOE Certificate/Issuance	Date of Issuance and Reference Number
Solar Energy Service Contract	22 August 2017, SESC No. 2017 06-404
Certificate of Registration	23 February 2018, SESC 2017-06-404-AFI
Certificate of Confirmation of Commerciality	15 November 2021, SCC-2021-10-110

E.3. Department of Environmental and Natural Resources (DENR) Environmental Compliance Certificate (ECC)¹⁰⁴

On 12 May 2021, DENR issued an amendment to ECC with ECC Reference Code No. R03-2017-2097 for the existing Nueva Ecija-1 Solar Storage Plant located in Barangay Las Pinas and Barangay Sinasajan, Penaranda, Nueva Ecija.

E.4. The Commission’s Certificate of Compliance (COC)¹⁰⁵

Based on the record of the DOE, the Nominated Power Plant’s construction progress is at sixty-nine percent (69%) as of 30 April 2023 with the target commercial date of July 2023 based on the reported data of SPNEC.¹⁰⁶ The Commission notes that based on another DOE report, as of 31 May 2024, the construction progress is at fifty-seven point eighty-three percent (57.83%) with the target commercial date of August 2025,¹⁰⁷ *to wit*:

Name of the Project	Target Commercial Operation	Remarks/Issues Encountered During Project Development
Santa Rosa Nueva Ecija 2 Solar	Aug 2024	Phase 1B and 2 (under GEA-1) *Construction – 57.83% T&C – 0%

¹⁰⁴ Annex “F” to Annex “J-1” of the *Joint Application* dated 28 October 2022.

¹⁰⁵ Annex “G” of the *Joint Application* dated 28 October 2022.

¹⁰⁶ https://doe.gov.ph/sites/default/files/pdf/electric_power/01_Luzon%20Committed.pdf (last accessed on 13 August 2024)

¹⁰⁷ https://doe.gov.ph/sites/default/files/pdf/electric_power/01_Luzon_Committed_31May2024.pdf (last accessed on 13 August 2024)

Power Project Phase 1A		COC Application – 0% WESM Registration for Commercial Operation – 90%
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Based on the Commission’s records, SPNEC has yet to file such application for its Nominated Power Plant.

Nevertheless, SPNEC is obligated to supply AEC the contracted energy. Section 4.2 of the subject PSA stated that:

- 4.2 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, the RE Supplier **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 this Agreement (“Replacement Energy”).

(Emphasis supplied.)

F. Salient Features of the PSA

The Commission looked into the salient features of the subject PSA, and compared them with the requirements stated in AEC’s TOR:

Table 6. Salient Features of the PSA

Particulars	Discussion based on the TOR	Related Provision in the PSA
Contract Term	10 Years	1.2 Cooperation Period – This Agreement shall commence on 26 March 2023, or upon its approval by ERC, whichever comes later, and shall expire ten (10) years after Commencement Date.
Start of Supply	26 March 2023, or upon ERC Approval, whichever comes later. If the ERC approval comes later than 26 March 2023, the contract terms shall be adjusted accordingly.	1.1 Commencement Date – This Agreement shall commence on 26 March 2023, or upon approval by the ERC, whichever comes later.

Particulars	Discussion based on the TOR	Related Provision in the PSA
Nature of Requirement	Wholesale supply of RPS-eligible Renewable Energy (RE) catering to daytime peak load from 6[:00] am to 6[:00] pm.	1.4. Nature of Supply – RE Supplier shall supply Renewable Energy from its Nominated RE Facility to cater to the daytime peak hour power requirements of AEC from 6:00 am to 6:00 pm as provided in accordance with Clause 1.6.
Contract Energy, kWh per year and/or daily average	<p>1. 35,697,000 kWh/year (97,800 kWh/day average)</p> <p>2. Take-and-pay scheme. AEC will pay only for the contracted RE produced.</p> <p>3. The BCQ Nomination (kWh) shall be as per Annex 3, AEC Load Profile to be Procured. The peak demand to be procured under the CSP is 13,000 kW.</p>	<p>1.6 Contracted Quantity – The contracted quantity in kilowatt-hours, hereinafter referred to as the Bilateral Contract Quantity (BCQ), shall be in accordance with the Schedule stipulated in Annex “A” hereof. This notwithstanding, this Agreement is a Take-and-Pay Agreement. AEC shall pay only for the BCQ delivered.</p> <p>The contracted quantity in kilowatt-hours (or the BCQ) shall be in accordance with the Schedule provided as Annex A of the PSA Daily Total = 97,800 kWh (See Annex “A” for the detailed table on Bilateral Contract Quantity as indicated in the PSA)</p> <p>AEC can opt to nominate a BCQ higher than the quantities specified in the table. Provided, that AEC’s nomination is done in accordance with a Nomination Protocol agreed upon by the contracting Parties and specified in the PSA; Provided further, that the nomination does not exceed 107% of the Total kWh/day, which may be applied to any of the intervals, including the 13,000 intervals.</p>
Nominated Power Plant	<p>Bidder must identify location of the proposed power plant (“Nominated Power Plant”)</p> <p>1. If already operating, Nominated Plant must be capable of supplying the Contract Energy to AEC for the required Contract Period beginning on target</p>	<p>As amended in the Amendment to the PSA:</p> <p>1.3 Nominated RE Facility – The Nominated RE Facility shall mean the RE Supplier’s 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.</p>

Particulars	Discussion based on the TOR	Related Provision in the PSA
	<p>Commercial Sale Date, after considering energy and capacity already committed to other off takers.</p> <p>2. If the electricity will be sourced from a new RE plant, Bidder shall state Capacity (kW) to be constructed and the Plant Factor, depending on the technology to be used.</p> <p>3. Bidder shall specify location of the metering point and connection node of its RE plant.</p> <p>4. A grid connected RE plant is preferred as any ancillary charges that may be imposed by the grid operator against an embedded RE plant shall be for the sole account of the RE plant supplier/operator</p>	<p>xxx</p> <p>1.10 Metering Point – The Metering Point, where the BCQ is measured and used as basis for billing purposes, shall be as designed in Annex “E” hereof.</p> <p>xxx</p> <p>NGCP Cabanatuan 230 kV Substation</p>
<p>Contract Price, PhP/kWh</p>	<p>1. Bidders shall submit a rate in PhP/kWh for each contract year (See Annex “H” of RE PSA Template).</p> <p>2. Bidder with the Lowest Complying Calculated Bid shall be ranked first if its proposed contract terms meet the minimum contract terms of AEC.</p> <p>3. The Lowest Complying Calculated Bid includes: (a) the Average Offered Price per kWh for the term of the PSA, (b) Line Rental, Page 5 of 19 (c) Systems Loss, and (d) Transmission Charge.</p>	<p>1.13. Contract Price – The Purchase Price shall be in Philippine Peso currency for the BCQ delivered and shall be in accordance with the Schedule specified in Annex “H” hereof.</p> <p>Contract Years 1 to 10 = PhP3.4567/kWh</p>

Particulars	Discussion based on the TOR	Related Provision in the PSA
	4. If there is no meeting of the minds with the Lowest Complying Bidder, AEC shall move to the next Lowest Complying Bidder, and so on and so forth.	
Reserve Price	AEC has established a Reserve Price, or a price cap, upon which the bid price of the qualified bidders cannot exceed. The Reserve Price will not be disclosed to the bidders until the Bid Opening Date.	N/A Note: Revealed during the Opening of Bids
Price Components	Price/kWh at current prices, preferably without indexations, covering the following, as applicable: 1. Energy (Fuel) fee, if any; 2. Discount/s, if any; 3. Other proposed terms, if any.	N/A Note: Contract Price for Contract Years 1 to 10 = PhP3.4567/kWh without indexation
Billing & Settlement	1. Wholesale RE Supplier to follow WESM Billing Cycle. 2. Stipulated currency shall be in Philippine Peso. 3. AEC shall settle all power bills in Philippine Peso.	1.13. Contract Price – The Purchase Price shall be in Philippine Peso currency xxx 2.3 Past Due Amount – Any amount in the Billing Statement not paid on or before its Payment Due Date shall become a Past Due Amount and shall earn an interest at the rate of two percent (2%) per month on such Past Due Amount until fully paid. Pursuant to the policy of the Commission, any interest, penalty, and any other charges imposed by AEC to SPNEC shall not be passed on to the consumers of AEC.
Period of Validity of Bids	Bids shall remain valid for One Hundred Eighty (180) days from date of deadline for the submission of bids.	N/A
Bid Security		N/A

Particulars	Discussion based on the TOR	Related Provision in the PSA
	Proponent shall post a bid bond in the amount of PhP1 Million to guarantee validity of bid.	Note: Proof of SPNEC payment attached in the submitted Abstract of Bids.
Power Supply Agreement (PSA)	Pro-forma PSA template supplied with the Bid Package shall be used as primary reference.	N/A
Performance Bond	Winning Bidder shall post a Performance Bond of PhP 15 million as a condition precedent to the signing of the PSA. The Performance Bond shall be in the form of Cash, Manager's/ Cashier's check from a reputable bank, or a Stand-By Letter of Credit (SBLC) from a reputable bank. The Performance Bond should be valid until 25 May 2023. If an SBLC will be used, it must be callable upon demand without need for clearance or approval from winning bidder.	1.14. Performance Bond – The term Performance Bond shall mean the security to be given by the RE Supplier to AEC to secure RE Supplier's obligations under this agreement, which may be a manager's check or a Stand-By Letter of Credit (SBLC) in the form customarily issued by a reputable bank. The Performance Bond must be callable upon demand and should be valid for a period of eighteen (18) months from issuance and should be in an amount equal to PHP 15,000,000.00.
Penalties for Delay	Winning Bidder shall be penalized PhP5/kWh multiplied by the contract energy for every day of delay from target Commercial Operation Date.	4.2 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, the RE Supplier 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 this Agreement ("Replacement Energy"). Payment for such Replacement Energy shall be at the same rate as provided in Clause 1.13 unless the cause of inability is due to a Force Majeure Event and AEC requested the RE Supplier to source energy from a third-Party supplier in which case the price shall be the price at which RE Supplier has procured such Replacement Energy or the Purchase Price, whichever is higher.

Particulars	Discussion based on the TOR	Related Provision in the PSA
		<p>4.3 Should RE Supplier fail to comply with its obligation to supply the Replacement Energy in accordance with clause 4.2 by the Commencement Date, RE Supplier shall be penalized at the rate of Php5/kWh times the contracted energy per day of delay from the Commencement Date to be taken from the Performance Bond.</p> <p>The Commission holds that SPNEC shall have the obligation to provide replacement power during a planned or forced outage, from any source. The rate to be charged for replacement power, including those supplied by SPNEC under force majeure events, shall be equal to the actual cost of the replacement power or the provisional tariff approved by the Commission, whichever is lower.</p>
Joint Filing to ERC	Winning Bidder undertakes to make a Joint Filing with AEC to ERC for the approval of the RE PSA.	N/A Jointly filed with the ERC on 23 January 2023
Non-fulfillment of RE PSA conditions subsequent as ground/s for PSA Termination	Non-acquisition of requisite permits and agreements (ECC, DAR conversion, NCIP clearance, if applicable, CoC, TSA, etc.); submission of proof of ownership of land, or land lease agreement, where power plant is to locate; and financial closing for the power plant, within one (1) year from signing of the RE PSA, shall constitute grounds for termination of the PSA and forfeiture of the Performance Bond	<p>4.1 Conditions Subsequent – Failure of RE Supplier to comply with any of the following conditions subsequent shall constitute a ground for AEC to rescind this Agreement and forfeit the Performance Bond in favor of AEC:</p> <p>a. Jointly file with AEC the application, and comply with the Pre-Filing requirements, for approval of this Agreement before the Energy Regulatory Commission (ERC);</p> <p>b. Financial closing for the Nominated RE Facility</p> <p>1) within 6 months from PSA signing; or 2) 9 months from PSA signing; or</p> <p>3) 2 months after target COD.</p> <p>c. Acquisition of necessary land area where Nominated RE Facility is to locate not</p>

Particulars	Discussion based on the TOR	Related Provision in the PSA
		<p>later than 6 months immediately prior to Commencement Date.</p> <p>Consistent with the Commission's policy, contract termination initiated by any or both parties shall be subject to the prior approval of the Commission.</p>

G. Evaluation of the proposed rates

In the evaluation of the instant *Joint Application* relative to the issuance of interim relief, the Commission took into consideration the following: 1) proposed rates *vis-à-vis* the winning bid rate; 2) proposed rates as compared with other plants of similar technology; and 3) AEC's current suppliers.

Table 7 shows the Contract Price, as indicated in Annex "H" of the subject PSA:

Table 7. Contract Price

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

It can be recalled that AEC declared SPNEC as the winning bidder as a result of the evaluation of the following proposed bid rates:

Table 8. Abstract of Bids¹⁰⁸

Name of Bidder and Technology	Total Calculated Bids (PhP/kWh, excluding discounts, line rental)	Discounts (PhP/kWh) if any	Line Rental (PhP/kWh) if any	Total Calculated Bid (PhP/kWh, including discounts, line rental)
SPNEC – Solar	3.4567	0.0000	0.0307	3.4874
GIGASOL3, Inc. – Solar	3.8500	-0.01925	0.1100	3.9408
SN Aboitiz Power-Benguet, Inc. (SNAP-BI) – Hydro	4.0966	-0.06145	0.02788	4.0630
Bac-Man Geothermal, Inc. (BGI) – Geothermal	6.27999	-	-	Bid exceeds reserve price
PAVI Green Renewable Energy Inc. (PAVI) – Solar	4.8120	-	-	Bid exceeds reserve price

Note: All bidders did not submit rates for Systems Loss and Transmission Charge.

AEC's Reserve Price in the said CSP conducted was PhP4.6932/kWh. Hence, bids from Bac-Man Geothermal, Inc. (BGI) and PAVI Green Renewable Energy Inc. (PAVI) did not pass as they went beyond the said Reserve Price. The Commission notes that the Contract Price as indicated in the PSA at PhP3.4567/kWh is lower than SPNEC's submitted bid rate at PhP3.4874/kWh or a difference of PhP0.0307/kWh.

Upon further examination of the bidding documents, one of AEC's instructions was that the Lowest Complying Bid should include the following: Average Offered Price per kWh for the term of the PSA, Discounts (if any), Line Rental (if any), Systems Loss (if any), and Transmission Charge (if any). Specifically, the Financial Proposal of each of the bidders shall contain the Line Rental Data which was then subject to validation of the Technical Working Group (TWG) (*e.g.*, nodal prices data from WESM for the last twelve months signed by authorized signatories from IEMOP).

Hence, the difference of the Contract Price as indicated in the PSA (PhP3.4567/kWh) and SPNEC's submitted bid rate (PhP3.4874/kWh) at PhP0.0307/kWh is attributed to the estimated Line Rental of SPNEC, as detailed in Table 8 above.

¹⁰⁸ Annex "S" and series of the *Joint Application* dated 28 October 2022.

Relative to the foregoing, the Commission must emphasize that in its *Decision* dated 28 February 2019 under ERC Case No. 2017-012 RC,¹⁰⁹ it laid down the policy that conducting a CSP will ensure transparency and will enable the DUs to elicit the best price and terms from their suppliers, *to wit*:

xxx

The PSA underwent CSP. The guiding principle of the Commission, based on its policy to adopt a Competitive Selection Process, is that a Distribution utility (DU) shall supply electricity in the least cost manner to its captive market within the franchise area, subject to the collection of retail rates duly approved by the Commission. **The Commission and the DOE believe that undergoing a valid CSP is advantageous in terms of ensuring transparency in the DU's supply procurement and providing opportunities to elicit best price offer and other PSA terms and conditions from supplier.** This is without prejudice to the Commission's evaluation and review of the PSA as an outcome of the CSP. The review shall involve verification of the CSP that the DU undertook, as well as the reasonableness of the generation rate as a product of the CSP. (*Emphasis supplied.*)

xxx

Further, in the assessment of the propriety of the prayer for interim relief, the Commission compared the proposed rates with the previously approved rates for other PSA cases involving existing plants of the same technology, as shown in Table 9, *to wit*:

(This space is intentionally left blank.)

¹⁰⁹ In the Matter of the Application for Approval of the Power Supply Agreement (PSA) Between Manila Electric Company (MERALCO) and Powersource First Bulacan Solar, Inc. (PFBS), With Motion for Confidential Treatment of Information, Manila Electric Company (MERALCO) and Powersource First Bulacan Solar, Inc. (PFBS).

Table 9. Comparison of Rates (Other Plants)

ERC Case No.	Applicants	Approved Rates,¹¹⁰ In PhP/kWh	Status
2015-148 RC ¹¹¹	South Cotabato II Electric Cooperative, Inc. (SOCOTECO II) and Astronergy Development Gensan, Inc. (ASTRONERGY)	8.5400	Provisional Authority through an <i>Order</i> dated 13 October 2016
2016-090 RC ¹¹²	Agusan del Sur Electric Cooperative, Inc. (ASELCO) and GPower, Inc. (GPower)	7.5020	Interim Relief through an <i>Order</i> dated 05 December 2017
2014-020 RC ¹¹³	Cagayan Electric Power and Light Company, Inc. (CEPALCO) and Kirahon Solar Energy Corporation (KSEC)	8.7500	Final Authority through a <i>Decision</i> dated 22 October 2014
2017-012 RC ¹¹⁴	Manila Electric Company (MERALCO) and Powersource First Bulacan Solar, Inc. (PFBS)	5.7516	Final Authority through a <i>Decision</i> dated 28 February 2019
2017-014 RC ¹¹⁵	MERALCO and Solar Philippines Tanauan Corporation (SPTC)	6.6700	Final Authority through a <i>Decision</i> dated 28 May 2019
2017-094 RC ¹¹⁶	MERALCO and Solar Philippines Tarlac Corporation (SPTC)	3.7144	Interim Relief through an <i>Order</i> dated 20 February 2018

¹¹⁰ Average Rates including escalations, if applicable.

¹¹¹ Entitled, "In the Matter of the Application for Approval of the Renewable Energy Supply Agreement Between South Cotabato II Electric Cooperative, Inc. (SOCOTECO II) and Astronergy Development Gensan, Inc. (ASTRONERGY)".

¹¹² Entitled, "In the Matter of the Joint Application for Approval of the Power Supply Agreement (PSA) Between Agusan del Sur Electric Cooperative, Inc. (ASELCO) and GPower, Inc. (GPower), with Prayer for the Issuance of Provisional Authority and Motion for Confidential Treatment of Information".

¹¹³ Entitled, "In the Matter of the Application for the Approval of Power Supply Agreement (PSA) Between Cagayan Electric Power and Light Company, Inc. (CEPALCO) and Kirahon Solar Energy Corporation (KSEC), with Prayer for Provisional Authority".

¹¹⁴ Entitled, "In the Matter of the Application for the Approval of the Power Supply Agreement (IPSA) Between Manila Electric Company (MERALCO) and Powersource First Bulacan Solar, Inc. (PFBS) with Motion for Confidential Treatment of Information".

¹¹⁵ Entitled, "In the Matter of the Application for the Approval of the Power Supply Agreement (PSA) Between Manila Electric Company (MERALCO) and Solar Philippines Tanauan Corporation (SPTC) with Motion for Confidential Treatment of Information".

¹¹⁶ Entitled, "In the Matter of the Application for the Approval of the Power Supply Agreement (PSA) Between Manila Electric Company (MERALCO) and Solar Philippines Tarlac Corporation (SPTC), with Prayer for Provisional Authority and Motion for Confidential Treatment of Information".

ERC Case No.	Applicants	Approved Rates, ¹¹⁰ In PhP/kWh	Status
2016-099 RC ¹¹⁷	Bukidnon Second Electric Cooperative, Inc. (BUSECO) and Sunasia Energy Inc. (SunAsia)	8.3020	Final Authority through a <i>Decision</i> dated 05 December 2017
2016-154 RC ¹¹⁸	Dagupan Eclectic Corporation (DECORP) and SunAsia	6.5800	Final Authority through a <i>Decision</i> dated 19 December 2017
2023-004 RC	AEC-SPNEC	3.4567 (exclusive of Line Rental)	Instant <i>Joint Application</i>

The Commission also looked into AEC's URR for the period 26 December 2021 to 25 December 2022, as shown in Table 10:

Table 10. Rates based on AEC URR

Period	26 December 2021 to 25 December 2022	
Supplier	Generation Rate, PhP/kWh	Weighted, PhP/kWh
WESM	9.8094	1.6122
ANDA	8.0512	1.4481
API	27.7788	0.4237
GNPOWER	9.1780	5.8787
SPNEC (with estimated line rental)	3.4874 (inclusive of Line Rental)	-

As shown in Table 10, the Commission determines that the proposed rate at PhP3.4874/kWh (inclusive of Line Rental) would be the lowest among the actual rates of AEC's existing suppliers.

H. Rate Impact¹¹⁹

Tables 11 and 12 show the generation rate impact simulation submitted by AEC:

¹¹⁷ Entitled, "In the Matter of the Joint Application for the Approval of the Electricity Supply Agreement Between Bukidnon Second Electric Cooperative, Inc. (BUSECO) and Sunasia Energy Inc. (SunAsia), with Prayer for the Issuance of Provisional Authority".

¹¹⁸ Entitled, "In the Matter of the Application for Approval of the Electricity Supply Agreement Between Dagupan Eclectic Corporation (DECORP) and Sunasia Energy Inc. (SEI) with Prayer for the Issuance of a Provisional Authority".

¹¹⁹ par. 22. of the *Joint Application*.

**Table 11. Generation Charge using July 2022 Power Bills
(Without SPNEC)**

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	<u>1,469,246.69</u>	<u>153,666</u>	0.3	<u>9.5613</u>
TOTAL	564,035,129.57	58,518,434	100	9.6386
LESS: ADJUSTMENTS				
PPD & Other Discounts	(3,969,945.97)			(0.0678)
Pilferage Recoveries	<u>(125,949.78)</u>			<u>(0.0022)</u>
NET GC	559,939,233.82	58,518,434		9.5686
GENERATION CHARGE (P/kWh)	9.5686			

**Table 12. Simulation of Generation Charge for July 2022
(With SPNEC)**

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 Corp.	10,232,031.60	2,934,000	5	3.4874¹²⁰
WESM	65,052,488.83	6,233,770	11	10.4355
NET METERING	<u>1,469,246.69</u>	<u>153,666</u>	0.3	<u>9.5613</u>
TOTAL	543,649,412.64	58,518,434	100	9.2902
LESS: ADJUSTMENTS				
PPD & Other Discounts	(3,969,945.97)			(0.0678)
Pilferage Recoveries	<u>(125,949.78)</u>			<u>(0.0022)</u>
NET GC	539,553,516.89	58,518,434		9.2202
GENERATION CHARGE (P/kWh)	9.2202			
INCREASE (DECREASE) P/kWh	(0.3484)			

Table 13 shows AEC's submitted indicative SPNEC Power Bill with line rental component:

(This space is intentionally left blank.)

¹²⁰ See total in Indicative SP New Energy Corporation Power Bill with line rental component in immediately succeeding table.

Table 13. AEC's Submitted Indicative SPNEC Power Bill with Line Rental component

Indicative SPNEC Power Bill with line rental component:			
	Amount (PhP)	Estimated BCQ (kWh)	Average P/kWh
Base price	10,141,957.80	2,934,000	3.4567
Line rental (estimated)	90,073.80	2,934,000	0.0307 ¹²¹
Total	10,232,031.60	2,934,000	3.4874

In the submitted rate impact analysis, the simulated generation charge decreased from PhP9.5686/kWh to PhP9.2202/kWh, or a decrease of PhP0.3484/kWh. To verify the alleged decrease simulated by the Applicants, the Commission used the latest URR to simulate the rates, as follows:

Table 14. The Commission's Generation Rate Impact Analysis

Without SPNEC

Supplier	Energy Purchased by AEC per supplier, kWh	% to the Total Energy Generated	Generation Cost, In PhP	Generation Rate, In PhP/kWh	Generation Rate (weighted), In PhP/kWh
WESM	9,718,460	16.93%	115,747,496	11.9101	2.0163
ANDA	9,028,750	15.73%	86,598,117	9.5914	1.5085
API	5,688	0.01%	16,316,408	2,868.5669	0.2842
GNPOWER	38,653,942	67.33%	319,232,967	8.2587	5.5609
TOTAL	57,406,840	100.00%			9.3699

With SPNEC

Supplier	Energy Purchased by AEC per supplier, kWh	% to the Total Energy Generated	Generation Cost, In PhP	Generation Rate, In PhP/kWh	Generation Rate (weighted), In PhP/kWh
WESM	6,784,460	11.82%	80,803,597	11.9101	1.4076
ANDA	9,028,750	15.73%	86,598,117	9.5914	1.5085
API	5,688	0.01%	16,316,408	2,868.5669	0.2842
GNPOWER	38,653,942	67.33%	319,232,967	8.2587	5.5609
SPNEC	2,934,000	5.11%	10,232,032	3.4874	0.1782
TOTAL	57,406,840	100.00%			8.9394

Based on the above simulation, if SPNEC starts to supply to AEC and replace a portion of the supply coming from WESM, it will result in a decrease of PhP0.4305/kWh considering that AEC's proposed rate is lower than the rates of current suppliers. Said estimated impact may result to even lower rates than AEC's estimated decrease of PhP0.3484/kWh as discussed in Table 13.

¹²¹ Amount pertains to average line rental as of bidding date.

In view of all the foregoing, the approval of the instant *Joint Application*, in the form of interim relief, will redound to the benefit of AEC's consumers.

WHEREFORE, the foregoing premises considered, Applicants SP NEW ENERGY CORPORATION (SPNEC), formerly Solar Philippines Nueva Ecija Corporation, and ANGELES ELECTRIC CORPORATION (AEC) are **GRANTED INTERIM RELIEF** to implement their Power Supply Agreement (PSA) in which the effectivity shall only be valid for a period of twelve (12) months from the issuance of this *Order*, without prejudice to further evaluation of the Applicants' compliance with the parameters set by the Department of Energy's (DOE) Department Circular No. DC 2021-09-0030 (DOE 2021 CSP Circular), and subject to the following conditions and modifications:

- a. The applicable Contract Price (exclusive of Line Rental) shall be as follows:

Table 15. Applicable Contract Price

Contract Year	Base Electricity Fees
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

The rates shall not be subject to any escalation or indexation.

- b. Any interest, penalty, and any other charges imposed by AEC to SPNEC shall not be passed on to the consumers of AEC.
- c. SPNEC shall have the obligation to provide replacement power during a planned or forced outage, from an RPS eligible Renewable Energy facility/ies. The rate to be charged for replacement power, including those supplied by SPNEC under force majeure events, shall be equal to the actual cost of the replacement power or the provisional tariff approved by the Commission, whichever is lower.

- d. Contract termination initiated by any or both parties shall be subject to the prior approval of the Commission;
- e. The final generation cost that can be recovered by SPNEC, including all the evidence submitted by the Applicants, shall be reviewed and evaluated by the Commission in its final resolution of the instant *Joint Application*; and
- f. In the event that the final rate is lower than that provisionally granted rate, the amount corresponding to the reduction shall be refunded by SPNEC to AEC which shall thereafter be refunded to its consumers by crediting the same in their electric bills over a period to be determined by the Commission.

SO ORDERED.

Pasig City, 06 June 2023.

ERC

Office of the Chairperson and CEO



MCD2024-019313

medimalanta

MONALISA C. DIMALANTA
Chairperson and CEO


ALEXIS M. LUMBATAN
Commissioner


CATHERINE P. MACEDA
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMEO L. FUENTES
Commissioner


LS: CNR/MVM/MCCG/KTB


ROS: KGEV/PPG/AJMO/LLG

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