

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE  
APPLICATION FOR  
APPROVAL OF POWER  
SUPPLY AGREEMENT  
BETWEEN BATANGAS II  
ELECTRIC COOPERATIVE,  
INC. AND BAC-MAN  
GEOTHERMAL INC., WITH  
PRAYER FOR PROVISIONAL  
AUTHORITY AND MOTION  
FOR CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC Case No. 2022-012 RC**

**BATANGAS II ELECTRIC  
COOPERATIVE, INC.  
(BATELEC II) AND BAC-MAN  
GEOTHERMAL INC. (BGI),  
*Applicants.***

**Promulgated:**  
April 05, 2022

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**NOTICE OF VIRTUAL HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 11 March 2022, Batangas II Electric Cooperative, Inc. (BATELEC II) and Bac-Man Geothermal Inc. (BGI) filed their *Joint Application* dated 06 December 2021, for the approval of their Power Supply Agreement (PSA), with prayer for provisional authority and motion for confidential treatment of information.

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

1. Applicant BATELEC II is an electric cooperative duly organized, incorporated and registered, with principal office at Antipolo del Norte, Lipa City, Batangas, Philippines, represented in this instance by its General Manager, Engr. Octavious M. Mendoza,

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of legal age, Filipino, with office address at Antipolo del Norte, Lipa City, Batangas.

2. Applicant BGI is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at Rockwell Business Center Tower 3, Ortigas Avenue, Pasig City, 1605 Philippines, represented in this case by its Assistant Vice-President, Marvin Kenneth S. Bailon, of legal age, Filipino, with office address at the 9F Rockwell Business Center Tower 3, Ortigas Ave., Pasig City.
  - 2.1 BGI, as a generation company, falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (“EPIRA”).
  - 2.2 Pursuant to the Honorable Commission’s Resolution No. 02, Series of 2015 requiring distribution utilities and generation companies to jointly file applications for the approval of power supply agreements, BGI has joined in this Application as a co-applicant.
  - 2.3 While BGI is a co-applicant, it manifests that this joint Application shall neither modify, diminish, nor constitute as a waiver of BGI’s rights nor expand its obligations and responsibilities as a generation company under the EPIRA.
3. Applicant BATELEC II is the exclusive franchise holder of a Certificate of Franchise issued by the National Electrification Administration (“NEA”) to operate an electric light and power services in the municipalities in the Province of Batangas, namely: Lipa City, Tanauan City, Alitagtag, Cuenca, Mataas na Kahoy, Balete, San Jose, Mabini, Tingloy, Rosario, Padre Garcia, Taysan, San Juan, Lobo, Malvar, Talisay and Laurel.
4. Applicant BGI is a subsidiary of Energy Development Corporation. BGI owns and operates the Bacon-Manito Geothermal Power Plant (“Bac-Man Plant”) located in the provinces of Albay and Sorsogon, which was acquired via the privatization auction conducted by the Power Sector Assets and Liabilities Management Corporation (“PSALM”) as evidenced by the attached Joint Certificate of Turn-over dated 3 September 2010. When BGI took over the Bac-Man Plant facility, it embarked on a massive rehabilitation capital expenditure program and the ensuing repair works resulted to the dependable capacity being increased from 0 MW to 156 MW.
5. Applicant BATELEC II is in need of a 5MW renewable energy power supply for nine (9) years. The primary source of BATELEC II’s electricity requirements is the GNPowder Mariveles Energy Center Ltd. Co. (“GMEC”) and located in Mariveles, Bataan. To comply with the requirements of the Renewable Portfolio Standards (RPS) for on-grid areas and to maintain an uninterrupted and reliable power supply, due to an increasing demand by BATELEC II’s new and existing customers, BATELEC

II decided to source the needed power at affordable and cheaper generation rates through the competitive selection process.

6. Pursuant to Department of Energy (“DOE”) Circular No. 2018-02-003 and NEA Memorandum 2019-007, Applicant BATELEC II thru an Invitation To Bid published on February 16, 2021 had initiated and conducted a competitive selection process to solicit the most competitive offer/s for its 5MW renewable energy power supply (“CSP”). After careful evaluation and review of the terms of the bid offers, Applicant BATELEC II deemed that the proposal of Applicant BGI was the most advantageous and beneficial for its end consumers and accordingly issued a Notice of Award dated May 4, 2021. Thereafter, Co-applicants executed a Power Supply Agreement (“PSA”) on July 15, 2021 in accordance with the terms of reference of the CSP and BGI’s bid offer.
7. Co-applicants come now to this Honorable Commission for the approval of the PSA, in compliance with the implementing rules and regulations (“IRR”) of the EPIRA and the rules and guidelines issued by the Energy Regulatory Commission (“ERC”).

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

8. **Executive Summary.**<sup>1</sup> Under the PSA, Seller BGI shall supply power to Buyer BATELEC II for a term of nine (9) years with Contracted Demand of 5MW.
  - 8.1 **Term of Agreement.** The Agreement shall be effective from and after the Effective Date<sup>2</sup> and shall continue to be in full force and effect throughout the Contract Period which ends on December 25, 2030, unless earlier terminated in accordance with the provisions of the PSA;
  - 8.2 **Supply of Energy.** Buyer BATELEC II’s Contracted Demand is five thousand kilowatts (5,000 kW or 5MW) for the duration of the PSA, as specified in Annex “B” of the PSA;
  - 8.3 **Availability of Energy.** Seller BGI shall Supply the Contracted Demand from the Bac-Man Plant, the wholesale electricity spot market (“WESM”), or any of the Suppliers or other third-party sources, in accordance with prudent utility practice and in compliance with applicable law, rules and regulations;
  - 8.4 **Adjustment to the Generation Rate.** Supplier shall adjust the Generation Rate (Variable Price components) every January Billing Period beginning on the January 2021 Billing Period. The Variable Price component shall be

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the PSA.

<sup>2</sup> Refers to the date when both Parties shall have signed the PSA, July 15, 2021.

adjusted annually at a rate equivalent to the arithmetic average of the monthly actual increase (or decrease) in the Philippine Consumer Price Index for All Income Households in the Philippines by Commodity Group published by the Philippine Statistics Authority for the twelve (12) months of current calendar year. Such adjustment shall be determined in accordance with the formula provided in Annex “A” of the PSA.

- 8.5 **Generation Rate.** The Generation Rate is subject to zero percent VAT (being sourced from a generating unit using renewable energy) and Prompt Payment Discount. It is composed of Fixed Price and Variable Price, to wit:

**ANNEX A of the PSA**  
**Schedule of Generation Rate**

<b>Rate/Price</b>	<b>PhP/kWh</b>
Fixed Price	3.5570
Variable Price	0.8197
<b>Generation Rate</b>	<b>4.3767</b>

The Contracted Demand shall be charged based on the Generation Rate. The complete schedule of Generation Rate is attached as Annex “A” of the PSA.

- 8.6 **Prompt Payment Discount.** A Prompt Payment Discount may be extended by Seller to Buyer as set out in Annex “A” of the PSA, provided that: (i) Buyer pays the Power Bill for such Billing Period in full within ten (10) days from receipt of a billing statement; (ii) Buyer has no disputed amounts or billing statements, other outstanding amounts due, or unpaid, or debit memos for any charge, penalty, or interest; and (iii) has submitted the BIR certificate of tax withheld on or before Certificate of Withholding Submission Date.
9. The charges, discounts and adjustments under Annex “A” of the PSA will result to lower generation cost charges of BATELEC II. Below is an analysis of the rate impact:

**RATE IMPACT ANALYSIS**

10. BATELEC II simulated a rate impact analysis for nine (9) years based on the assumed quantities, which resulted in an average reduction of Php 0.0671/kWh with the execution of the PSA with BGI.

<b>Particulars</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
With New Supplier - BGI	5.2006	5.2056	5.2105	5.2154	5.2202
Without New Supplier - BGI	5.2804	5.2820	5.2837	5.2853	5.2870
Increase / (Decrease) (Php / kWh)	(0.0799)	(0.0765)	(0.0732)	(0.0699)	(0.0668)

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<b>Particulars</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
With New Supplier - BGI	5.2249	5.2295	5.2341	5.2363
Without New Supplier – BGI	5.2887	5.2903	5.2920	5.2916
Increase / (Decrease) (Php / kWh)	(0.0638)	(0.0608)	(0.0579)	(0.0553)
<b>Blended Rate (Php / kWh)</b>	<b>(0.0671)</b>			

**OTHER RELATED DOCUMENTS**

11. In further support of the instant application, Co-applicants most respectfully submit to the Honorable Commission the following documents:

<b>ANNEX</b>	<b>DOCUMENTS</b>
A	Articles of Incorporation of BATELEC II
B	Amended By-Laws of BATELEC II
C	List of BATELEC II Directors
D	Amended Articles of Incorporation of BGI
E	By-Laws of BGI
F	Securities and Exchange Commission (“SEC”) Certificate of Registration of BGI
G	Latest General Information Sheet of BGI
H	Document showing information related to the Ultimate Parent Company of BGI
I	Board of Investment (“BOI”) Certificate of Registration
J	Certificate of Franchise of BATELEC II
K	Joint Certificate of Turn-over dated 3 September 2010
L	Environmental Compliance Certificate (“ECC”) issued by the Department of Environment and Natural Resources (“DENR”)
M	ERC Certificate of Compliance (“COC”) of BGI
N	DOE Certificate of Registration
O*	Geothermal Renewable Energy Service Contract
P	Demand Side Management Program
Q	Confirming Statement and Certification
R	Distribution Development Plan
S	Supply and Demand Scenario and Average Daily Load Curve
T – series*	BATELEC II Competitive Selection Process (“CSP”) and Supporting Documents
U	Power Supply Agreement between BATELEC II and BGI
V	Transmission Service Agreement
W	Executive Summary of the PSA
X*	Sources of Funds
Y*	True Cost of Generation
Z	BATELEC II Rate Impact Simulation and Analysis
AA	Latest AFS of BGI
BB	Sworn Statement on Fuel Procurement
CC*	Steam Sales Agreement
DD	Summary – Other Requirements
EE	Certification of Receipt from Sangguniang Panlalawigan of Batangas
FF	Certification of Receipt from Office of the Governor of Batangas
GG	Certification of Receipt from Sangguniang Panlungsod of Lipa

<b>ANNEX</b>	<b>DOCUMENTS</b>
HH	Certification of Receipt from Office of the Mayor of Lipa
II	Certification of Receipt from Sangguniang Panlungsod of Pasig
JJ	Certification of Receipt from Office of the Mayor of Pasig
KK	Certification of Receipt from Sangguniang Bayan of Manito
LL	Certification of Receipt from Office of the Mayor of Manito
MM	Certification of Receipt from Sangguniang Panlungsod of Sorsogon
NN	Certification of Receipt from Office of the Mayor of Sorsogon
OO	Certification of Receipt from Sangguniang Panlalawigan of Albay
PP	Certification of Receipt from Office of the Governor of Albay
QQ	Certification of Receipt from Sangguniang Panlalawigan of Sorsogon
RR	Certification of Receipt from Office of the Governor of Sorsogon
SS	Affidavit of Publication
TT	Complete Copy of Newspaper Publication
UU	Affidavit in support of the Provisional Authority

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

#### **COMPLIANCE WITH PRE-FILING REQUIREMENTS**

12. In Compliance with the ERC Rules of Practice and Procedure, Applicants have furnished the legislative bodies of the municipality and province wherein the principal place of business of BATELEC II is located, a copy of the present Joint Application with all its annexes and accompanying documents. Copies of the certifications of receipt from the Head (i.e. Governor or Mayor) of the executive body and the Presiding Officer or Secretary of the legislative bodies of the city of Lipa, Batangas and the Province of Batangas, or from their duly authorized representatives, attesting to the fact of service are attached hereto as **Annexes “FF” and “II”**.
13. Likewise, a copy of the present Joint Application with all its annexes and accompanying documents was furnished to the City of Pasig where BGI’s principal place of business is located. Copy of the certification of receipt from the Mayor and the Presiding Officer or Secretary of the legislative body of the City of Pasig, or from their duly authorized representatives attesting to the fact of service are attached hereto as **Annexes “KK” and “JJ”**, respectively.
14. Applicants have also caused the publication of the present Joint Application in a newspaper of general circulation within the Franchise Area of BATELEC II. Copies of the corresponding duly notarized Affidavit of Publication and the newspaper publication are attached hereto as **Annexes “TT” and “UU”**, respectively.

#### **REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION**

15. Co-applicants respectfully request that the information in the following documents be treated as confidential in nature:

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O	Geothermal Renewable Energy Service Contract Operating Contract
T – series	BATELEC II CSP and Supporting Documents
X	Sources of Funds/Financial Plans (Debt/Equity Ratio, Project Cost, Computation of Return on Investment/WACC, Life of Asset versus Term of Loan)
Y	True Cost of Generation
CC	Steam Sales Agreement

16. Co-applicants treat other documents in the competitive selection process, such as the other bid proposals of generation companies, related agreements, sources of funds/financial plans, certifications from bank/lending institutions, generation rate and derivation, cash flow, description of power plant, and steam sales agreement, as not generally available to the public on a non-confidential basis, as the same involve trade secrets reflecting BGI’s investment and business calculations and the Parties are similarly bound to third parties to keep the information and documents confidential.
17. This request is likewise being made by virtue of Section 1 (b), Rule 4 of the ERC Rules of Practice and Procedure under which the Honorable Commission may, upon request of a party and determination of the existence of conditions which would warrant such remedy, treat certain information submitted to it as confidential.

**MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY**

18. As can be gleaned from the Rate Impact Analysis, clearly and without iota of doubt, the approval of the Contracted Demand at the rate applied for as specified in the PSA, will generally benefit the consumers of BATELEC II as it will reduce the blended generation charge significantly, as shown in item 9 above, where the simulated blended generation charge decreased from Php 5.2804 per kWh to Php 5.2006 per kWh in 2022. Likewise, for the rate impact simulation in nine (9) years, the contract is estimated to result in an average reduction of Php 0.0671 of the blended generation charge.
19. For its remaining energy demand requirements, BATELEC II currently relies on GNPowder Mariveles Energy Center Ltd.Co. (“GMEC”) of which the PSA of which will be expiring in 2029 and any imbalances are sourced out from WESM. The implementation of the PSA with BGI will enable BATELEC II to comply with the requirements of the Renewable Portfolio Standards (RPS) for on-grid areas and accommodate the rapidly increasing demand of BATELEC II from its new and current customers which, if not immediately addressed could adversely affect the supply and the current generation charge of BATELEC II, to the prejudice of its end-users. The approval and immediate implementation of the PSA with BGI will enable BATELEC II to continuously provide the end-users with stable, uninterrupted and reliable power supply at an affordable rate.

20. Thus, in view of the urgency above-mentioned, BATELEC II respectfully moves for the issuance of a provisional authority (“PA”) 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 BATELEC II. In support of the Motion for Issuance of Provisional Authority, BATELEC II has prepared the Affidavit in Support of the Prayer for Issuance of Provisional Authority, **Annex “VV”** of the instant Application.
21. BATELEC II understands that whatever rate that may be fixed and approved by the Honorable Commission under the PA shall be without prejudice to whatever rights and legal remedies which BGI may have under the law and the PSA, and the implementation of the PA shall be conditioned upon the acceptance by the Parties of the terms thereof.
22. Finally, Co-applicants BATELEC II and BGI hereby aver and emphasize that should a PA be issued to and accepted by the Co-Applicants, and the PSA is provisionally implemented, Section 3 of the PSA shall accordingly be amended to effect the immediate supply of Contracted Demand pursuant to the PA. Consequently, the Term of the PSA will be deemed amended to the effect that the Term shall start from the first day of delivery of power by BGI to BATELEC II under the PA.

**PRAYER**

**WHEREFORE**, premises considered, Co-applicants Batangas II Electric Cooperative, Inc. (BATELEC II) and Bac-Man Geothermal Inc. (BGI) respectfully pray of this Honorable Commission the following;

- a. Immediately issue a Provisional Authority, authorizing BGI and BATELEC II to implement the PSA, including the rates;
- b. Treat the documents, and the information therein, duly marked as Annexes “O”, “T-series”, “X”, “Y”, and “CC” as confidential; and
- c. After due notice and hearing and consideration, the Provisional Authority be made permanent and final.

Other reliefs, just and equitable, are likewise prayed for.

The Commission has set the instant *Joint Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,<sup>3</sup> dated 24

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



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September 2020, and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):<sup>4</sup>

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>04 May 2022</b> (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	<b>Microsoft Teams Application</b>	Determination of compliance with jurisdictional requirements and Expository Presentation
<b>11 May 2022</b> (Wednesday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the Expository Presentation.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at [docket@erc.ph](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon at least

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<sup>4</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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five (5) calendar days prior to the scheduled virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* on the Commission's official website at [www.erc.gov.ph](http://www.erc.gov.ph).

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through [legal.virtualhearings@erc.ph](mailto:legal.virtualhearings@erc.ph), with their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

**WITNESS**, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 25<sup>th</sup> day of March 2022 in Pasig City.

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS: KMS/ARG/MCCG

