

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



JOINT THIRD PARTY BIDS AND AWARDS COMMITTEE

**Competitive Selection Process (CSP) for the procurement of the power supply requirement
for base load, intermediate and peaking of seven (7) Electric Cooperatives
in Panay and Guimaras**

SUPPLEMENTAL BID BULLETIN NO. 08

Date : **July 12, 2022**
To : **All Bidders and Observers for Lot No. 1**
Subject : **Replies and Clarifications on Additional Queries and Concerns**

The PGECPCI-JTPBAC hereby issues this Supplemental Bid Bulletin No. 08 to address the additional queries and clarifications raised by the Bidders for the above-stated project as well as the amendments in the Checklist and Evaluation Worksheet.

Attached herewith as Annexes to this Supplemental Bid Bulletin No. 08 are the following:

- Annex BB-08-A - Checklist of Required Documents for Bid Opening
- Annex BB-08-B - Evaluation Worksheet
- Annex BB-08-C - ITB Annex D-1 (as revised)
- Annex BB-08-D - ITB Annex D-2 (as revised)
- Annex BB-08-E - ITB Annex D-4 (as revised)

This Supplemental Bid Bulletin No. 08 and all its Annexes shall form part of the Bidding Documents. Any terms, conditions and provisions inconsistent with this Bid Bulletin are hereby amended, modified, and superseded accordingly

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



QUERIES/COMMENTS/CLARIFICATIONS

1. TERMS OF REFERENCE

Section/Source Data	Description	Comments/Questions/Clarifications	JTPBAC Response
No. 10 - Interconnection Agreement	Transmission interconnection agreement between NGCP and the Generation company or the Seller. (To guarantee the delivery of contracted supply in agreement to the contract duration period) *Certification from NGCP (approved feasible GIS) for additional installation of the maximum aggregated requirement	Since the bidder is a party to the TSA, may the Certified True Copies come from the Bidder instead of NGCP? Hoping for your consideration as NGCP might not be able to provide in time for the bid opening.	Yes, we will accept the certified true copy of the TSA subject for post qualification that the NGCP can accommodate the 100% contracted supply required by the PGECPCI.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>Terms of Reference, page 40 item 15</p>	<p>Tariff Structure:</p> <p>Fossil fuel is passed on charge based on actual market price but limited to guaranteed fuel rate per Li/kWhr.</p>	<p>A major issue during the Prebid Conference concerns the published Terms of Reference (TOR), where fuel is a passed-on charge. However, in the evaluation sheet and in the implementation of the PSA, fuel charge is pre-determined using a base index and an escalation percentage per annum capped at 5.5%, meaning the fuel charges are not pass-through or based on the actual market price, as stated in the TOR.</p> <p>We reiterate our comment raised during the pre-bid conference, that our participation and our payment of the corresponding fee of PhP500,000 hinges on the information indicated in your published TOR, specifically on the Tariff Structure indicating that the FOM & VOM fee shall be indexed on Philippine Peso, and on FOREX and Philippine CPI, respectively, and that the fuel is a passed-on charge based on actual market price.</p> <p>If JTPBAC intention was for the tariff to be a fixed rate, it was not clearly stated in the TOR, and it was misleading information</p>	<p>The Terms of Reference is very clear that the Generation Cost is based on the Yearly Fixed Cost.</p> <p>“15. Tariff Structure 1. The basis for the evaluation of the generation cost will be on the Yearly Fixed Cost for the duration of the contract period.”</p> <p>While "fossil fuel is a passed-on charge based on the actual market price" was considered in the preparation of generation cost, same is still subject to a " limited guaranteed fuel rate per Li/kWhr," hence, the pre-determination of the fuel charge using a base index and an escalation percentage capped at 5.5% per annum. Also, the escalation percentage similarly took in consideration the forecasted fluctuations in the fuel market price during the contract period.</p> <p>Again, the fossil fuel as a “passed on charge” is only one of the considerations in the preparation of the generation cost but the JTPBAC and/or TWG fully intends to set the generation cost at a fixed price to avoid generation costs prejudicial to the EC’s consumers. It must also be noted that, as per unit of measurement /energy (liter/kilowatt hour), the fossil fuel as considered in the said provision of</p>
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		<p>for potential bidders. Thus, we would like to request for the JTPBAC to retain what was stated in the TOR. Else, if a bidder opts not to proceed due to this misleading information, it should have the right for a refund of its participation fee.</p>	<p>the TOR is limited to liquid fuels only.</p> <p>Contrary to statement that the bidders were misled by the provisions of the TOR, the TOR clearly expressed that the Generation Cost shall be based on the Yearly Fixed Cost. When the issue regarding the passed-on charge for the fossil fuel was raised during the pre-bid conference, the JTPBAC and TWG also made it clear to the bidders that the generation cost shall be at a fixed rate albeit the matter shall be further referred to the DOE considering that it is the latter who directed the inclusion of the particular provision in the TOR. In the DOE reply dated 05 July 2022, the JTPBAC was advised to issue a bid bulletin removing the particular provision to address the inconsistency and/or confusion.</p> <p>Regarding the refund of the bidding fee, the Invitation to Bid clearly states that the Participation (Bidding Documents) Fee is non-refundable.</p>
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<p>15. Tariff Structure</p>	<p>Based on JTPBAC response on BB. No. 5 page 52 “The fuel rate cap is based on the projected escalation rate of 5.500% per year. The basis for the implemented rate is on the annual incremental fixed rate as computed from the template Table A or from the separate template Table C of the evaluation worksheet. There will be no pass-through charges or pass-on components of rate.”</p>	<p>Please confirm and/or clarify the following: 1. Are “Alternative proposals” allowed and can be reflected in Table C of the Annex BB-05-D-Final Bid Evaluation Worksheet-LOT1? 2. Can an alternative proposal have a foreign component in its proposed tariff structure? 3. Can an alternative proposal be not restricted by the escalation cap for PH CPI, US CPI and Fuel? 4. For an alternative proposal, can the applicable annual escalation for the tariff component (FOM, VOM and fuel) be not limited to one type of escalation and can have multiple applicable escalation (ex. FOM can have US and PH CPI escalation)? 5. Is the Reserve Price for Lot 1 at P6.2737/kWh still be applicable for the evaluation of the values indicated in table C?</p>	<p>1. Yes. The bidder can follow the instruction of the alternative proposal in the Evaluation worksheet guide. 2. The evaluation worksheet provides foreign components converted into Peso. 3 &4. The alternative proposal is free hand as long as it will not exceed the reserve cap. 5. Yes. The reserve price is the limit.</p>
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		<p>6. Please confirm that the 3.2% PPD is the only mandatory discount, while the other discount inputs in the form (CRF+O&M, additional discount above 3.2%, and CE) are not.</p> <p>7. Can indices input for US CPI, PH CPI and fuel escalation be varied by the bidder from 0% to escalation cap on annual basis and that variation will be considered and reflected in Table A of the Annex BB-05-D-Final Bid Evaluation Worksheet-LOT1?</p> <p>8. Is Associated Energy considered in the calculation for the LCOE reserve price of P6.2737/kWh based on 37MW, not 21MW? With this, will the calculated reserve price not be updated?</p>	<p>6. Yes. The 3.2% PPD is the only mandatory discount. Other discounts given by the bidder will be considered during the evaluation of the LCOE.</p> <p>7. Yes. The escalation of indices vary from 0% to maximum cap.</p> <p>8. Yes. The 21 MW is only a sample provided in the worksheet. LOT 1 is 37MW.</p>
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	<p>2. Tariff structure shall be broken down but not limited to the following:</p> <ul style="list-style-type: none"> • True Cost of Generation Rate (Php/kWh); 	<ol style="list-style-type: none"> 1. Is the True Cost of Generation Rate of the TOR referring to the "TOTAL" and "TOTAL w/ VAT" rate in cells F26 and F27 of the Input Sheet in the Evaluation Worksheet Template provided? 2. For Lots 1 and 3: Can Bidders offer tiered pricing based on Capacity Utilization Factor (CUF) (e.g. 70-100% CUF)? How will this be indicated in the Evaluation Worksheet? 3. At what load factors will the bidders be compared for each CSP Lot during evaluation? 	<ol style="list-style-type: none"> 1. The "TOTAL" and "TOTAL w/ VAT" can be found in F26 to F 29 of the Evaluation Worksheet (CRF, FOM, VOM, and fuel). 2. The bidder can only offer 100% CUF and the tiered pricing is computed automatically based on industry practice. 3. At 100% CUF.
<p>16. Outage Allowance</p>	<p>Any un-utilized allowed Scheduled and Unscheduled Outage allowance within a calendar year will not be accumulated for use during the succeeding years of the cooperation period.</p>	<ol style="list-style-type: none"> 1. We would like to appeal to PGCEPIC to allow the carryover of the unutilized scheduled outage allowances to unscheduled outage allowance and vice versa as long as it is within the same contract year. 2. Can the bidder offer a zero-outage allowance? 	<ol style="list-style-type: none"> 1. Denied. 2. Yes, the bidder can offer a zero-outage allowance provided that it will not reflect in the Evaluation Worksheet.

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<p>17. Replacement Power</p>	<p>During Allowed Outage</p> <p>Seller shall have the right, but not the obligation, to provide the Replacement Power to the Buyer during Allowed Outage. For this purpose, Replacement Power during Allowed Outage shall be billed at Contract Rate, or WESM rates, whichever is applicable.</p>	<p>We note that based on bid bulletin 5, PGECPCI would be using contract rate for replacement power during allowed outages.</p> <p>Please confirm that provision of an alternative/replacement power by the Seller within the Allowed Outage regime will be considered as actual deliveries by the Seller and not be counted as an outage.</p>	<p>1. Replacement power during an Allowed Outage will still be counted as an outage.</p>
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	<p>In Case of Force Majeure</p> <p>In case of Force Majeure, Seller shall have the right, but not the obligation, to supply Replacement Power to the Buyer. For this purpose, the Seller shall bill the Buyer the Contract Rate, or WESM rates, whichever is applicable.</p>	<p>We note that based on bid bulletin 5, in the question on how the Seller will be able to determine which is the applicable rate for Replacement Power during Allowed Outage and during occurrence of an FM event, PGECPI's response is that the Seller will use the 100% CUF Contract Rate.</p> <p>Please confirm that during the occurrence of an FM event, should the seller provide RP, the applicable rate would be based on a 100% CUF rate regardless of the Buyer's actual resulting CUF.</p>	<p>1. The applicable rate during the FM would be based on the actual CUF of the Buyer. This response shall supersede the JTPBAC response on page 41, item no. 2." The seller will use the 100% CUF Contract Rate" under Supplemental Bid Bulletin No. 5</p>
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<p>22. Penalties</p>	<p>The Supplier shall be penalized with an administrative fee of P0.25/kWh on top of the replacement power cost in cases of the following events and circumstances:</p> <ul style="list-style-type: none"> • Delay in Commercial Operation Date (COD); and • Failure of delivery of power. 	<p>1. Please confirm that this provision is applicable only during the excessive outage of the Supplier. We would like to reiterate our position that absorbing the cost of replacement power, at the expense of the Seller, is already a penalty to the Seller given the risks that it has already taken/absorbed in the provision of replacement power. Hence, we appeal for PGECPCI's reconsideration of the P0.25/kWh administrative fee.</p> <p>2. Can PGECPCI confirm that there will be no failure of delivery of power if it is within the allowable outage allowances?</p>	<p>1. Denied. The penalties shall be imposed but it is only applicable at the commencement of the cooperation period.</p> <p>2. There is no failure of delivery of power as long as it is during the scheduled and allowed outage.</p>
<p>24. Ground for Termination of Contract</p>	<p>The Buyer/Off-taker may terminate the Agreement by written notice to the Supplier in cases of:</p> <ul style="list-style-type: none"> Events of default; • Non-occurrence of Commercial Operation Date; • Expiration of cooperation period 	<p>Are the events of default and termination clauses in the PSA subject to changes or for negotiation with the Winning Bidder? Please see our specific comments for changes on the PSA matrix.</p>	<p>Yes. We will allow minor amendments to the PSA, provided that it will not change the provisions of the TOR.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



	<p>and/or Upon Mutual Agreement;</p> <ul style="list-style-type: none"> • Non-fulfillment of conditions for effective date; • Events of Force Majeure; and <p>When the Supplier fails to supply for a period of Sixty (60) days for reason wholly attributable to its fault and/or negligence, provided that, the Supplier fails to take reasonable actions or remedies to solve its inability to deliver capacity and energy.</p>		
	<p>The Supplier may terminate the Agreement by written notice to the Buyer/Off-taker when the Buyer/Off-taker:</p>	<p>Are the events of default and termination clauses in the PSA subject to changes or for negotiation with the Winning Bidder? Please see our specific</p>	<p>Yes. We will allow minor amendments to the PSA, provided that it will not change the provisions of the TOR.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



	<ul style="list-style-type: none"> • Discontinue operations; • Declares bankruptcy; <p>or</p> <p>Any financial obligation of the Customer is not paid when due within any applicable grace period.</p>	<p>comments for changes on the PSA matrix.</p>	
<p>25. Other terms And conditions</p>	<p>The Supplier shall extend Prompt Payment Discount (PPD) based from the total billed amount (net of VAT) for the following:</p> <ul style="list-style-type: none"> • 3.2%, seven (7) working days after receipt of power bill • 2.5% ten (10) working days after receipt of power bill <p>Other discounts offer by the Supplier shall be included in the</p>	<p>Will PGECPCI consider negotiating with the Winning Bidder the rate and terms of the PPD?</p>	<p>Denied. The rate and terms of the PPD are already fixed in the TOR.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



	evaluation of the levelized offer.		
18. Format and Signing of Bid	<p>18.1 The Bidder shall provide three (3) copies of the Bid, one original, two (2) photocopies (certified true copy) and two (2) electronic copies thru USB (password protected). The Bid shall be printed or written in indelible ink. The first and last pages of each document submitted and all pages and all portions of the pages where corrections and/or amendments have been made, shall be signed by the Bidder's</p>	<p>To clarify your response in bid bulletin 5 that the original or original-certified true copies must be issued by the concerned government agencies while the photocopies may be certified by the authorized representative of the bidder,</p> <p>please confirm that only government-issued documents need to be certified by the issuing agency and that all other documents (e.g., Transmission Service Agreement) can be certified by the bidder's authorized representative.</p>	Yes.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



	<p>authorized representative.</p>		
<p>23. Modification and Withdrawal of Bids</p>	<p>23.2 A Bidder may, through a Letter of Withdrawal, withdraw its Bid after it has been submitted, for valid and justifiable reasons; provided that the Letter of Withdrawal is received by the PGPSC prior to the deadline prescribed for</p>	<p>Please clarify that in the event where the first bidding fails, the Bidder who withdrew from the first bidding under Section 23.2 can still join the 2nd bidding?</p>	<p>The bidder can still join the second bidding subject to the payment of the Participation (bidding documents) Fee.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



	<p>submission and receipt of Bids.</p>		
	<p>Bids requested to be withdrawn in accordance with ITB withdrew from the first bidding under -23.2 shall be returned unopened to the Bidders. A Bidder that withdraws its Bid shall not be permitted to submit another Bid, directly or indirectly, for the same Transaction.</p>		

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2. INSTRUCTION TO BIDDERS

Section/Source Data	Description	Comments/Questions/Clarifications	JTPBAC Response
Section 18. Format and Signing of Bid	<p>The Bidder shall provide three (3) copies of the Bid, one original, two (2) photocopies (certified true copy) ...</p> <p><i>(Submission of Certified True Copies from the issuing government agency)</i></p>	Can the bidders submit Copy Certifications (notarized documents saying that the Notary supervised photocopying the original copies of the government documents) instead, in case the government agencies can't issue Certified True Copies?	<p>For SEC documents and LGU permits and/or licenses, we will require a Certified True Copy issued by the concerned government agencies.</p> <p>For BIR, ERC and other government agencies that does not regularly issue Certified True Copies, we will accept a duly notarized Copy Certification thereof.</p>
Eligibility Requirements - Class "A" Documents Legal Requirements	vi. For Existing Plant, a valid and updated license, such as Certificate of Compliance of GenCo issued by Energy Regulatory Commission (ERC)	Does the bidder need to submit COCs of all power plants owned/operated or ONLY the COCs of the nominated plant/s this bid?	Only the COCs of the nominated plants shall be submitted.
9.1.1. Technical Documents	ii. b) Installed, dependable and available capacity of the power plant	What does the Available Capacity mean here? The uncontracted capacity or the Pmax of the plant?	Available Capacity means the uncontracted capacity of the plant.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>ITB Annex D-2</p>	<p>2. In consideration of its receipt of Confidential Information, [Bidder's name] warrants and undertakes that all Confidential Information shall be held and treated in strict confidence and shall not communicate, publish, sell, trade or otherwise disclose to anyone, except to its officers, directors, employees, advisors and consultants who need to know the Confidential Information for purposes of preparation and evaluation of the [Bidder's name] Bid and in connection with its participation in this Transaction and each of the aforementioned persons will be informed and advised by [Bidder's name] of the making any such disclosures, however, [Bidder's name] shall obtain an undertaking of confidentiality, substantially in the same form and content as this Confidentiality Agreement and Undertaking from each such person.</p>	<p>Can the JTPBAC consider this minor revision to Annex D-2: 2. In consideration of its receipt of Confidential Information, [Bidder's name] warrants and undertakes that all Confidential Information shall be held and treated in strict confidence and shall not communicate, publish, sell, trade or otherwise disclose to anyone, except to its officers, directors, employees, advisors, consultants, and affiliates who need to know the Confidential Information for purposes of preparation and evaluation of the [Bidder's name] Bid and in connection with its participation in this Transaction and each of the aforementioned persons will be informed and advised by [Bidder's name] and shall obtain an undertaking of confidentiality, substantially in the same form and content as this Confidentiality Agreement and Undertaking from each such person.</p>	<p>No, this particular provision was already revised accordingly.</p>
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	<p>The following information shall not constitute “Confidential Information” for purposes of this Undertaking: (a) information which [Bidder’s Name] can prove in its possession and was available to it on a non-confidential basis prior to disclosure by the PANAY AND GUIMARAS ECs and/or the disclosing Bidders; (b) information which is obtained by [Bidder’s name] from a third person which, insofar as is known to [Bidder’s name], is not prohibited from disclosing the information under a contractual legal of fiduciary obligation to [Bidder’s name]; and (c) information which is or becomes generally available to the public order that as a result of a breach of this Undertaking by [Bidder’s name].</p>	<p>Can the JTPBAC consider this minor revision to Annex D-2: The following information shall not constitute “Confidential Information” for purposes of this Undertaking: (a) information which Therma Luzon Inc. can prove was in its possession and was available to it on a non-confidential basis prior to disclosure by the PANAY AND GUIMARAS ECs and/or the disclosing Bidders; (b) information which is obtained by Therma Luzon Inc. from a third person which, insofar as is known to Therma Luzon Inc., is not prohibited from disclosing the information under a contractual legal of fiduciary obligation to PANAY AND GUIMARAS ECs; and (c) information which is or becomes generally available to the public.</p>	<p>No, this particular provision was already revised accordingly.</p>
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3. CHECKLIST OF REQUIRED DOCUMENTS FOR BID OPENING

Section/Source Data	Description	Comments/Questions/Clarifications	JTPBAC Response
Eligibility Requirments - Class "A" Documents Technical Requirements	f) Number and average duration of scheduled and unscheduled outages for the last five (5) years or the actual outage data for new power plants operating for less than five years supported by a certification issued by the System Operator.	As mentioned during pre-bid conference, may we request to document that GCMR will suffice as supporting document of Number and average duration of scheduled and unscheduled outages for the last five (5) years? It was only written in SBB #5 that MOR is acceptable	The GCMR or MOR can be accepted provided that there is an approved request from the Grid Operator.
Eligibility Requirments - Class "A" Documents Legal Requirements	a) Proof of VAT payments for at least six months prior to opening of bids; Note: November 2021 - April 2022	Can we submit December 2021 - May 2022? Hoping for your consideration since we already prepared this requirement	Yes. Provided that it is at least six (6) months prior to the Opening of Bids.
Eligibility Requirments - Class "B" Documents	Annex D-4 Affidavit of Disclosure of Relations	May we request for the list of officials, members, personnel of PGECPCI	The list of officials, members, and personnel of PGECPCI shall be provided.
Eligibility Requirments - Class "A" Documents Legal Requirements	ix.b) Tax Clearance from the BIR to prove Bidder's full and timely payment of taxes to the government.	As per BIR, they do not certify a copy of this since this is not part of RMO 46-2018. Also, the only original copy was given to the respective Taxpayer and they don't have any other copy. Having said that, the only one that can issue a certified true copy of the Tax Clearance Certificate must be the certificate holder.	For BIR, ERC and other government agencies that does not regularly issue Certified True Copies, we will accept a duly notarized Copy Certification thereof.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



		In this regard, can our internal custodian be the one to certify the copies of our Tax Clearance?	
Revised Checklist Envelope 1, B-3	Statement, in matrix form, of customers with power supply contract. The statement shall include, for each customer, the following: a) Name and address of company; b) Telephone, cellular phone and fax numbers, website URL, and e-mail address of the company; c) Name and position of authorized contact person(s); and d) Telephone and cellular phone number and e-mail address of contact person(s.)	As per page 13 of SBB 5: JTPBAC response: The bidder is required to provide the company name, email, address, and working phone number. Thus items C & D must be removed from the checklist to avoid confusion.	The PGECPCI will take note of this comment.

4. GENERAL COMMENTS

Section/Source Data	Description	Comments/Questions/Clarifications	JTPBAC Response
	Bid Bulletin No.5 - July 4, 2022 Based on the reference and worksheet template, the Fixed O&M are index on Peso while Variable O&M and Fuel are based on fixed and escalating values in RPCPI and USCPI. The bidder/s can choose to select	> With the conflicting statements between the files, will the conditions in the Bid Evaluation Worksheet be the acceptable indexation options?	There is no conflict in the Updated Evaluation Worksheet and the Bid Bulletin No. 5. The RPCPI refers to the Philippine CPI while the USCPI refers to the Forex. In both fixed and

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	<p>whether RPCPI or USCPI in the Evaluation Worksheet.</p>		<p>variable O&M, the bidder has the option between RPCPI (Philippine CPI) and USCPI (Forex).</p>
	<p>Annex BB-05-E-Evaluation-Worksheet-Guide II. Input</p> <p>B. FOM - This field or cell is unlocked. The input will be provided by the Bidder.</p> <p>(* The Fixed Operation & Maintenance (FOM) Fee is the price component of the Generation rate. Fixed O&M fee shall be indexed on Philippine Peso. The value of the FOM must be fixed in Php/kWh and escalation in percentage (%).</p> <p>C. VOM - This field or cell is unlocked. The input will be provided by the Bidder.</p> <p>(* The Variable Operation & Maintenance (VOM) Fee is the price component of the Generation rate. Variable O&M fee shall be indexed on FOREX and Philippine CPI. The value of the VOM must be fixed in Php/kWh and escalation in percentage (%).</p> <p>II. PRICE INPUT</p>		

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	<p>D. Fuel - This field or cell is unlocked. The input will be provided by the Bidder. (*) The Fuel or Energy Fee is the price component of the Generation rate. Fuel shall be indexed on FOREX and Philippine CPI. The value must be fixed in Php/kWh and escalation in percentage (%).</p>		
	<p>Annex BB-05-D-Final Bid Evaluation Worksheet > FOM Fee choices for indexation are only PH CPI and US CPI > VOM Fee choices for indexation are also only PH CPI and US CPI > Fuel choices for indexation are Coal Fuel Rate for Non-RE and PH CPI for RE fuel type.</p>		
		<p>Table A and C in the OUTPUT tab of the Final Bid Evaluation Form for Lot 1 generates different LCOE even if inputs are the same. We tried copying the 100% CUF values in Table A to input cells in Table C. We think the reason for this difference in LCOE computation between Tables A and C is that Table C is using the wrong energy amounts to calculate the LCOE. Please</p>	<p>We will revise the Bid Evaluation Worksheet accordingly and send the bidders the updated version.</p>

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		confirm our observation and revise the Bid Evaluation Worksheet, as needed.	
		According to the SBB No. 5 (Item No. 15 Tariff Structure), the Annual Rates in the Bid Evaluation Form will be reflected in the PSA. Will ONLY the Total Annual Rates be reflected in the PSA, while the components of annual rates will NOT BE NEEDED TO BE REFLECTED?	Yes, only the Total Annual rates will be reflected in the PSA. The components of the Total Annual rates are required for the application of the Power Supply Agreement with ERC.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



In the SBB No. 5, for the question "1. When is the specific contract start and end date, in the event of a delay in the ERC approval, will the duration move to align to the 10-year term?", the answer was:

SBB No. 5 Answer: "1,2&4. The Start of PSA will depend on the requirement of each EC and it will be upon the issuance of Provisional Authority from ERC while the End of contract will be based on individual PSA."

Will end of each individual PSA end 10-years after the receipt of an approval from the ERC (whether Provisional Authority or Final Decision)? Or, instead, will the end of each individual PSA for each EC be fixed in accordance with the table in the "Annex-BB-05-G-Bidders-TOR-Compliance-Template" (shown below)?

ECs	Capacity Requirement (MW) @ 100%CUF					
	Year	CAP	GUI	ILE I	ILE II	ILE III
4. Contracted Capacity	2022		1	15	6	4
	2023	6	1	15	6	4
	2024	6	1	15	6	4
	2025	6	1	15	6	7
	2026	8	1	15	6	7
	2027	8	1	15	6	7
	2028	8	1	15	6	7
	2029	8	1	15	6	7
	2030	8	1	15	6	7
	2031	8	1	15	6	7
	2032	8			6	7

All PSAs shall end based on the individual PSA in accordance with the table in Annex-BB-05-G-Bidders-TOR-Compliance-Template

*So for example, CAPELCO's PSA will need to end by December 25, 2032, GUIMELCO's PSA will need to end by December 25, 2031, etc, regardless of date that we receive the ERC Approval, whether provisional or final.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



		We also noticed that the base PH CPI in the Bid Evaluation Form 2012 base year series, may we have this updated with the new base year for PH CPI, 2018=100, used by the Philippine Statistics Authority (PSA)?	The template was already updated with the new base year.
		Will JTBAC release a "Final Bid Bulletin" with the final version of TOR and Instructions to Bidders and other files and any clarifications that the JTBAC answers, seven (7) days before the date of the Opening of Bids? Or will it only on a case-to-case basis, if there is a need to release an updated version of any Bid Documents and annexes?	The PGECPCI will no longer re-publish the TOR and the Instruction to Bidders. Any amendments/updates thereto shall be through a Supplemental Bid Bulletin published through the DOE CSP Portal and e-mailed to the respective bidders' official email address at least seven (7) days before the scheduled Opening of Bids.
		Will JTBAC release a "Final Bid Bulletin" with the final version of TOR and Instructions to Bidders and other files and any clarifications that the JTBAC answers, seven (7) days before the date of the Opening of Bids? Or will it only on a case-to-case basis, if there is a need to release an updated version of any Bid Documents and annexes?	The PGECPCI will no longer re-publish the TOR and the Instruction to Bidders. Any amendments/updates thereto shall be through a Supplemental Bid Bulletin published through the DOE CSP Portal and e-mailed to the respective bidders' official email address at least seven (7) days before the scheduled Opening of Bids.
		And also, for the answered clarifications or suggestions in the SBB no. 5, if the suggestions were DENIED, can we	Yes. We will allow minor amendments to the PSA,

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



		assume that as long as the commented provisions in the PSA are NOT in the TOR, it can still be negotiated with each EC during PSA negotiations?	provided that it will not change the provisions of the TOR.
SBB 5 re: ITB 14.1.B. Specific existing generating unit or plant	<p>Question:</p> <p>Q: Is this a duplicate to 14.1.A?</p> <p>Answer of PGECPCI: No. This is not a duplication.</p> <p>A. Existing System Capacity refers to the Total Capacity of the Plant, while;</p> <p>B. Specific Existing generating unit or plant refers to the individual capacity or generator.</p>	<p>If the generator is a single plant, does this mean that A and B are the same?</p> <p>Moreover, if the nominated power plants are a group of plants with aggregated data, can our answers for A be the same as B?</p>	<p>Yes, if generator is a single plant, they can provide the existing system capacity only. If the nominated power plant is a group of plants, the bidder should provide the Existing System Capacity and Specific Existing Generating Unit for each individual plant.</p>
Page 5 of SBB 5, item 3 response:	JTPBAC response on clarification 2&3: The JTPBAC will issue a supplemental bid bulletin, minutes during the pre-bid conference and checklist of requirements not later than 7 days prior to the opening of the bids.	Should the JTPBAC furnish Bidders the Minutes of the Pre-Bid Meeting?	Yes, the PGECPCI had already provided the bidders the Minutes of the Pre-bid Conference through their respective official e-mail address.
Page 7 of SBB 5, item 7 response:	The JTPBAC will provide documents and shall be limited only to items 1 (Company Profile) & 2 (list of BOD, TWG and JTPBAC).	Follow up on the Company profiles of the ECs and the list of BOD and JTPBAC and TWG.	Yes, the PGECPCI will provide the company profile and List of BODS, JTPBAC and TWG together with the publication of this Supplemental Bid Bulletin.
Page 12 of SBB 5, #2 For Item 9.1.1.ii:	If, can we use the Monthly Operations Report as supporting data instead of an SO certification? JTPBAC response: YES.	For an apples-to-apples comparison, please include this requirement in the Revised Checklist.	Yes, the PGECPCI will include the Monthly Operations Report (MOR) or Generation Company Management Report (GCMR) in the Revised Checklist (Folder 2, Envelope 1, f.)

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>Page 12 of SBB 5, #2 For Item 9.1.1.ii-4:</p>	<p>Does Org. Structure mean Org Chart of the Power Plant? JTPBAC response: It should be the Org. Structure of the Company.</p>	<p>Please elaborate, should Organization Chart or Table of Organization suffice?</p>	<p>As stated in the SBB, the Organizational Chart shall be required.</p>
<p>Page 47 of SBB 5:</p>	<p>JTPBAC Response: Please include any related environmental and social compliance programs of the company.</p>	<p>What document is expected and in what folder/envelope would this be included?</p>	<p>It shall be included in the Company Profile under Folder 2, Envelope 1. The bidder may provide a report or summary of the programs undertaken showing environmental and social compliance.</p>
<p>Page 23 of SBB 5, #3 of JTPBAC response</p>	<p>Question: 3. Can we submit internally-certified true copies (certified by Bidder's authorized representative) or are we required to secure CTCs from the issuing government agency (e.g. SEC for the AOI)? JTPBAC Response: The original or original-certified true copies must be issued by the concerned government agencies while the photocopies may be certified by the authorized representative of the bidder.</p>	<p>As this would take time due to the blended working schedule of government offices, may JTPBAC reconsider accepting internally certified true copies by the Company's document custodians. (i.e. SEC, ERC, LGU) and be presented during post qualification.</p>	<p>For SEC documents and LGU permits and/or licenses, we will require a Certified True Copy issued by the concerned government agencies. For BIR, ERC and other government agencies that does not regularly issue Certified True Copies, we will accept a duly notarized Copy Certification thereof.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>SUPPLEMENTAL BID BULLETIN NO. 04,</p>	<p>SUPPLEMENTAL BID BULLETIN NO. 04, it was provided that "Bidders are required to submit in advance through electronic mail to the TPBAC-PGECPCI a Board Resolution and Secretary's Certification (Notarized) of the Bidder's Authorized Representative/s to attend the Opening of Bids. Original copy of such document shall be presented to the TPBAC Secretariat not later than 8:45 a.m. of the scheduled Bid Opening date. Only a maximum of three (3) authorized representatives per Bidder shall be allowed to enter the venue."</p>	<p>1. Will the JTPBAC allow one of the three representatives per Bidder to attend virtually?</p> <p>2. Should a Bidder decide not to proceed with the Bid participation, will that Bidder still be allowed to observe in person the Opening of Bids, provided that the Bidder submits the Board Resolution and Secretary's Certificate as required?</p>	<p>1. No. The Opening of the Bids shall be conducted face-to-face.</p> <p>2. Yes, the withdrawing bidder may still remain in the premises as an audience member.</p>
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ANNEXES

Section/Source Data	Description	Comments/Questions/Clarifications	JTPBAC Response
Annex D-1	Engr. JOSE REDMOND ERIC S. ROQUIOS President Panay Guimaras ECs Power Consortium, Inc. Joint Competitive Power Supply Procurement	May we request the minor revision in the letter header, to add "PGECPCI" as name of Panay Guimaras ECs Power Consortium?	Yes.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>Annex D-1</p>	<p>The provisions, terms and conditions thereof and any amendment, supplement or modification thereto, including the Supplemental Bid Bulletins, and accepts and agrees to be bound and to fully abide by and comply with the terms and conditions thereof and any amendment, supplement or modification thereto as well as the decisions of the PGECPCI</p>	<p>May we confirm what document/s this is referring to?</p>	<p>This refers to the Bidding Documents consisting of the following: Invitation to Bid, Instruction to Bidders, Terms of Reference, Evaluation Sheet, Draft PSA and Annexes.</p>
<p>Annex D-1, item 2</p>	<p>Energy Development Corporation waives any right it may have to seek and obtain a writ of injunction or prohibition or restraining order against any or all PANAY AND GUIMARAS ECs to prevent or restrain this Transaction or any proceedings related thereto, the selection of the Winning Bidder and the execution of the Power Supply Agreement. Such waiver shall, however, be without prejudice to the right of the undersigned to question the lawfulness of any disqualification or the rejection of Bid offers by appropriate administrative or judicial processes not involving the issuance of a writ of injunction or prohibition or restraining order;</p>	<p>May we request to revise as follows: Energy Development Corporation waives any right it may have to seek and obtain a writ of injunction or prohibition or restraining order against any or all PANAY AND GUIMARAS ECs to prevent or restrain this Transaction or any proceedings related thereto, from progressing, including the selection of the Winning Bidder and the execution of the Power Supply Agreement. Such waiver shall, however, be without prejudice to the right of the undersigned to question the legality lawfulness of any disqualification or the rejection of its Bid offer/s or any portion of the bid process by appropriate administrative or ef-judicial processes not involving the issuance of a writ of injunction or prohibition or restraining order;</p>	<p>This will be revised accordingly.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>Annex D-1, item 4</p>	<p>Energy Development Corporation unconditionally and irrevocably waives any defect, deviation, fault or infirmity in this Transaction and the whole process conducted by the Panay and Guimaras ECs Power Consortium, Inc.</p>	<p>May we request to revise as follows: Energy Development Corporation unconditionally and irrevocably waives any defect, deviation, fault or infirmity in this Transaction and the whole process conducted by the Panay and Guimaras ECs Power Consortium, Inc. , except when such defect, deviation, fault or infirmity is attended or caused by fraud, gross negligence or willful misconduct of PGEPCPI.</p>	<p>This will be revised accordingly.</p>
<p>Annex D-2, header</p>	<p>Engr. JOSE REDMOND ERIC S. ROQUIOS President Panay Guimaras ECs Power Consortium, Inc. Joint Competitive Power Supply Procurement</p>	<p>May we request the minor revision in the letter header, to add "PGEPCPI" as name of Panay Guimaras ECs Power Consortium? Engr. JOSE REDMOND ERIC S. ROQUIOS President Panay Guimaras ECs Power Consortium, Inc. (PGEPCPI) Joint Competitive Power Supply Procurement</p>	<p>This will be revised accordingly.</p>
<p>Annex D-2, general text</p>		<p>For the rest of Annex D-2, may we refer to Panay Guimaras ECs Power Consortium as "PGEPCPI"?</p>	<p>It is understood that Panay Guimaras ECs Power Consortium Inc. is the same as PGEPCPI.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>Annex D-2, page 1</p>	<p>. . .the review of the documents or properties of, and discussions with, the PANAY AND GUIMARAS ECs and the Bidders, their affiliates, associates and or subsidiaries, by [Bidder's name], irrespective of the form of the communication or reproduction or storage, and also includes all notes, analyses, compilations, studies, summaries, and other materials prepared by [Bidder's name] containing or based, in whole or in part, on any information included in the foregoing.</p> <p>The following information shall not constitute "Confidential Information" for purposes of this Undertaking: (a) information which [Bidder's Name] can prove in its possession and was available to it on a non-confidential basis prior to disclosure by the PANAY AND GUIMARAS ECs and/or the disclosing Bidders;. . .</p>	<p>may we request to revise as follows:</p> <p>". . .the review of the documents or properties of, and discussions with, the PGECP CI and/or each of the PANAY AND GUIMARAS ECs and the Bidders, their affiliates, associates and or subsidiaries, by [Bidder's name], irrespective of the form of the communication or reproduction or storage, and also includes all notes, analyses, compilations, studies, summaries, and other materials prepared by [Bidder's name] containing or based, in whole or in part, on any information included in the foregoing.</p> <p>The following information shall not constitute "Confidential Information" for purposes of this Undertaking: (a) information which [Bidder's Name] can prove in its possession and was available to it on a non-confidential basis prior to disclosure by the PGECP CI and/or each of the PANAY AND GUIMARAS ECs and/or the disclosing Bidders;. . ."</p>	<p>This will be revised accordingly.</p>
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PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



Annex D-4, item 3	3. Energy Development Corporation will not submit more than one Bid per lot in this bidding process;	<p>may we request for the following minor revisions:</p> <p>3. Energy Development Corporation will not submit more than one (1) Bid per lot in this bidding process;</p>	This will be revised accordingly.
Annex D-4, item 6	6. Energy Development Corporation acknowledges and accepts that relationship of the nature described above or failure to comply with the foregoing provisions will result in the disqualification of [bidder]'s Bid.	<p>may we request for the following minor revisions:</p> <p>6. Energy Development Corporation acknowledges and accepts that relationships of the nature described above or failure to comply with the foregoing provisions will result in the disqualification of [bidder]'s Bid.</p>	This will be revised accordingly.
Annex D-4	none of [bidder's] officers is related to the head of any of the PANAY AND GUIMARAS ECs by consanguinity or affinity up to the third civil degree or any of their officers or employees having direct access to information that may substantially affect the result of the Bidding such as, but not limited to, the members of the Joint Third Party Bids and Awards Committee (JTPBAC), Joint Technical Working Group (JTWG), and the members of the Board of Directors of Panay and Guimaras ECs.	May we request for the list of persons from Panay and Guimaras ECs that the bidder's officers should not have conflict of interest with?	The list of officials, members, and personnel of PGECPCI shall be provided.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



Annex D-5	Free and clear of all liabilities (including taxes, customs duties, among others) with the government	<p>Can we propose to revise the language to further limit the liabilities? Please see below for the proposed revision</p> <p>a. Free and clear of all liabilities (including taxes, customs duties, among others) with the government that have not been duly protested or disputed by [bidder]</p>	We will retain the original provision as stated.
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POWER SUPPLY AGREEMENT

Description	Comments/Questions/Clarifications	JTPBAC Response
2.3.1BUYER shall purchase the electricity to be generated by the SELLER from the Power Plant throughout the duration of the Cooperation Period and subject to the terms and conditions of this Agreement.	Can the JTPBAC consider to include Delivery Schedule in the draft PSA?	The Delivery Schedule shall be included during the individual filing of the PSA.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>3.1 BUYER shall submit to SELLER the week– ahead or day-ahead Daily Generation Schedule (DGS) as set out in Schedule 7 of this agreement. BUYER shall purchase and SELLER shall supply, for each Billing Month, the Contracted Energy in accordance with Schedule 1. Schedule 5: Dispatch 2. BUYER may submit revisions to the submitted nominations on a day-ahead or week ahead basis. Such revisions shall, in case of day-ahead projections be notified to the SELLER before 4:00PM of the day before the relevant trading day or such other time as the SELLER sees reasonable and confirmed in writing by the BUYER. 4. In case of outage by the BUYER or Force Majeure, a re-declared load nomination shall be submitted a day after the relevant trading day</p>	<p>Can the JTPBAC consider contract energy per trading interval? Can the JTPBAC also consider the provision below? DAY AHEAD LOAD NOMINATION In the event that there is a significant deviation from the projected month-ahead hourly load nomination for specific day caused by Force Majeure, such as failure of the transmission line to transmit electric energy to CUSTOMER, CUSTOMER should send DALN to SUPPLIER. The DALN shall be in hourly quantities and shall be submitted on or before 12:00 PM before the actual trading day</p>	<p>The JTPBAC will not consider the proposal.</p>
<p>3.4 Start of Supply of Electricity. The supply of electricity by SELLER and acceptance by BUYER shall start no later than the Initial Delivery Date which shall mark the beginning of the Cooperation Period or such earlier date as the Parties may mutually agree upon in writing, and the satisfaction of the conditions precedent provided under Article 11.</p>	<p>In the event that the ERC approval will be received after the Initial Delivery Date: (a) Will the contract start date be move to the next billing period after receipt of the ERC approval, whether provisional or final; and (b) Will the contract end date remain fixed per specified date by TOR?</p>	<p>Yes to both (a) and (b).</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>3.7.1 During Allowed Outage Seller shall have the right, but not the obligation, to provide the Replacement Power to the Buyer during Allowed Outage. For this purpose, Replacement Power during Allowed Outage shall be billed at Contract Rate, or WESM rates, whichever is applicable. 3.7.2 In Excess of Allowed Outage In the event the Allowed Outage is exceeded, Seller shall supply or cause the supply to the Buyer Replacement Power at its own cost. However, the Buyer shall continue to pay the Seller for the Replacement Power at Contract Rate, or WESM rates, whichever is lower. 3.8 Buyer’s Allowed Scheduled and Unscheduled Maintenance Allowance. Buyer’s total maintenance allowance for both scheduled and unscheduled shall be computed as maximum demand multiplied by thirty (30) days and by twenty-four (24) hours and shall be defined in kilowatt-hours (kwh).</p>	<p>Can the JTPBAC consider the provision below: “Notwithstanding any provision in this Agreement to the contrary, Supplier has the right, at its sole discretion, to source Replacement Power from any available alternative sources. During Scheduled Outages and Unscheduled Outages within the Allowable Downtime of Supplier, it shall provide Replacement Power to Customer at Contract Rate.”</p>	<p>The Seller may source Replacement Power from available sources during the Seller's Scheduled and Unscheduled Outages only. The Replacement Power Rate shall be based on the Contract Rate.</p>
<p>4.1 Electricity Fees. In respect of each Billing Month within the Cooperation Period, BUYER shall pay Electricity Fees to SELLER in accordance with Schedule 4.</p> <p>The monthly electricity rate will be based on yearly fixed rate for the duration of cooperation period with the provision of Prompt Payment Discount (PPD) and any other discounts provided.</p>	<p>> If the offered rate will be binding in the PSA, will there still be a need to specify formula for base fee adjustment?</p>	<p>The formula and component of the base fee adjustment for the Base Year shall be included in the application for the approval of Power Supply Agreement with the ERC.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



4.2 SELLER shall deliver to BUYER, within ten (10) working days after the end of each Billing Month, an invoice of the Electricity Fees payable for the previous Billing Month. The due dates for such invoice shall be every 25th day of the following month. All payments shall be made by BUYER to SELLER in Pesos, as calculated under Schedule 4. The BUYER shall provide the SELLER the proof of payment within five (5) working days from the date of payment. Within five (5) working days after receipt of proof of payment, the SELLER shall provide and send to the BUYER the original copy of Official Receipt.

Can the JTPBAC consider this provision: "Supplier shall deliver to Customer a Billing Statement setting out the Electricity Fees due on account of Contract Capacity and all Energy Delivered during each Billing Period on or before the seventh (7th) day of the Payment Month. The energy levels that will be used for purposes of the Billing Statement will be based on the amount of Energy nominated by Customer."

The JTPBAC will not consider the proposal.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



4.3 If any undisputed amount payable by BUYER under this Agreement is not paid within fifteen (15) calendar days from the due date: (i) BUYER shall pay interest thereon at a rate of 2.5% per annum of the unpaid amount, computed from the date due until the date of full payment; (ii) SELLER has the right to immediately suspend the delivery of electricity upon written notice to the BUYER at least forty-eight (48) hours prior thereto, provided that the fees for electricity supplied but not billed shall be immediately due and payable; and (iii) SELLER has a right to demand from the BUYER a security deposit or collateral acceptable to the SELLER, which shall be a condition precedent for the continued supply of electricity by SELLER to BUYER. The foregoing provisions shall be suspended upon declaration of the Force Majeure event until the event of the Force Majeure no longer exists.

Can the JTPBAC consider this provision: “If Customer fails to pay the Electricity Fee or any other amounts payable by it under this Agreement in full, including full payment of VAT due (if any) and all applicable taxes thereon, on the Payment Date, it shall pay a penalty of two percent (2%) per month (a fraction of a month to be considered one month) based on the amount due, from the date when such payment is due until the date such amount is received in full by Supplier. In addition to the penalty, Supplier shall have the right:(i) to draw against the Security Deposit; (ii) to temporarily reduce or suspend its obligation to generate and sell electric power to Customer without need of notice; (iii) to rescind or terminate this Agreement (and Customer shall be liable to pay the Termination Fee as provided in Section 14.5); (iv) to declare fees and charges for electricity supplied in the current Billing Period and such other unbilled periods, as due and payable, whereupon Customer shall pay such fees and charges immediately upon delivery by Supplier of the corresponding Billing Statement to Customer; (v) set-off any due and

The JTPBAC will not consider the proposal.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



outstanding obligation owed by Supplier to Customer (whether arising under this Agreement or not) in satisfaction of the unpaid Electricity Fee or any obligation owed by Customer under this Agreement, (vi) to exercise Customer's rights with respect to Customer's own customers to collect payments therefrom to the extent that any Electricity Fees and other sums payable to Supplier remain unpaid; and/or (vii) to direct NGCP or any other relevant entity to disconnect Customer from the Grid; for such purpose, Customer hereby constitutes Supplier as its attorney-in-fact with full power and authority to effect such disconnection by the Customer from the Grid. With respect to item (vii), Supplier shall inform WESM and other relevant parties of such notice simultaneously with the delivery of the notice of discontinuance or disconnection to Customer. Customer shall indemnify and hold harmless WESM and/or the relevant industry parties that implement such discontinuance of supply or disconnection. All interest, penalties and other charges imposed under this Agreement not paid when due shall likewise bear interest at the rate of two

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



percent (2%) per month (a fraction of a month to be considered one month).

Security Deposit

In the event that Customer fails to pay the Electricity Fees or any other amounts payable by it under this Agreement in full on the due date, Supplier shall have the right to require Customer to post a Security Deposit, whereupon, Customer shall establish, not later than fifteen (15) business days from receipt of Supplier's notice to this effect, the Security Deposit

which shall be valid for at least twelve (12) Billing Periods; provided that, for the final Contract Year, Customer shall post a Security Deposit which shall be valid until sixty (60) calendar days after the end of the Contract Period.”

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



4.3 If BUYER disputes any invoice, it shall so inform SELLER in writing within ten (10) calendar days from receipt of such invoice. The BUYER must specify the disputed items in the invoice. If the dispute is not resolved by the due date, BUYER shall pay the undisputed amount on or before such due date and the disputed amount shall be resolved within fourteen (14) calendar days after due date for such invoice. In case the dispute is not resolved in fourteen (14) calendar days, then Article 15 shall apply. It is understood that any dispute of the invoice under this Article 4.5 shall be made in good faith.

Can the JTPBAC consider this provision: "If Customer disputes any Billing Statement, Customer must notify Supplier in writing by the twelfth (12th) day of the Payment Month, specifying in said notice the items that are disputed in the Billing Statement. If the dispute is not resolved by the Payment Date, Customer shall pay the full amount stated in the Billing Statement on or before such due date, with the disputed portion paid under protest. The Parties shall endeavor in good faith to resolve the dispute within ten (10) days after payment in full of the amount stated in the Billing Statement."

The JTPBAC will not consider the proposal.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>4.4(b) The BUYER shall no longer be liable for the payment of any existing taxes, fees, charges, levies and dues imposed or assessed by any Governmental Authority on or in connection with the purchase and sale of electricity and/or payments due to SELLER hereunder. 4.4(c) Any new taxes, fees, charges, levies and dues (including any increase in the rate or amount thereof but excluding taxes referred to in Section 4.4(a) and (d) shall be imposed to the SELLER thereafter in connection with the performance of its obligations pursuant to this Agreement</p>	<p>Will the JTPBAC accept this major revision of the PSA? Customer shall be liable for and pay (i) any and all taxes (including value-added tax, if any), fees, charges, levies and imposts imposed or assessed by any Governmental Authority on or in connection with the purchase and sale of electricity and/or payments due to Supplier hereunder, and (ii) any new taxes, fees, charges, levies and imposts (including any increase in the rate or amount thereof after the date hereof but excluding income taxes imposed on Supplier and fines and penalties directly attributed to Supplier’s gross negligence) after the date hereof in connection with the performance by Supplier of its obligations pursuant to this Agreement. Such payments shall be made as and when required pursua</p>	<p>The JTPBAC will not consider the proposal.</p>
<p>6.2 Neither PARTIES shall be liable for any failure or delay in the performance of its obligations under this Agreement in case of, but only to the extent caused by, any event of Force Majeure.</p>	<p>Will the JTPBAC consider to rephrase the provision under 6.2 to “Neither PARTIES shall be liable for any failure or delay in the performance of its obligations under this Agreement. In no event shall late payment or non-payment of money due be excused by any event of Force Majeure.”</p>	<p>The JTPBAC will not consider the proposal.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



6.2 Neither PARTIES shall be liable for any failure or delay in the performance of its obligations under this Agreement in case of, but only to the extent caused by, any event of Force Majeure.

12.2.1 BUYER’s Events of Default. The following events shall give SELLER the right to terminate this Agreement (each a “BUYER Default”): a. any of the following occurs before or after the initial delivery date: (i) BUYER admits in writing its inability to pay any indebtedness as and when due; (ii) any bankruptcy, insolvency, suspension of payment, reorganization or similar proceedings are commenced by or against BUYER; (iii) as part of a scheme of arrangement or composition with its creditors, BUYER makes any assignment for the benefit of its creditors; or (iv) an effective order is made (and not set aside or stayed within 60 days), or an effective corporate resolution is passed, for the liquidation, winding-up or dissolution of BUYER; and (v) BUYER enters into any arrangement or agreement for the restructuring of any of its unpaid accounts with other electricity suppliers; b. BUYER defaults in the payment when due of any undisputed amount payable under this Agreement and such failure continues for a period of not less than sixty (60) days. BUYER ceases or discontinues operations and/or distribution of electricity for a period of forty-five (45) consecutive days, except in instances allowed under this Agreement. c. In any of the above case, in addition to the rights given hereunder, the SELLER shall have the right to immediately suspend or withhold the delivery of electricity to the BUYER.

Will the JTPBAC consider revision of the provision of Sec. 12.2.1(b) to: “Any financial obligation of Customer under any other agreement is not paid when due or within any applicable grace period, or is validly declared to be or otherwise becomes due and payable prior to its stated maturity as a result of any actual or potential default, howsoever described;” BUYER ceases or discontinues operations and/or distribution of electricity for a period of thirty (30) consecutive days.”

The JTPBAC will not consider the proposal.

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



<p>12.7.1 Upon termination of this Agreement due to the default of the BUYER, the BUYER shall make the payments set forth below. The provisions of this Section shall survive termination of this Agreement. (a) The BUYER shall pay the SELLER on the last day of the Termination Notice ("Termination Date") all unpaid fees payable up to and including the Termination Date, together with all other amounts then payable under this Agreement. For the avoidance of doubt, unless otherwise expressly provided herein, the Termination Date shall be the date that is thirty (30) days from receipt by the relevant Party of the Termination Notice delivered by the other Party pursuant to the provisions hereof.</p>	<p>Will the JTPBAC consider rephrasing the provision of 12.7.1 (a) to: "Upon termination of this Agreement under any circumstance, Customer shall immediately pay to Supplier all unpaid Electricity Fees and all other amounts then payable by Customer to Supplier under this Agreement."</p>	<p>The JTPBAC will not consider the proposal.</p>
<p>The PARTIES agree to submit to the exclusive jurisdiction of the ERC for the hearing and determination of any action or proceeding arising out of or in connection with this Agreement, to the exclusion of all other courts and tribunals.</p>	<p>Will the JTPBAC accept rephrasing the provision under Article 16 into: "Any Dispute that is not resolved between the Parties shall, unless the Dispute falls within the original and exclusive jurisdiction of the ERC, be submitted to the jurisdiction of the proper court to the exclusion of all other courts elsewhere situated, and the Parties agree that such court is an appropriate forum for the settlement of Disputes and waive any claim or assertion that such courts are an inconvenient forum."</p>	<p>The JTPBAC will not consider the proposal.</p>

PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



GENERAL CONCERNS

Section/Source Data	Description	Comments/Questions/Clarifications	JTPBAC Response
General	Certified True Copy of documents	<p>May we request for consideration for government documents that cannot be CTC-ed by the government bodies at the time of bid submission?</p> <p>If the document cannot be certified by the respective government entity, we hope that the CTC by Authorized representative will suffice, as we submitted a notarized doc for the certification of the copies (Annex D-3).</p> <p>We will also submit proof of our transaction with the government body that our request for the document has been made and is being processed.</p>	<p>For SEC documents and LGU permits and/or licenses, we will require a Certified True Copy issued by the concerned government agencies.</p> <p>For BIR, ERC and other government agencies that does not regularly issue Certified True Copies, we will accept a duly notarized Copy Certification thereof.</p>
General		Are provisions in the Power Supply Agreement (PSA), except for those clearly stated in the Bidding Documents, open for negotiations between the EC and the Winning Bidder?	Yes. We will allow minor amendments to the PSA, provided that it will not change the provisions of the TOR.

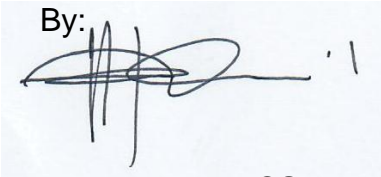
PANAY - GUIMARAS EC POWER CONSORTIUM, INC.



Kindly acknowledge receipt of this bid bulletin and email it upon receipt to tpbac.pgecpci@gmail.com

Thank you very much.

**THE JOINT THIRD PARTY BIDS AND AWARDS COMMITTEE
PANAY-GUIMARAS EC POWER CONSORTIUM, INC.**

By: 

HERMO PATACSI
Chairman, JTPBAC

ACKNOWLEDGMENT RECEIPT

This is to acknowledge the receipt of Supplemental Bid Bulletin No. 5 issued by the Joint Third-Party Bids and Awards Committee (JTPBAC) of Panay-Guimaras EC Power Consortium, Inc. (PGEPCCI).

Received: _____
Signature Over Printed Name
Position: _____
Company: _____
Date Received: _____