

REPUBLIC OF THE PHILIPPINES
ENERGY REGULATORY COMMISSION
SAN MIGUEL AVENUE, PASIG CITY

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DATE: 12-2-14

IN THE MATTER OF THE
APPLICATION FOR AUTHORITY
TO DEVELOP, OWN, AND
OPERATE DEDICATED POINT-
TO-POINT LIMITED FACILITIES
TO CONNECT TO ILOCOS NORTE
ELECTRIC COOPERATIVE, INC.,
WITH PRAYER FOR PROVISIONAL
AUTHORITY,

2014-118 MC

ERC CASE NO. _____

ENERGY DEVELOPMENT
CORPORATION,

Applicant.

x-----x

**APPLICATION
WITH MOTION FOR PROVISIONAL AUTHORITY**

Applicant ENERGY DEVELOPMENT CORPORATION (“EDC”),
by counsel and to this Honorable Commission, most respectfully states:

A. Introduction

1. EDC is a corporation duly organized and validly existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at One Corporate Centre, Julia Vargas Avenue corner Meralco Avenue, Ortigas Center, Pasig City. It may be served with orders and other legal processes through the undersigned counsel.
2. EDC is in the business of, among others, exploring, discovering, developing, producing, utilizing, processing, transporting, marketing, using, experimenting with, distributing, manufacturing, or otherwise dealing in, any substance which by itself or in combination with other substances, or after

processing or the application to it of technology, emanates, gives off, generates, or causes the emanation or generation of heat or power or energy.¹

3. In its 2013 Supply-Demand Outlook, the Department of Energy (“DOE”) recognized the growing demand for power in the Philippines. For the Luzon Grid, the DOE projected the energy demand “to increase at an average annual growth rate (AAGR) of 4.13 percent, from 7,969 MW in 2012 to 10,693 MW in 2020 and will increase further to 16,477 MW in 2030.”² Based on the 2013 Supply-Demand Outlook, the existing capacity of the Luzon Grid as of 2014 is 11,587 MW.³ The DOE projects that an additional capacity of 500 MW will be needed by 2016. This projection assumes that the committed plants for 2014 and 2015 are timely completed. Otherwise, additional capacity will be needed as early as 2015.

4. To help alleviate the increasing energy demand and in response to the Philippine Government’s call to accelerate the exploration and development of renewable energy resources under Republic Act No. 9513, or the Renewable Energy Act of 2008, EDC is developing the Burgos Solar Project (“BSP”), a solar project consisting of a 4.1 MW solar power plant facility and substation located in Barangay Saoit, Municipality of Burgos in Ilocos Norte, Philippines (the “Plant”).

5. In order to supply the energy generated by the BSP to the public, EDC intends to connect the Plant to the Ilocos Norte Electric Cooperative, Inc. (“INEC”), a distribution utility whose service area covers the whole of Ilocos Norte. For this purpose, EDC plans to construct a connection asset for its exclusive use, which shall connect the Plant directly to INEC’s distribution line facilities located in the Municipality of Burgos, Ilocos Norte. The proposed interconnection of the Plant to the INEC distribution line facilities consists of a 13.2 kV distribution line approximately 1.6 kilometers in length, composed of distribution cables, concrete poles, and other related facilities (the “Connection Asset”).

6. Section 2.9.2 of the Distribution Services and Open Access Rules (“DSOAR”), as amended in Resolution No. 2, Series of 2010, adopted by this Honorable Commission on 22 February 2010, states that:

A generation company may develop and own or operate dedicated point-to-point limited facilities provided, that such facilities are required only for the purpose of connecting to the distribution system,

¹A copy of EDC’s Certificate of Incorporation, Articles of Incorporation as amended, By-Laws as amended, and latest General Information Sheet are attached hereto as Annexes “A”, “B”, “C”, and “D”, respectively.

²A copy of the DOE’s 2013 Supply-Demand Outlook is attached hereto as Annex “E”. Please see Figure: Luzon Grid Supply-Demand Outlook, 2012-2030, p. 2.

³ *Id.*

and are used solely by the generating facility, subject to prior authorization by the ERC.

7. The above-quoted provision requires prior authorization by this Honorable Commission for the development, ownership, and operation of a dedicated point-to-point limited facilities for connecting to the distribution system. Hence, this Application.

B. Allegations in Support of Application

8. On 6 August 2014, EDC was granted a Solar Energy Service Contract⁴ by the Government of the Republic of the Philippines, represented by the DOE, under Certificate of Registration No. 2014-07-088⁵ (“Service Contract”). In the Service Contract, EDC was granted the exclusive right to explore, develop, and utilize the renewable energy resources, specifically solar energy, in the Municipality of Burgos, Ilocos Norte.

8.1 BSP will be developed in the contract area under the Service Contract and the solar power plant facility will cover an area of approximately 5.5 hectares in Barangay Saotit, located in the Municipality of Burgos, Ilocos Norte. It will consist of 13,500 photovoltaic solar panels and 70 inverters, with a total installed capacity of 4.1 MW.

9. Based on data provided by INEC, an assessment of the impact of the BSP on INEC’s distribution system was conducted by Engineer Anastacio R. Almario (doing business under the name and style of Almario’s Computer, Civil-Electrical Protection and Safety Technology), an independent third party commissioned by EDC.⁶ A Distribution Impact Study dated August 2014 (“DIS”) was subsequently prepared⁷ and as part of the scope of the DIS, the existing generation as well as new interconnection projects identified in the latest Distribution Development Programs and other service applications that could impact the study area were considered.⁸ INEC reviewed the DIS and found that the conclusions reached therein provided an acceptable assessment of the impact to its system of the Connection Asset. Since the conclusions in the DIS were acceptable to INEC and showed that the BSP was consistent with the latest Distribution Development Plan, INEC subsequently agreed to enter into a Connection Agreement with EDC on 14 October 2014.⁹

⁴ A copy of the Solar Energy Service Contract dated 6 August 2014 is attached hereto as Annex “F”.

⁵ A copy of Certificate of Registration No. 2014-07-088 is attached hereto as Annex “G”.

⁶ A copy of the business profile of Engineer Anastacio R. Almario (doing business under the name and style of Almario’s Computer, Civil-Electrical Protection and Safety Technology) is attached hereto as Annex “H”.

⁷ A copy of the DIS dated August 2014 is attached hereto as Annex “I”.

⁸ Please see Section 1.1: Scope of DIS, pp. 1-2.

⁹ A copy of the Connection Agreement between EDC and INEC dated 14 October 2014 is attached hereto as Annex “J”.

10. The Sangguniang Barangay of Saoit has endorsed the BSP and has passed a resolution of support for the project.¹⁰ The Sangguniang Bayan of Burgos has likewise endorsed the BSP and passed a resolution of support.¹¹

11. On 3 July 2014, EDC obtained Certificate of Non-Coverage No. CNC-RO1-1407-0005 for the BSP with a capacity of less than 5 MW from the Department of Environment and Natural Resources, which covers the entire BSP.¹² On 26 September 2014, EDC also obtained a Certificate of Non-Overlap with Control No. RI-INPO-CNO-2014-09-35 from the National Commission on Indigenous Peoples.¹³ EDC is in the process of obtaining the permits and certificates necessary for the construction and development of the BSP and will timely apply for the permits and certificates necessary for its operation, including the Certificate of Compliance.¹⁴

12. As previously stated, on 14 October 2014, EDC and INEC entered into a Connection Agreement for the connection of EDC's Connection Asset to the INEC distribution line facilities located in the Municipality of Burgos, Ilocos Norte.

THE BSP CONNECTION ASSET IS FINANCIALLY FEASIBLE, AND EDC HAS THE FINANCIAL CAPABILITY TO DEVELOP, OPERATE, AND MAINTAIN THE CONNECTION ASSET

13. The Connection Asset is financially feasible. The estimated cost of the construction and development of the Connection Asset is 17.5 Million Pesos.¹⁵

14. The BSP, including the Connection Asset, will be funded through cash. EDC's audited financial statements for the year 2013 will show that EDC

¹⁰ A copy of Barangay Resolution No. 07-14, containing the Endorsement of the Sangguniang Barangay of Barangay Saoit, is attached hereto as Annex "K".

¹¹ A copy of Municipal Resolution No. 2014-049, containing the Endorsement of the Sangguniang Bayan of the Municipality of Burgos, is attached hereto as Annex "L".

¹² A copy of Certificate of Non-Coverage No. CNC-RO1-1407-0005 dated 3 July 2014 is attached hereto as Annex "M".

¹³ A copy of Certificate of Non-Overlap with Control No. RI-INPO-CNO-2014-09-35 dated 26 September 2014 is attached hereto as Annex "N".

¹⁴ A copy of the affidavit of Mr. Eduardo S. Gonzalez II, Project Manager of the BSP, stating that the necessary applications for approval and endorsement of the BSP will be filed with the relevant government authorities, is attached hereto as Annex "O".

¹⁵ A copy of the Proposed 13.2kV Sub-transmission Line from Burgos Solar Farm to INEC Material Estimates dated 13 October 2014 is attached hereto as Annex "P".

has sufficient funds on hand to undertake the construction, development, operation, and maintenance of the entire project.¹⁶

15. Since the BSP is intended to avail of the Feed-In Tariff (“FIT”) mechanism, any impact of the Connection Asset will be part of the impact of the FIT system once implemented, considering that the FIT rates approved by the Honorable Commission already imputed and capped the cost of connection to the Grid.

16. With respect to the Net Present Value and five (5) year projected financial ratios, these do not apply to the Connection Asset only. These apply to the BSP as a comprehensive project, which is expected to be in operation by March 2015.¹⁷

*THE BSP CONNECTION ASSET IS
TECHNICALLY FEASIBLE, AND
EDC HAS THE TECHNICAL
CAPABILITY TO DEVELOP,
OPERATE, AND MAINTAIN THE
CONNECTION ASSET*

17. The DIS and the Facilities Study¹⁸ both show that the Connection Asset is technically feasible.

18. EDC has likewise undertaken to ensure that the Connection Asset of the BSP shall be compliant and consistent with the standards of the Philippine Distribution Code.¹⁹

19. EDC, by itself or through its affiliates, has the technical capability to develop, construct, operate, and maintain the Connection Asset.

19.1 EDC is the largest producer of geothermal energy in the Philippines and the third largest in the world. It has expertise spanning the entire geothermal energy value chain, including geothermal energy exploration and development, reservoir engineering and management, engineering design and construction, environmental management, and energy research and development.

¹⁶ A copy of EDC’s 2013 Audited Financial Statements is attached hereto as Annex “Q”.

¹⁷ A copy of the latest Five-Year Financial Projections for the BSP is attached hereto as Annex “R”.

¹⁸ A copy of the Facilities Study dated 15 September 2014 is attached hereto as Annex “S”.

¹⁹ A copy of the Affidavit of Compliance with the Philippine Distribution Code executed by EDC’s Executive Vice President is attached hereto as Annex “T”.

19.2 Since 1996, EDC, through its Transmission and Dispatch personnel, has been operating the connection assets of the Unified Leyte (“UL”) Power System.

19.2.1 The UL Power System is the electrical system that interconnects the UL geothermal power plants to the Luzon and Visayas grids. The system makes it possible to transmit bulk electrical power from Leyte to the commercial and industrial load centers in the islands of Luzon and Cebu.

19.2.2 The UL Power System is composed of seven switchyards interconnected by high voltage transmission lines and directed by a complex control system.

19.3 In recent years, EDC has expanded its portfolio of renewable energy sources by tapping into hydro power and wind energy.

19.4 EDC has experience, resources, and technical expertise as a power generation company to undertake its work commitments specified in the Work Program of the Service Contract for the pre-development stage of the BSP.

19.5 The operations and maintenance of the Connection Asset is planned to be carried out by three (3) to five (5) personnel belonging to the Operations and Engineering Group (“OEG”) of EDC. These personnel will be under the supervision and direction of Mr. Dominador M. Camu, as the Senior Vice President of the OEG. The personnel can all be contacted through EDC at its principal office address.

*EDC SHOULD BE GRANTED
AUTHORITY TO DEVELOP, OWN
AND OPERATE THE
CONNECTION ASSETS*

20. Pursuant to Section 4.2 of ERC Resolution No. 16, Series of 2011, EDC hereby applies with the Honorable Commission for authority to develop, own, and operate the Connection Asset.

20.1 EDC's Connection Asset is required only to connect the BSP to the distribution system.

20.1.1 EDC carefully studied two options for the Connection Asset. The first option, which was eventually chosen by EDC, was to connect to the distribution line facilities of INEC 1.6 kilometers away. The second option was to connect to the high voltage substation of the Burgos Wind Project 2 kilometers away from the Plant.

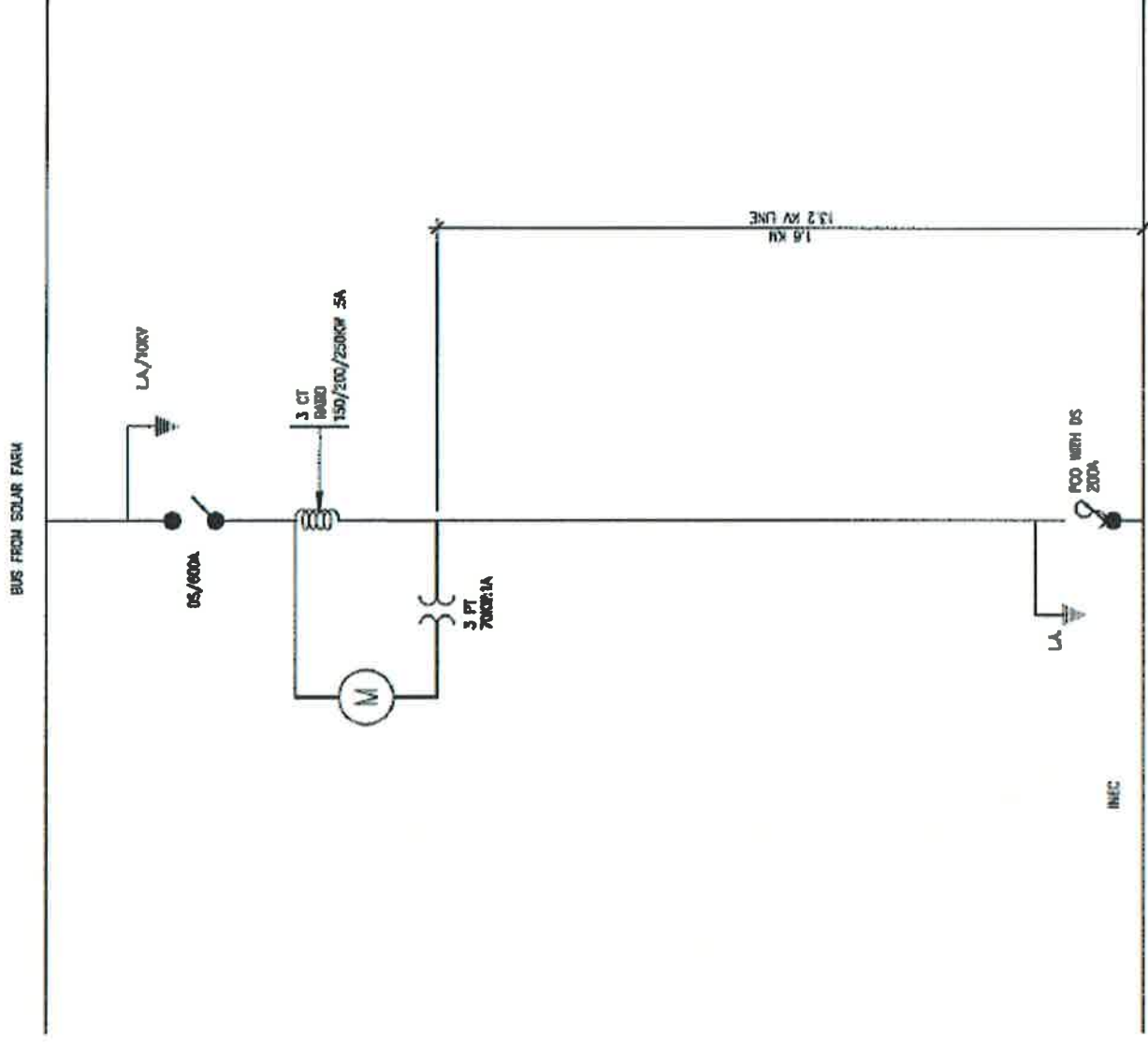
20.1.2 The 1.6 kilometer distribution line was determined to be the shortest, most economical, and viable option to connect the Plant to INEC's distribution line facilities and to supply the energy generated by the BSP to the public.

20.2 The Connection Asset will be used solely by the BSP.

20.3 If the Connection Asset is taken out of the distribution system, it will not affect the said distribution system.

21. The single-line diagram of the proposed interconnection shows that the Connection Asset will be exclusively used by the BSP and is not designed and configured to serve end-users.²⁰

²⁰ A copy of the Single Line Diagram is attached hereto as Annex 'U'.



SINGLE LINE DIAGRAM

Motion for Provisional Authority and Allegations in Support of Prayer for Provisional Authority

22. Rule 14 of the Honorable Commission's Rules of Practice and Procedure authorizes the issuance of a provisional authority or an interim relief prior to a final decision, provided that the facts and circumstances warrant the issuance of the same.
23. EDC expects to complete the construction of the Connection Asset by the first week of March 2015. EDC will be implementing an aggressive project schedule for the development and construction of the BSP

to ensure that additional capacity for the Luzon Grid will be available by 15 March 2015.²¹

24. Given the immediate need for additional capacity by 2015 as projected by the DOE, the completion of the BSP within the projected timeframe is critical to ensure that additional capacity will be available for the Luzon Grid in a timely manner. EDC respectfully prays that the Honorable Commission provisionally authorize the development, ownership, and operation of the Connection Asset considering that the impending power crisis projected by the DOE warrants the issuance of a Provisional Authority.

25. It is in such context that EDC respectfully prays that a provisional authority be immediately issued for the development and construction of the Connection Asset. EDC likewise prays that this Honorable Commission authorize EDC to proceed with the construction of the Connection Asset pending the issuance of the provisional authority.

26. In support of the foregoing allegations, copies of the judicial affidavits of Messrs. Eduardo S. Gonzalez II and Martin Jude V. Lacambra are attached as Annexes “W” and “X” hereof.

OTHER RELATED DOCUMENTS

27. In further support of the instant application, Applicants most respectfully submit to the Honorable Commission, the following documents:

ANNEX	NATURE OF DOCUMENTS
A	Certificate of Incorporation
B	Articles of Incorporation, as amended
C	By-Laws, as amended
D	Latest General Information Sheet
E	DOE’s 2013 Supply-Demand Outlook.

²¹ A copy of the Summary Schedule is attached hereto as Annex “V”.

F	Solar Energy Service Contract, dated 6 August 2014
G	Certificate of Registration No. 2014-07-088
H	Business profile of Engineer Anastacio R. Almario (doing business under the name and style of Almario's Computer, Civil-Electrical Protection and Safety Technology)
I	Distribution Impact Study, dated August 2014
J	Connection Agreement between EDC and INEC, dated 14 October 2014
K	Barangay Resolution No. 07-14 containing the Endorsement of the Sangguniang Barangay of Barangay Saoit
L	Municipal Resolution no. 2014-049 containing the Endorsement on the Sangguniang Bayan of the Municipality of Burgos
M	Certificate of Non-Coverage No. CNC-RO1-1407-0005, dated 3 July 2014
N	Certificate of Non-Overlap with Control No. RI-INPO-CNO-2014-09-35, dated 26 September 2014
O	Affidavit of Mr. Eduardo S. Gonzalez II, Project Manager of the BSP, stating that the necessary applications for approval and endorsement of the BSPP will be filed with the relevant government authorities
P	Proposed 13.2kV Sub-transmission Line from Burgos Solar Farm to INEC Material Estimates
Q	2013 Audited Financial Statements of EDC
R	Latest Five-Year Financial Projections for the BSP

S	Facilities Study, dated 15 September 2014
T	Affidavit of Compliance with the Philippine Distribution Code executed by EDC's Executive Vice President
U	Single Line Diagram
V	Summary Schedule
W	Judicial Affidavit of Eduardo S. Gonzalez II
X	Judicial Affidavit of Martin Jude V. Lacambra

PRAYER

WHEREFORE, Applicant EDC most respectfully prays that this Honorable Commission:

1. issue an order provisionally authorizing EDC to develop, own, and operate the Connection Asset for the Burgos Solar Project; and
2. after due notice and hearing, issue an order making the provisional authority a permanent authority to develop, own and operate the Connection Asset.

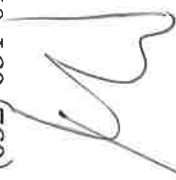
Other reliefs as may be appropriate under the circumstances are likewise prayed for.

Pasig City, 25 November 2014.

**QUIASON MAKALINTAL BAROT
TORRES IBARRA & SISON**

Counsel for Energy Development Corporation
21st Floor, Robinsons-Equitable Tower
4 ADB Avenue corner Poveda Street
1605 Ortigas Center, Pasig City
Tel. No.: (632) 631-09-81 to 85

By:



MANUEL L.M. TORRES

ROLL OF ATTORNEYS NO. 25410
MCLE COMPLIANCE NO. IV-0005289; 3/26/12
PTR NO. 9444058; 1/8/14
PASIG CITY
IBP NO. 947488; 1/2/14
QUEZON CITY



MIGUEL K. MATHAY

ROLL OF ATTORNEYS NO. 43982
MCLE COMPLIANCE NO. IV-0013816; 4/5/13
PTR NO. 9444063; 1/8/14
PASIG CITY
IBP NO. 947489; 1/2/14
RSM

VERIFICATION AND CERTIFICATION

I, **EDUARDO S. GONZALEZ II**, of legal age, Filipino, with office address at 38th Floor One Corporate Centre, Julia Vargas Avenue corner Meralco Avenue, Ortigas Center, Pasig City, after having been duly sworn in accordance with law, hereby depose and state that:

1. I am an Assistant Vice President of Energy Development Corporation, the Applicant in the above-entitled case, and its duly authorized representative as evidenced by the Secretary's Certificate dated 20 October 2014;
2. I have caused the preparation of the foregoing Application with Motion for Provisional Authority on behalf of the Applicant, and I certify that I have read the same and understood the contents thereof, and that all the allegations therein are true and correct based on the record and documents at hand;
3. I hereby certify that I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, the divisions thereof, or any other tribunal or agency; and that, to the best of my knowledge, no other such action, claim or proceeding is pending before the Supreme Court, the Court of Appeals, the divisions thereof, or any other tribunal or agency.
4. Should I hereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, the divisions thereof, or any other tribunal or agency, I undertake to promptly inform this Honorable Commission and the aforesaid courts and other tribunal or agency within five (5) days therefrom.


EDUARDO S. GONZALEZ II
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of November 2014 at Pasig City, affiant exhibiting to me his Driver's License with No. N01-89-087008, valid until 19 January 2016.

Doc. No. 233;
Page No. 48;
Book No. 12;
Series of 2014.


BENEDITA TUGONON
NOTARY PUBLIC
FOR AND IN THE CITY OF PASIG, PASIG AND
SAN JUAN AND IN THE MUNICIPALITY OF PATEROS
UNTIL DECEMBER 31, 2014
PTR NO. 944952; 1/8/16; PASIG CITY
IBP NO. 97489; 12/14; PSM
ROLL NO. 45288; PRESENTMENT NO. 154 (2010-2014)
21/F. Meralco Education Tower
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1605 Ortigas Center, Pasig, City