

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

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IN THE MATTER OF THE
APPLICATION FOR THE
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,



ERC CASE NO. 2014-118 MC

ENERGY DEVELOPMENT
CORPORATION, Applicant.
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DOCS
Date: JAN 29 2015
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ORDER

On December 1, 2014, the Energy Development Corporation (EDC) filed an application for authority to develop, own and operate dedicated point-to-point limited facilities to connect to the transmission system of the Ilocos Norte Electric Cooperative, Inc., (INEC), with prayer for provisional authority.

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

1. It 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. It 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;

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 projects 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.* Based on the 2013 Supply-Demand Outlook, the existing capacity of the Luzon Grid as of 2014 is 11,587 MW. 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, it 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, it 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, it 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 February 22, 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, 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;
8. On August 6, 2014, it was granted a Solar Energy Service Contract by the DOE, under Certificate of Registration No. 2014-07-088 (Service Contract). In the Service Contract, it 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 Saoit, 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. A Distribution Impact Study dated August 2014 (DIS) was subsequently prepared 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. 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 October 14, 2014;

10. The Sangguniang Barangay of Saoit has endorsed the BSP and has passed a resolution of support for the project. The Sangguniang Bayan of Burgos has likewise endorsed the BSP and passed a resolution of support;
11. On July 3, 2014, it 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 (DENR), which covers the entire BSP. On September 26, 2014, it also obtained a Certificate of Non-Overlap with Control No. RI-INPO-CNO-2014-09-35 from the National Commission on Indigenous Peoples. It 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;
12. As previously stated, on October 14, 2014, EDC and INEC entered into a Connection Agreement for the connection of its 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 PhP17.5 Million;
14. The BSP, including the Connection Asset, will be funded through cash. Its audited financial statements for the year 2013 will show that it has sufficient funds on hand to undertake the construction, development, operation, and maintenance of the entire project;
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 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;

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

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

18. It 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 (PDC);
19. EDC, by itself or through its affiliates, has the technical capability to develop, construct, operate, and maintain the Connection Asset.
 - 19.1 It 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.
 - 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, it has expanded its portfolio of renewable energy sources by tapping into hydro power and wind energy.

19.4 It 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 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, it applies with the Commission for authority to develop, own, and operate the Connection Asset.

20.1 Its Connection Asset is required only to connect the BSP to the distribution system.

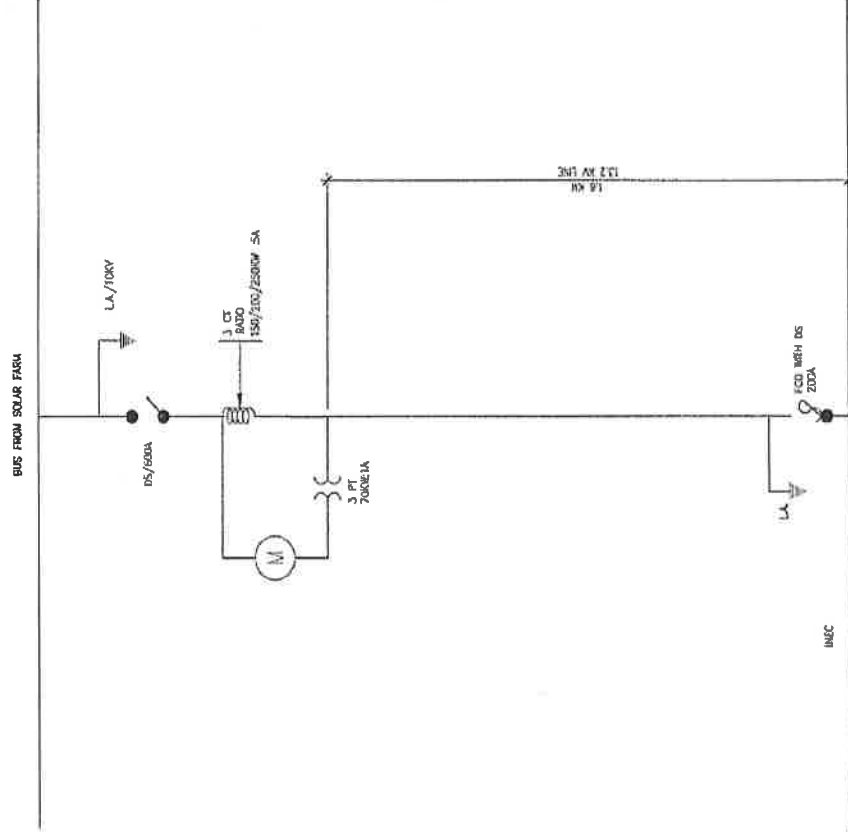
20.1.1 It carefully studied two options for the Connection Asset. The first option, which was eventually chosen by it, was to connect to the distribution line facilities of INEC 1.6 kilometers away. The second option was to connect to the high voltage substation of the Burgos Wind Project 2 kilometers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



SINGLE LINE DIAGRAM

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

22. Rule 14 of the 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. It expects to complete the construction of the Connection Asset by the first week of March 2015. It 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 March 15, 2015;
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. It prays that the 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 it respectfully prays that a provisional authority be immediately issued for the development and construction of the Connection Asset. It likewise prays that the Commission authorize it 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 to the instant application as Annexes "W" and "X", respectively;
27. In further support of the instant application, it submits to the 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.
F	Solar Energy Service Contract, dated August 6, 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 October 14, 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 July 3, 2014
N	Certificate of Non-Overlap with Control No. RI-INPO-CNO-2014-09-35, dated September 26, 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 13.2 kV 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 September 15, 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

It prays that the Commission:

- a. Issue an order provisionally authorizing it to develop, own, and operate the Connection Asset for the Burgos Solar Project; and
- b. After due notice and hearing, issue an order making the provisional authority a permanent authority to develop, own and operate the Connection Asset.

On January 5, 2015, the Commission issued an Order and a Notice of Public Hearing setting the case for hearing on January 29, 2015.

On January 21, 2015, EDC filed its "*Urgent Motion to Reset Hearing*" praying that the hearing scheduled on January 29, 2015 be reset to another date.

Finding the said motion meritorious, the same is hereby **GRANTED.**

Accordingly, the application is hereby set anew for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **February 12, 2015 (Thursday) at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

EDC is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, with the date of the publication to be made not later than ten (10) days before the scheduled date of initial hearing. It is also directed to inform the consumers within its franchise area, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General

(OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of the City of Pasig and Municipality of Burgos, Ilocos Norte for the appropriate posting thereof on their respective bulletin boards.

EDC is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, EDC must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the Mayors and or their duly authorized representatives, bearing the seals of their offices, and the affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

EDC and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- a) A summary of admitted facts and proposed stipulation of facts;
- b) The issues to be tried or resolved;
- c) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of EDC to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, EDC must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, January 26, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson *per 4*


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Copy Furnished:

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One Corporate Center, Julia Vargas corner
MERALCO Avenue, Ortigas Center, Pasig City
- 3. ILOCOS NORTE ELECTRIC COOPERATIVE INC. (INEC)**
Brgy. Suyo, Dingras, Ilocos Norte
- 4. The Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
- 5. The Commission on Audit**
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
- 6. The Senate Committee on Energy**
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
- 7. The House Committee on Energy**
House of Representatives
Batasan Hills, Quezon City, Metro Manila
- 8. Philippine Chamber of Commerce and Industry (PCCI)**
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
- 9. Office of the City Mayor**
Batac City, Ilocos Norte
- 10. Office of the City Mayor**
Laoag City, Ilocos Norte

11. **Office of the Municipal Mayor**
Adams, Ilocos Norte
12. **Office of the Municipal Mayor**
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Banna, Ilocos Norte
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Dumalneg, Ilocos Norte
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Marcos, Ilocos Norte
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Pagudpud, Ilocos Norte
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Paoay, Ilocos Norte
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Pasuquin, Ilocos Norte
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Sarrat, Ilocos Norte

30. Office of the Municipal Mayor
Solsona, Ilocos Norte

31. Office of the Municipal Mayor
Vintar, Ilocos Norte