

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP,
OWN, AND OPERATE
DEDICATED POINT- TO-
POINT LIMITED FACILITIES
TO CONNECT THE
MINDANAO 3 (M3 BINARY)
GEOTHERMAL POWER
PROJECT TO THE
MINDANAO GRID, WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC Case No. 2021-021 MC

**ENERGY DEVELOPMENT
CORPORATION (EDC),**
Applicant.

Promulgated:
July 13, 2021

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 09 June 2021, Energy Development Corporation (EDC) filed an *Application* dated 20 April 2021, seeking the Commission's approval of its authority to develop, own, and operate dedicated point-to-point limited facilities to connect the Mindanao 3 (M3 Binary) Geothermal Power Project to the Mindanao Grid, with prayer for provisional authority.

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

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, generating, storing, transmitting, and/or distributing energy, including electricity and ancillary power derived from any and all forms, types, and kinds of renewable and other energy sources for lighting, power and other purposes.¹
3. In its Power Development Plan 2016-2040, the Department of Energy (“DOE”) recognized the growing demand for power in the Philippines. Mindanao will need a total of 10,200 MW of additional capacity from 2016 to 2040. The additional capacity for Mindanao is divided into 6,300 MW of baseload capacity, 3,200 MW of mid-merit capacity and 700 MW of peaking capacity. With an annual average growth rate of 7.6% for the demand forecast and with the consideration to the 25% peak demand as reserve requirement, Mindanao will need additional capacity starting the year 2016.²
4. To help address 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 Mindanao 3 (M3 Binary) Geothermal Power Project (“M3 Binary” or the “Project”).
5. In order to convey the electricity generated by M3 Binary to the consumers, EDC intends to connect the Project to the Mindanao Grid. For this purpose, EDC plans to construct an approximately one-kilometer 69-kilovolt (69-kV) transmission line. It will also include other related facilities, and a switchyard (the “Connection Asset”). This Connection Asset is for exclusive use, which shall connect the Plant directly to the NGCP Kidapawan Substation.
6. Section 9 of Republic Act (“RA”) 9136 or the Electric Power Industry Reform Act (“EPIRA”) of 2001 expressly provides that:

“A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the Transmission Development Plant (“TDP”): *Provided*, That such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: *Provided, further*, That in the event that such assets are required for competitive purposes, ownership of the same shall be transferred to the TRANSCO at a fair market price: *Provided, finally*, That in the case of disagreement on the

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

² A print-out of the relevant section in the Department of Energy’s (DOE) Power Development Plan 2016-2040 is attached hereto as Annex “D”.

fair market price, the ERC shall determine the fair market value of the asset.”

B. Allegations in Support of Application

7. On October 23, 2009, EDC was granted a Certificate of Registration³ by the DOE, with Registration No. GRESC 2009-10-004. This Certificate recognizes EDC as a Renewable Energy (“RE”) developer of the Geothermal Energy Resources located in Mt. Apo, Kidapawan City, North Cotabato.
8. On May 14, 2012, EDC submitted a request to the DOE to endorse and issue to the National Grid Corporation of the Philippines (“NGCP”) a clearance for the conduct of a System Impact Study (“SIS”) for possible addition of geothermal power plants with a maximum capacity of 50 MW. In response to this request, the DOE, in a letter dated June 5, 2012, granted EDC clearance to start the negotiation with the NGCP for the conduct of said SIS.⁴ The Project’s rated capacity was eventually reduced to 25 MW in 2020, and finally 3.6 MW in 2021, all in order to ensure the sustainability of the resource within the Mt. Apo geothermal service contract area. The change in Project capacity was presented to DOE.⁵ EDC is in the process of informing the NGCP about the change in capacity to 3.6 MW.
9. In 2020, an SIS for the 25 MW version of the Project was conducted by NGCP. The SIS Final Report was released by NGCP to EDC on February 10, 2020 and found that it is technically feasible to connect the Project to the Mindanao Grid.⁶
10. In response to the conducted 25 MW SIS, EDC prepared a 25 MW Facility Study (“FS”) in March 2020 which declares, among others, that based on preliminary analysis, the connection of the Project to the Mindanao Grid will not introduce modifications to the existing facilities of the NGCP, and that the Project’s equipment specifications are in accordance with the 2016 Philippine Grid Code (“PGC”), the 2006 Open Access Transmission Service (“OATS”) Rules, and the NGCP standards⁷. The FS is currently under review by the NGCP. With the change in the Project’s capacity, EDC has prepared a 3.6 MW Facility Study subject for assessment and approval of the NGCP.⁸
11. The M3 Binary Project is covered by the existing Environmental Compliance Certificate for the Mt. Apo Geothermal Plant with

³ A copy of the DOE Certificate of Registration No. GRESC 2009-10-004 issued to Energy Development Corporation. on 23 October 2009 is attached hereto as Annex “E”.

⁴ A copy of DOE’s letter to EDC dated June 5, 2012 granting clearance to undertake System Impact Study is attached hereto as Annex “F”.

⁵ A copy of EDC’s letter to the DOE notifying them of EDC’s intention to inform NGCP of the change in the Project’s capacity from 25MW to 3.6MW is attached hereto as Annex “G”

⁶ A copy of the final SIS report is attached hereto as Annex “H”

⁷ A copy of the Facility Study prepared for the 25 MW version of the M3 Binary Project is attached hereto as Annex “I”.

⁸ A copy of the Facility Study prepared for the 3.6 MW version of the M3 Binary Project is attached hereto as Annex “J”.

ECC No. 0703-009-4021. On 19 February 2021, the Department of Environmental and Natural Resources - Environmental Management Bureau (“DENR-EMB”) issued a minor amendment on the said ECC to incorporate the necessary environmental controls related to the Project.^{9 10}

12. EDC is in the process of obtaining the permits and licenses needed for the construction and development of the Project and will ensure timely application for such authorizations necessary for its operation, including the Certificate of Compliance (“COC”) from this Honorable Commission.¹¹

*THE MINDANAO 3 (M3 BINARY)
GEOTHERMAL POWER PROJECT
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 cost for constructing and developing the Connection Asset is estimated at Php 244.0 Million and Php 700,000.00.¹² The Project, including the Connection Asset, will be funded through cash.
14. EDC’s Audited Financial Statements for the Years 2018 and 2019 will show that EDC has sufficient funds on hand to undertake the construction, development, operation, and maintenance of the entire Project.¹³ With respect to the net present value and five- (5) year projected financial ratios, these do not only apply to the Connection Asset; rather, these apply to the Mindanao 3 (M3 Binary) Geothermal Power Project as a comprehensive project, which is expected to be in operation within the first quarter of 2022.¹⁴
15. EDC carefully studied two options for the Connection Project: a) Option A, which will entail the construction of about 1.0 kilometer of new 69-kV transmission line and towers then transitioning to an underground line running parallel to the south-east face of the switchyard fence. It will continue its underground route up to the designated NGCP tapping point; and b) Option B, where the underground cable will enter the west corner of the NGCP Switchyard and will run parallel to the existing switchyard duct

⁹ A copy of the Project’s Environmental Compliance Certificate (ECC) with No. ECC-0703-009-4021 is attached hereto as Annex “K”.

¹⁰ A copy of the Project’s ECC amendment is attached hereto as Annex “L”.

¹¹ A copy of the affidavit of Marvin Bailon, Overall Project Lead of the Mindanao 3 (M3 Binary) Geothermal Power Project, is attached hereto as Annex “M”.

¹² A copy of the Estimated Cost of Construction and Development of Connection Asset is attached hereto as Annex “N”.

¹³ A copy of EDC’s Audited Financial Statement for the Years ended 2018 and 2019 is attached hereto as Annexes “O” and “O-1”.

¹⁴ A copy of the latest Five-Year Financial Projections for the Mindanao 3 Geothermal Power Plant Project is attached hereto as Annex “P”.

banks up to the designated tapping point. Please refer to Annex U for a more detailed comparison of the two options.

EDC chose Option A considering that it shows the least resistance in terms of installation, safety, and impact in operations. This is seen to be the more economical and viable option to convey the electric power generated by the Project to the public whilst ensuring the safe operation of the assets.

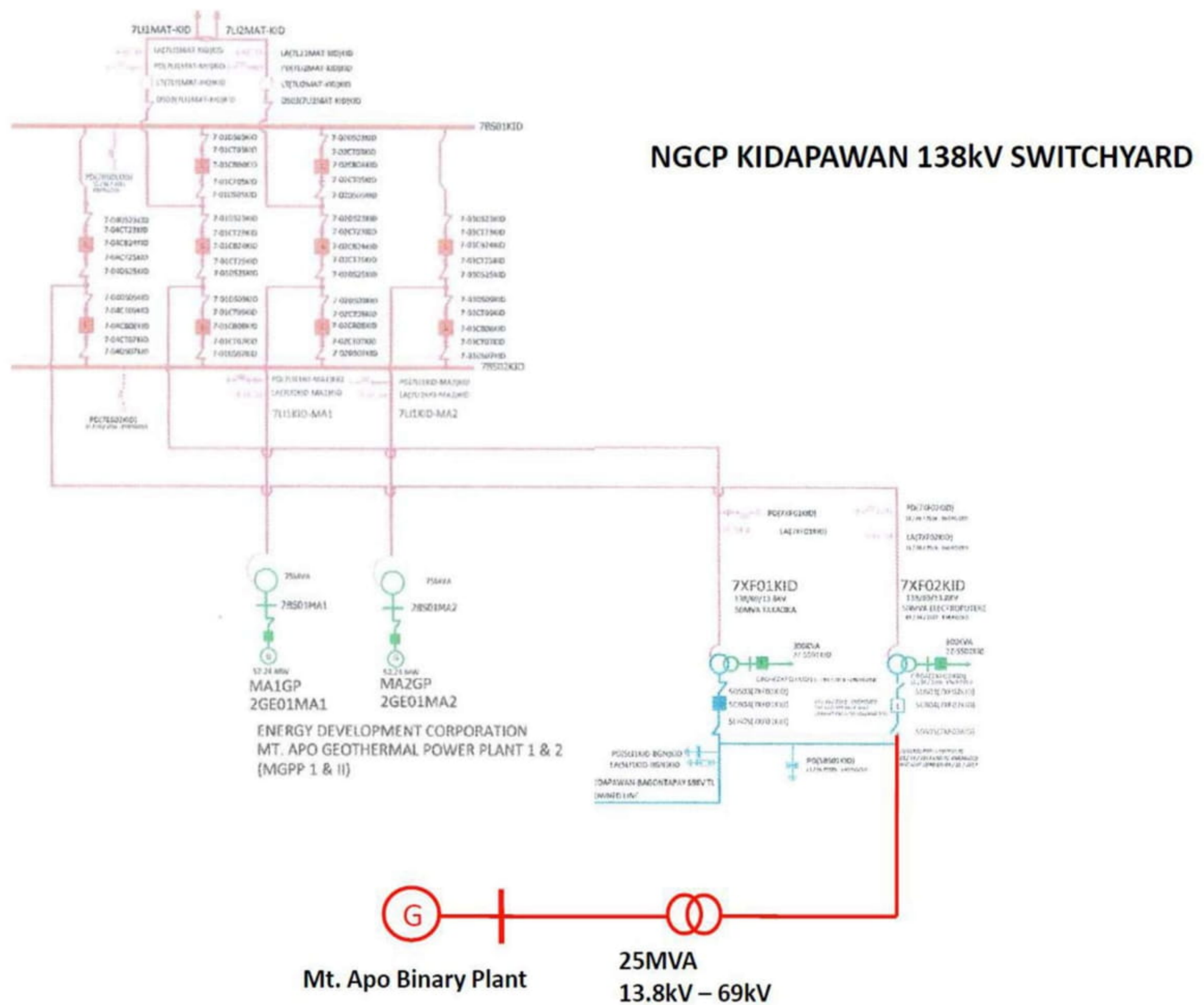
*THE MINDANAO 3 (M3 BINARY)
GEOTHERMAL POWER PROJECT
CONNECTION ASSET IS
TECHNICALLY FEASIBLE, AND
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CONNECTION ASSET*

16. The SIS shows that the Connection Asset is technically feasible. Likewise, EDC has the technical capability to develop, construct, operate, and maintain the Connection Asset.
 - 16.1. 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, power plant operation, environmental management, and power marketing.
 - 16.2. Since the start of commercial operations of the Mt. Apo Geothermal Power Plants in 1997, EDC personnel have been operating its connection assets and its related facilities.
 - 16.3. In recent years, EDC has expanded its portfolio of renewable energy projects by venturing into hydro, wind, and solar energy development and operations.
 - 16.4. EDC has the experience, technical expertise, and resources necessary to undertake the commitments specified in the work programs of their service contracts with the DOE, including the development and operation of the M3 Binary Project.
 - 16.5. The operation and maintenance of the Connection Asset is planned to be carried out by personnel belonging to the Facilities Operations and Maintenance (“FOM”) Group of EDC. These personnel will be under the supervision and direction of Engr. Liberato S. Virata as the Head of EDC FOM, and Engr. Romy Kee as the Head of the Mt. Apo Geothermal Facility. The personnel can all be contacted through EDC at its principal office address.

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

17. Pursuant to Section 9 of the EPIRA, EDC hereby applies with the Honorable Commission for authority to develop, own, and operate the Connection Asset.
 - 17.1. EDCs Connection Asset is required only to connect the Mindanao 3 (M3 Binary) Geothermal Power Project to the Mindanao Grid.
 - 17.2. The Connection Asset will be used solely by the Mindanao 3 (M3 Binary) Geothermal Power Project.
 - 17.3. If the Connection Asset is taken out of the transmission system, it will not affect the Mindanao Grid.
18. The single-line diagram of the proposed interconnection shows that the Connection Asset will be exclusively used by the Mindanao 3 (M3 Binary) Geothermal Power Project¹⁵.



19. EDC endeavors that the Connection Asset will comply with the existing rules and regulations, particularly the Philippine Grid

¹⁵ A copy of the Single Line Diagram is attached hereto as Annex “Q”.

Code, and undertakes to comply with all such rules and regulations.¹⁶

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

20. 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.
21. EDC expects to complete the construction of the Connection Asset within the fourth quarter of 2021. The Company intends to have the Connection Asset in place and ready for the commissioning of the Mindanao 3 (M3 Binary) Geothermal Power Project, which is scheduled to happen within the first quarter of 2022.¹⁷
22. Given the urgent need for additional capacity by 2022 and onwards as projected by the DOE (as noted by the DOE's issuance of a Certificate of Energy Project of National Significance or CEPNS in favor of the Project), the completion of the Mindanao 3 (M3 Binary) Geothermal Power Project within the projected time frame is critical to ensure that additional capacity will be available for the Mindanao Grid in a timely manner.¹⁸ EDC respectfully prays that the Honorable Commission provisionally authorize the development, ownership, and operation of the Connection Asset considering that the power demand projected by the DOE warrants the issuance of a Provisional Authority.
23. 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.

OTHER RELATED DOCUMENTS

26. In further support of the instant application, the Applicant most respectfully submits to the Honorable Commission, the following documents:

Annex	Document
A	Certificate of Incorporation with Original Articles of Incorporation
A-1	By-Laws
B	Amended Articles of Incorporation
B-1	Amended By-Laws
C	Latest General Information Sheet
D	Excerpt from DOE Power Development Plan 2016-2040 & DOE Power Development Plan 2016-2040
E	DOE Certificate of Registration No. GRESC 2009-10-004
F	DOE's letter to EDC granting clearance to undertake System Impact Study dated June 5, 2012

¹⁶ An Undertaking to Comply with the Philippine Grid Code is attached hereto as Annex "R".

¹⁷ A copy of the Project Schedule and P2P Relevant Dates is attached hereto as Annex "S".

¹⁸ A copy of the Project's Certificate of Energy Project of National Significance is attached hereto as Annex "T".

G	EDC's letter to the DOE indicating the change in the Project's capacity from 25 MW to 3.6 MW
H	SIS Final Report dated February 10, 2020
I	Facility Study for the 25 MW version of the Mindanao 3 (M3 Binary) Geothermal Power Project
J	Facility Study for the 3.6 MW version of the Mindanao 3 (M3 Binary) Geothermal Power Project
K	Environmental Compliance Certificate No. ECC-0703-009-4021
L	Mindanao 3 (M3 Binary) Geothermal Power Project's ECC Amendment dated February 19, 2021
M	Affidavit of Marvin S. Bailon, Overall Project Lead, stating that the necessary applications for approval and endorsement of Mindanao 3 Geothermal Power Project will be filed with the relevant government authorities
N	Estimated Cost of Construction and Development of Connection Asset
O and O-1	Audited Financial Statement for years ended 2019 and 2018
P	Five-Year Financial Projections for the Mindanao 3 (M3 Binary) Geothermal Power Project
Q	Single Line Diagram
R	Undertaking to Comply with the Philippine Grid Code
S	Project Schedule & Relevant Dates
T	Certificate of Energy Project of National Significance (CEPNS)
U	Narrative Document of the Project's Transmission Line Options
V	Project Description
W	Proof of Consistency with the Transmission Development Plan
X	Mindanao 3 (M3 Binary) Geothermal Power Project Conceptual Engineering Design and Drawings
Y	Connection Agreement of the Project with NGCP
Z	Board Resolution approving the Project
AA	Proof of Technical Capabilities (CVs of EDC Design Personnel and List of O&M team on-site)
BB	Company Profile of Contractor

Motion for Confidential Treatment of Information and Allegations in Support of the Prayer for Confidential Treatment of Information

27. The Honorable Commission may, upon request of a party and determining that the disclosure of information requested to be treated as confidential information is justified, treat certain information submitted to it as confidential. Applicant is bound by confidentiality agreement prohibiting the disclosure of any business, technical, marketing, operational, organizational, financial or other information and trade secrets and other confidential documents, papers and information.
28. Accordingly, the Applicant respectfully requests before the Honorable Commission that **Annexes "N", "P" and "AA"**, attached hereto not be disclosed and be treated as confidential in accordance with Rule 4 of the ERC Rules. **Annexes "N", "P" and "AA"** attached hereto contain confidential information critical to the business operation of the

Applicant, including trade secrets and business calculations, assumptions and projections, as well as personal employee information which may be covered by the Data Privacy Act.

PRAYER

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

1. Declare Annexes “N”, “P” and “AA” as confidential and containing confidential information;
2. Issue an order provisionally authorizing EDC to develop, own, and operate the Connection Asset for the Mindanao 3 (M3 Binary) Geothermal Power Project; and
3. After due notice and hearing, issue a final order: i) making the provisional authority a permanent authority to develop, own and operate the Connection Asset; and ii) authorizing EDC to operate and maintain the Connection Asset until such time said project is otherwise re-classified, owned, operated and maintained by NGCP.

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

The Commission has set the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,¹⁹ dated 24 September 2020, and Resolution No. 1, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):²⁰

Date	Platform	Activity
19 August 2021 (Thursday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
26 August 2021 (Thursday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

¹⁹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission;

²⁰ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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

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

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

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

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

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

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

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 29th day of June 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO


LS: MFD/ARG/MCCG

