

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE  
APPLICATION FOR  
AUTHORITY TO DEVELOP  
AND OWN DEDICATED  
POINT-TO-POINT LIMITED  
TRANSMISSION  
FACILITIES TO CONNECT A  
15MW BIOMASS POWER  
PLANT TO THE GAMU-  
ROXAS 69kV  
TRANSMISSION LINE WITH  
PRAYER FOR THE  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2019-007 MC**

**CAGAYAN BIOMASS  
ENERGY CORPORATION  
(CBEC),**

Applicant.

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Promulgated:  
JUN 04 2019

**ORDER**

On 05 April 2019, Cagayan Biomass Energy Corporation (CBEC) filed an *Application* seeking the Commission's authority to develop and own dedicated point-to-point limited transmission facilities to connect its 15MW biomass power plant to the Gamu-Roxas 69kV transmission line, with prayer for the issuance of a provisional authority.

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

1. Applicant CBEC is a generation company duly authorized and existing under the laws of the Republic of the Philippines, with principal address at Gamu-Roxas Road, Barangay Raniag, Burgos, Isabela.

Copies of Applicant CBEC's Certificate of Incorporation, its Articles of Incorporation and amendments thereto, its By-Laws, and its latest General Information Sheet attached

hereto as **Annexes “A” and series.**

2. Applicant CBEC may be served orders and other processes through the undersigned counsel.

**NATURE OF THE APPLICATION**

3. Pursuant to Section 9 of Republic Act No. 9136, or the “Electric Power Industry Reform Act,” and Section 5, Rule 5 of its Implementing Rules and Regulations, this Application is hereby submitted to secure authority from this Honorable Commission for Applicant CBEC to develop and own dedicated point-to-point limited transmission facilities connecting its power plant to the Gamu-Roxas 69kV Transmission Line (the “Gamu-Roxas line”). The Gamu-Roxas line is connected to the rest of the Luzon transmission grid via the Gamu Substation of the National Grid Corporation of the Philippines (“NGCP”).

**STATEMENT OF FACTS**

4. Applicant CBEC is constructing a 15 MW biomass-fueled power plant located at Gamu-Roxas Road, Barangay Raniag, Municipality of Burgos, Province of Isabela (the “Power Project”). It is intended to supply power to the Luzon Grid under the Feed-in-Tariff (“FIT”) system.
5. **Utilization of Renewable Energy Sources.** Renewable energy (“RE”) sources such as biomass can greatly help address the increasing power requirements of the Grid in an environment-friendly manner.
6. Unlike other fossil fuel-based energy sources, renewable energy sources produce clean, sustainable, and environmentally friendly energy. They will displace coal and fossil fuel energy generation and, in this way, help mitigate climate change. They also help reduce the country’s dependence on imported coal and petroleum products, which puts the country at risk not only to foreign exchange fluctuations and changes in global markets, but also to political and economic events in the fuel supplying regions.
  - 6.1. Organic waste, which would ordinarily end up in landfills, are used as fuel and transformed into much needed electricity.<sup>1</sup>
  - 6.2. By displacing power generated from fossil fuels, the use of biomass fuel reduces the carbon dioxide and greenhouse gas emissions to the atmosphere.<sup>2</sup>

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<sup>1</sup> See ERC Case No. 2011-006 RM, August 28, 2012;

<sup>2</sup> *Id.*;

7. Thus, the government's thrust is to promote RE in order to reduce the country's dependence on coal and fossil fuels. In line with this, legal reforms have been instituted towards increasing the country's RE capacities through increased investments in the sector and priority connections to the grid.
- 7.1. In particular, Section 7 of Republic Act No. 9513 or the Renewable Energy Law of 2008<sup>3</sup> mandates the formulation of a FIT that will **include priority connections for RE sources such as biomass**. Thus, the law states:
- “Section 7. Feed-In Tariff System. - To accelerate the development of emerging renewable energy resources, a feed-in tariff system for electricity produced from wind, solar, ocean, run-of-river hydropower and biomass is hereby mandated. Towards this end, the ERC in consultation with the National Renewable Energy Board (NREB) created under Section 27 of this Act shall formulate and promulgate feed-in tariff system rules within one (1) year upon the effectivity of this Act which shall include, but not limited to the following:
- (a) **Priority connections to the grid for electricity generated from emerging renewable energy resources** such as wind, solar, ocean, run-of-river hydropower and **biomass power plants** within the territory of the Philippines; x x x” (*emphasis supplied*)
- 7.2. In fulfillment of the said mandate, this Honorable Commission issued Resolution No. 16, Series of 2010, establishing the FIT system. The said Resolution **allows eligible RE plants to enjoy priority connection to the transmission system**, subject to compliance with the pertinent standards and rules of the Honorable Commission.
8. **Power Supply from CBEC.** Applicant CBEC has undertaken to develop, construct, and own the Power Project. The said Project will not only help address the need for additional supply in the Luzon Grid, but is also consistent with the government's efforts to increase the country's RE capacities.
9. However, in order to deliver the power supply from the Power Project to the Luzon Grid, it is necessary to connect it to the Gamu-Roxas line. The connection will be through the

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<sup>3</sup> Entitled “An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for Other Purposes”;

dedicated limited point-to-point 69 kV transmission facilities subject of the present Application.

10. Under Republic Act No. 9136, authorization from this Honorable Commission is required for a generation company to develop and own point-to-point limited transmission facilities.
11. Hence, this Application.

**ABSTRACT OF THE SUBJECT FACILITIES**  
**AND RELATED INFORMATION**

12. **The Proposed Connection.** The power generated by the Power Project will be delivered to the Luzon Grid through dedicated limited point-to-point transmission facilities, to be developed and owned by Applicant CBEC (the "Connection Project").
  - 12.1. A 35-meter 69 kV lateral line shall be constructed to connect the Power Project to the Gamu-Roxas line at a tapping point about 7.5 kM from the Gamu Substation, utilizing a tap-in connection scheme.
  - 12.2. The Connection Project is comprised of the line, one (1) circuit breaker, two (2) disconnecting switches, a step-up transformer, conductors, and associated control and protection facilities.
  - 12.3. Applicant CBEC shall construct and install the said facilities in accordance with Philippine Grid Code and other applicable laws or regulations.

Copies of a single line diagram illustrating the Connection Project, a simplified version of the same, and the substation layout and elevation plan are attached hereto as **Annexes "B" and series.**

13. **Dedicated Transmission Facilities.** The Connection Project involves dedicated point-to-point limited transmission facilities in the purview of Republic Act No. 9136. The said facilities are required only for the purpose of connecting the Power Project to the Luzon grid, and will be used solely by the Power Project. The said facilities are not intended to serve end-users or suppliers directly.
  - 13.1. The Connection Project will be installed and constructed by Applicant CBEC's contractor.

A brief description of the Connection Project as well as the company profile of the said contractor are attached hereto as **Annexes "C" and "C-1,"** respectively.

14. **Gantt Chart Schedule.** The timeline for the implementation of the Connection Project is attached hereto as **Annex “D.”**
15. **Options Considered.** The specifications of the Connection Project reflect the most feasible and least cost manner of connecting the Power Project to the Grid and which can be constructed on time.
16. In determining the most feasible connection arrangement, CBEC took into consideration the point of connection, the route and length of the line, the distance of the Power Project to the Gamu-Roxas line and the Gamu Substation, the costs involved, the design and technical configuration of the Connection Project, among others.

A discussion of the options considered in determining the most feasible scheme is attached hereto as **Annex “E.”**

17. **The Connection Project’s consistency with NGCP’s Transmission Development Plan (“TDP”).** Despite earnest efforts, Applicant CBEC has not yet obtained confirmation from NGCP on the inclusion of the Connection Project in the TDP.
18. At any rate, it is worth mentioning that NGCP has exempted Applicant CBEC from conducting a System Impact Study (“SIS”) and had likewise approved CBEC’s Facilities Study (“FS”). Moreover, in coordination with NGCP, Applicant CBEC has invested in modifications to the Gamu-Roxas line.

18.1. Applicant CBEC has, at its own cost, rerouted a portion of the Gamu-Roxas line, and replaced, relocated and constructed some structures thereon in order to accommodate the Connection Project. The foregoing is accordance with a Memorandum of Agreement (“MOA”) with NGCP.

18.2. Part of the rerouted portion is located on several parcels of land owned by Applicant CBEC. Pursuant to the MOA, Applicant CBEC granted NGCP, free of charge, continuous and perpetual easement of right-of-way on the route of the Gamu-Roxas line.

A copy of the MOA is attached hereto as **Annex “F.”** Copies of the Right-of-Way Grants are attached hereto as **Annexes “G” and series.**

19. Applicant CBEC’s exemption from the SIS requirement, the approval of its FS, coupled with its investment in modifications to the Gamu-Roxas line clearly indicates that NGCP has approved the Connection Project.

20. **Technical Studies.** As mentioned, Applicant CBEC is exempted from conducting an SIS. In a letter dated 25 January 2019, NGCP expressly exempted Applicant CBEC from conducting an SIS in accordance with this Honorable Commission's Resolution No. 18, Series of 2015.<sup>4</sup> In exempting Applicant CBEC, NGCP recognized that the Power Project's connection to the Grid has no or negligible impact on the Luzon Grid.

A copy of NGCP's letter is attached hereto as **Annex "H."**

21. **Facilities Study.** An FS was conducted to determine the technical feasibility of connecting the Connection Project at the proposed connection point along the Gamu-Roxas line.

Copies of the FS and NGCP's approval of the same are attached hereto as **Annexes "I" and "J,"** respectively.

22. **NGCP Agreements.** NGCP issued a certification that Applicant CBEC and NGCP have agreed, in principle, to the general terms and conditions of the Connection Agreement, the Transmission Service Agreement, and the Metering Service Agreement, and that the same are being finalized.

NGCP's certification is attached hereto as **Annex "K."**

23. **CBEC Connection Project Cost.** The total project cost of the Connection Project is Php42,460,000.00.

A breakdown of the project cost is attached hereto as **Annex "L."**

24. **Environmental Compliance Certificate.** The Department of Environment and Natural Resources has issued the necessary Environmental Compliance Certificate ("ECC") covering the Connection Project.

A copy of the ECC is attached hereto as **Annex "M."**

25. **Financial Capability.** Applicant CBEC has the necessary financial capacity to develop and own the Connection Project.

A discussion on CBEC's financial capability is attached hereto as **Annex "N."**

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<sup>4</sup> Certain power plants shall be exempted from the conduct of System Impact Study (SIS), particularly those directly connected to the grid with capacities of 20 MW and below in Luzon and 5 MW in Visayas and Mindanao grids, which, as determined by the Transmission System Provider have no or negligible impact on the grid;

26. **Operations and Management of the Connection Project.** Once installed and constructed, NGCP shall operate and maintain the Connection Project.
- 26.1. Applicant CBEC has the option of hiring its own team of qualified and competent engineers to operate and maintain the Connection Project. However, it is more cost-efficient for Applicant CBEC to engage NGCP to handle the operations and management of the Connection Project.
- 26.2. Moreover, NGCP's technical expertise ensures that the Connection Project would operate and be maintained optimally, benefitting the Luzon Grid as a whole.

A discussion comparing the cost of operations and maintenance by CBEC and by NGCP is attached hereto as **Annex "O."**

**ALLEGATIONS IN SUPPORT OF**  
**THE MOTION FOR PROVISIONAL AUTHORITY**

27. As stated above, the Connection Project is necessary in order to deliver the power generated by the Power Project to the Luzon Grid. This Honorable Commission's provisional approval of the present Application will greatly facilitate supply of additional power to the Luzon Grid.
28. Moreover, a provisional approval is also necessary in order to facilitate the accreditation of the Power Project under the FIT system.
- 28.1. At present, the FIT rate for electricity generated from biomass is PhP6.5969/kWh, which is effective until 31 December 2019, or upon successful commissioning of the biomass power projects covering the remaining balance of the established installation target, whichever comes first.<sup>5</sup>
- 28.2. Applicant CBEC seeks to qualify for the said tariff as it is uncertain whether there will be a subsequent round of the FIT, and the subsequent FIT rate, if there is any, is expected to be lower. Thus, being unable to qualify will result in significant financial disadvantage to Applicant CBEC.
- 28.3. Considering Applicant CBEC must obtain the accreditation of the Power Project for FIT availment at the soonest possible time, a provisional approval of this present Application is necessary.

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<sup>5</sup> Order dated 23 November 2018 in ERC Case No. 2018-007 RM, at page 3;

29. Hence, Applicant CBEC respectfully moves for the provisional approval of the instant Application pursuant to Rule 14 of the ERC Rules of Practice and Procedure.

A copy of a sworn statement supporting the said motion is attached hereto as **Annex "P."**

30. CBEC prays of this Commission that, after due notice and hearing:
- a. immediately issue an Order provisionally approving the instant Application; and
  - b. render judgment approving the instant Application with finality.

Applicant CBEC prays for other just and equitable relief under the premises.

Finding the said *Application* to be sufficient in form and in substance, with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on **09 July 2019 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Bldg., San Miguel Ave., Ortigas Center, Pasig City.**

Accordingly, CBEC is hereby directed to:

- 1) 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, at least ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Public Hearing* the Offices of the Provincial Governor and City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;



- 4) Furnish with copies of this *Order* and the attached *Notice of Public Hearing*, the National Grid Corporation of the Philippines (NGCP), 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; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, CBEC must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached *Notice of Public Hearing* consisting of affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Public Hearing* was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Public Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicant to inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Public Hearing* by the NGCP, the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

CBEC and all other interested parties are also required 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:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicant to comply with the above requirements 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 the said date of cancellation.

CBEC must also be prepared to make an expository presentation of the instant *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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

**SO ORDERED.**

Pasig City, 28 May 2019.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
Commissioner



Copy Furnished:

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5. Commission on Audit  
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6. The Senate Committee on Energy  
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7. The House Committee on Energy  
Batasan Hills, Quezon City
6. Office of the Municipal Mayor  
Burgos, Isabela
7. Office of the LGU legislative body  
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