

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



IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO DEVELOP, OWN, AND OPERATE A DEDICATED POINT-TO-POINT LIMITED TRANSMISSION LINE TO CONNECT THE 25MW SILAY SOLAR POWER PLANT TO THE NATIONAL GRID CORPORATION OF THE PHILIPPINES TALISAY-VMC 69kV LINE, WITH PRAYER FOR PROVISIONAL AUTHORITY.

ERC CASE NO. 2016-006 MC

MEGAWATT CLEAN ENERGY, INC.

Applicant.

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DOCKETED
Date: MAY 27 2016
By: [Signature]

ORDER

On February 18, 2016, the Megawatt Clean Energy, Inc. (MCEI) filed an application for authority to develop, own, and operate a dedicated point-to-point limited transmission line to connect the 25MW Silay Solar Power Plant to the National Grid Corporation of the Philippines Talisay-VMC 69KV line, with prayer for the issuance of a provisional authority.

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

THE APPLICANT

1. MCEI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at 20 N. Domingo St., 1112 Valencia, Quezon City. Copies of its Certificate of Incorporation, Articles of

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Incorporation, By-Laws and 2015 General Information Sheet were attached to the Application as Annexes "A", "B", "C" and "D" respectively;

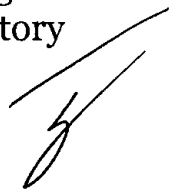
2. The applicant may be served with notices, orders and other processes through its counsel;

STATEMENT OF THE CASE

3. The instant application is filed pursuant to Section 9(f) of Republic Act No. 9136 or the "*Electric Power Industry Reform Act of 2001*" and Section 5, Rule 5 of its Implementing Rules and Regulations (IRR);

STATEMENT OF FACTS

4. MCEI is engaged in the development of clean or renewable energy sources for power generation facilities and was registered by the Department of Energy (DOE) as Renewable Energy Developer of the 25MW Silay Solar Power Plant covered by Solar Service Energy Contract No. 201-04-225 (Service Contract). A copy of the Service Contract was attached to the Application as Annex "E";
5. On 28 August 2015, MCEI assigned to Silay Solar Power, Inc. (SSPI) all of its rights and obligations under the Service Contract, with the DOE Renewable Energy Management Bureau interposing no objection to the assignment as indicated in its letter dated 08 January 2016. Copies of the Deed of Assignment and DOE letter were attached to the Application as Annexes "F" and "G", respectively;
6. SSPI, a special purpose domestic corporation affiliated with MCEI, is likewise engaged in the development of clean or renewable energy sources, particularly solar power. Copies of SSPI's Certificate of Incorporation, Articles of Incorporation and By-Laws were attached to the Application as Annexes "H", "I" and "J" respectively;
7. The 25 MW Silay Solar Power Plant (SSPP) is a large Photovoltaic Generation System constructed within a 43.8 hectare land located in Barangay Rizal, Silay City, Negros Occidental. MWCEI and have already started the preparatory

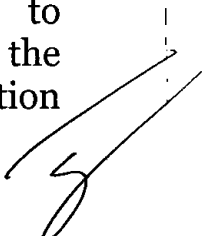


activities for the commissioning of the SSPP in February 2016 as necessary step for its inclusion under the Feed-in Tariff ("FIT") System for the second round of Solar FIT at the rate of Php8.69/kWh;

8. MCEI proposes to transmit its generated power to the National Grid Corporation of the Philippines (NGCP) Visayas Grid via the Talisay-VMC 69kV line, through the construction and installation of the following dedicated point-to-point limited transmission facilities (collectively, "Dedicated Facility"):
 - (i) 69 kV "tapping" substation along the NGCP Talisay-VMC 69kV line;
 - (ii) 69 kV transmission line with an approximate length of 2.1 km. using 336.4 MCM ACSR with a rated capacity of 63 MVA; and
 - (iii) 69kV take-off substation inside the SSPP site."

Copies of the Description of the Dedicated Facility, Single Line Diagram and Conceptual Engineering Design and Drawings were attached to the Application as Annexes "K", "L" and "M", respectively, inclusive of sub-markings;

9. The construction and installation of the Dedicated Facility has an estimated cost of One Hundred Forty Four Million One Hundred Eighty Two Thousand Six Hundred Fifty Five Pesos and Eighty Centavos (PhP 144,182,655.80). The financial requirement thereof will be supported by equity and external financing. Copies of the Bill of Quantities were attached to the Application as Annex "N", inclusive of sub-markings;
10. As required under existing regulations, MCEI commissioned a Third Party System Impact Study to determine technical feasibility of connecting the SSPP to the NGCP grid. In a letter dated 12 January 2016, NGCP approved the integration of the SSPP to the Visayas Grid along the Talisay-VMC 69kV transmission line. Copies of the Third Party System Impact Study and NGCP letter were attached to the Application as Annexes "O" and "P", respectively;
11. After the issuance by the Commission to MCEI of the authority to develop and own the Dedicated Facility subject of this Application, MCEI will engage the services of NGCP to undertake the operation, service and maintenance of the Dedicated Facility involving, among others, periodic inspection



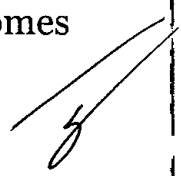
of the point-to-point interconnection facilities, regular assessment of pole and wire conditions;

12. MCEI will apply with the Commission for the issuance of the FIT Certificate of Compliance (FIT-COC) after the DOE shall have issued a Certificate of Endorsement (COE) to SSPP and the Dedicated Facility is completed;
13. In further support of the Application, the following documents were attached as annexes:

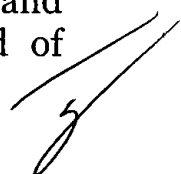
Annex	Documents
"Q"	Gantt Chart
"R"	2015 Balance Sheet and Income Statement of MCEI
"S"	Secretary Certificate attesting that SSPI authorized the construction of the Dedicated Facility
"T"	Department of Environment and Natural Resources (DENR) Environmental Compliance Certificate No. OL-R06-1506-2015-0067 for SSPP and Dedicated Facility
"U"	Sworn Statement of MCEI authorized representative.
"V"	Facility Study
"W"	List of Key Management Officials
"X"	Financial Ratios

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

14. MCEI is applying for inclusion under the FIT system for the second round of Solar FIT (revised 500MW solar installation target) at the rate of Php8.69/kWh, which is valid upon full subscription thereof or until 15 March 2016, whichever comes earlier;



15. The need for a provisional authority to develop and own a Dedicated Facility to connect MCEI to the NGCP Visayas grid is vital and urgent because of the first-come, first-served policy implemented on the revised 500MW solar installation target. Only those projects that are fully connected to the grid or a distribution utility, and thus capable of exporting power thereto, are eligible under the said first-come, first-served policy;
16. As provided under Section 6 of the DOE Circular No. DC 2013-05-0009 (Guidelines for the Selection Process of Renewable Energy Projects under Feed-In Tariff System and the Award of Certificate for Feed-In Tariff Eligibility), the DOE will nominate the eligibility of the project under the FIT system to the Energy Regulatory Commission for the processing of the Certificate of Compliance under the FIT System only upon its confirmation of the Electromechanical Completion of the project and successful commissioning and provided further that the interconnection facility is fully in place. Such confirmation of Electromechanical Completion and successful commissioning requires prior validation by the DOE through inspection of the solar plant and the interconnection facility;
17. The SSPP is scheduled to be commissioned in the early part of February 2016 to ensure its inclusion in the revised 500MW solar installation target;
18. The inclusion of the SSPP for the second round of the Solar FIT is crucial because the plant is designed and planned for inclusion under the FIT System, while the third round of FIT for solar power projects is still uncertain as of this juncture;
19. SSPP's qualification for the second round of the Solar FIT is crucial to its financial viability. The energy produced by the SSPP cannot be immediately contracted to a distribution utility because ERC Resolution No. 13, Series of 2015 mandates all distribution utilities to conduct a competitive selection process in the procurement of their supply to the captive market, which would leave SSPI as a price taker on the WESM unless it immediately qualifies for the FIT;
20. Taking into consideration the provisions of DOE Circular No. DC 2013-05-0009, the site validation and inspection to enable DOE to issue its confirmation of Electromechanical Completion of the BSPP and the successful commissioning, including the Dedicated Facility that is fully in place, must be completed and ready in the early part of February 2016 to be assured of



qualification for the second round of the Solar FIT. It is thus very important for MCEI to secure a Provisional Authority to develop and own and operate a Dedicated Facility to connect its solar plant to the Visayas Grid before the said target date;

21. In further support of the prayer for issuance of provisional authority, an Affidavit of Merit was attached to the Application as Annex "Y";
22. It most prays of the Commission that:
 - a. An Order be issued granting provisional authority to Megawatt Clean Energy, Inc. (MCEI) and/or Silay Solar Power, Inc. (SSPI) to develop, own and operate a Dedicated Facility that will connect the Silay Solar Power Plant to the NGCP Visayas Grid through the Silay-VMC 69 kV line; and
 - b. After notice and hearing on the merits, a Decision be rendered approving the instant Application.

Finding the said application sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference, and evidenciary hearing on **16 June 2016 (Monday) at ten o' clock in the morning (10:00 AM) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

MCEI is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in a newspapers of general circulation in the Philippines, at least ten (10) days before the date of the scheduled initial hearing. It is also directed to inform the consumers, 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, the Commission on Audit, 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 Office of the Mayor of Silay City, Negros

Occidental and Office of the Governor, Province of Negros Occidental for the appropriate posting thereof on its bulletin board.

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

On the date of the initial hearing, MCEI must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, evidence on the actual posting and publication of the Notice of Public Hearing consisting of a certification issued to that effect, signed by the aforementioned Mayor or his duly authorized representative, bearing the seal of his office, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

MCEI 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 therefor; and
- d) The number and names of the witnesses, with their written testimonies in the individual affidavit form, to be attached to the Pre-trial Brief.

Failure of MCEI 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.

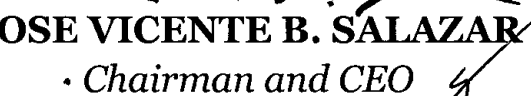



As part of the pre-trial conference, MCEI shall be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties,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

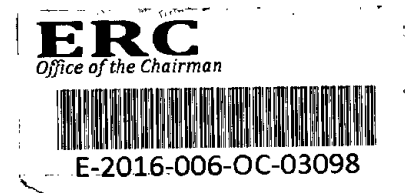
SO ORDERED.

Pasig City, 18 May 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO

LS: /GLS/APV  nph_2016-006 mc



Copy Furnished:

1. **ATTY. RIO Q. BALABA**
Counsel for the Applicant
20 N. Domingo Street, 112 Valencia, Quezon City
2. **THE OFFICE OF THE SOLICITOR GENERAL**
134 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
3. **THE COMMISSION ON AUDIT**
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
4. **THE COMMITTEE ON ENERGY**
House of the Senate
GSIS Building, Roxas Blvd., Pasay City, Metro Manila

5. **THE COMMITTEE ON ENERGY**
House of Representatives
Batasan Hills, Quezon City, Metro Manila

6. **OFFICE OF THE CITY MAYOR**
Silay City, Negros Occidental

7. **OFFICE OF THE PROVINCIAL GOVERNOR**
Province of Negros Occidental

A handwritten signature or mark, possibly a stylized 'S' or 'G', is written over the text of item 7.