

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 16 MW
PHESI WIND FARM TO
NPC'S 69 kV
TRANSMISSION LINE**

ERC CASE NO. 2018-004 MC

**PHILIPPINE HYBRID
ENERGY SYSTEMS, INC.
(PHESI),**

Applicant.

X-----X

D O C K E T E D
Date: JUL 27 2018
By: [Signature]

ORDER

On 22 March 2018, the Philippine Hybrid Energy Systems, Inc. (PHESI) filed an *Application* dated 21 March 2018, seeking approval of the authority to develop, own and operate a dedicated point-to-point limited transmission line to connect the 16 MW PHESI wind farm to NPC's 69 kV transmission line.

PHESI alleged the following in its *Application*:

THE APPLICANT

1. PHESI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at Unit 8A 8th Floor Inoza Tower, 40th St., Bonifacio Global City, Taguig City. Copies of its Certificate of Incorporation with attached Articles of Incorporation and General Information Sheet for the year 2017 are attached as **Annexes "A" and "B"** respectively.
2. It may be served with orders and other processes through the undersigned counsel.

THE NATURE OF THE APPLICATION

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. PHESI was organized to design, construct, erect, assemble and operate wind, diesel-turbine, and other power-generating plants and related facilities.
5. PHESI is in the process of constructing a 16 MW Wind Energy Power Facility (WEPF) on Mt. Paitan in Puerto Galera, Oriental Mindoro.
6. The output of this plant has been contracted to Oriental Mindoro Electric Cooperative, Inc. (“ORMECO, Inc.”). On 10 April 2014, the Honorable Commission issued an Order provisionally approving the Energy Sales Agreement (“ESA”) and Addendum entered into by ORMECO Inc. and PHESI in ERC Case No. 2014-001 RC entitled *In the Matter of the Approval of the Energy Sales Agreement (ESA) between Oriental Mindoro Electric Cooperative, Inc. (ORMECO) and Philippine Hybrid Energy Systems Incorporated (PHESI), with Prayer for the Issuance of Provisional Authority*.
7. PHESI plans to dispatch its generated power to ORMECO, Inc. through the existing 69 kV line between Calapan and Minolo (Puerto Galera) that is currently owned and operated by the National Power Corporation (“NPC”), with the connection point located in Barangay Tabinay. A description of the project is attached as **Annex “C”**.
8. PHESI proposes to construct, install, operate and maintain the following dedicated point-to-point limited transmission facilities: (i) 20 MVA, 22.8 kV/69 kV substation and all associated equipment on Mt. Paitan; (ii) 69 kV transmission line with an approximate length of 8 km; and (iii) metering station and all associated equipment at the connection point.
9. Before finally deciding on the proposed connection point, PHESI also considered locating the connection point at Balatero Port (closer to the Minolo substation) or La Brisa Compound. PHESI, however, could not procure any property for the necessary construction at La Brisa Compound because it could not locate any interested landowner. Locating the connection point at Balatero Port also proved impracticable after further investigation revealed that, not only would PHESI have to construct a line to traverse from Balatero Port up to the proposed substation, but property prices in the area also proved to be more expensive than Puerto Galera. A description of the considered alternatives is detailed in **Annex “D”**.

10. PHESI initially intended to utilize a T-connection with disconnect switch, circuit breaker and line protection. NPC however imposed a cut-in connection scheme as a condition for the execution of a connection agreement. PHESI was forced to accede to this demand given the urgent necessity for a connection agreement.
11. A connection agreement with NPC was finally executed on 16 November 2017, a copy of which is attached as **Annex "E"**. This agreement contained the following material provisions:
 - 11.1. PHESI has the obligation to *inter alia* (1) "(d)esign, finance, procure, construct, operate and maintain the connection facilities that will be tapped along the NPC's 69 kV transmission line between Minolo S/S and Calapan Diamond S/S from its powerhouse located in Barangay Baclayan, Puerto Galera, Oriental Mindoro and complete with all the needed and required appurtenant interconnection, control, communication, metering and protection equipment, control cubicles, relays and other necessary instruments/equipment"; and (2) "(f)ile with ERC an application to recover whatever costs were or may be incurred and, where applicable, pray for ERC to determine the party or person from whom such costs shall be collected, in accordance with the existing rules and regulation."
 - 11.2. "All drawings and documents relative to the connection of PHESI's Power Station to NPC's 69 kV transmission system shall be submitted for review and approval of NPC prior to installation."
 - 11.3. "In the event that ownership of the connection facilities/assets shall be transferred to NPC," the latter shall "operate, maintain and repay PHESI the cost of putting up the transferred facilities as determined, fixed, and approved by ERC."
12. A single line diagram showing the facilities to be constructed is attached as **Annex "F"**.
13. The construction and installation of these facilities was initially estimated to cost P131,302,285.00. A variation of P102,763,297.78 is currently projected, of which P51,359,755.60 is due to the change to the cut-in connection scheme imposed by NPC. The Point to Point – Revised Contract Sum as of 26 February 2018 is attached as **Annex "G"**.
14. The Distribution Impact Study ("DIS") found that the connection of the PHESI 16 MW Wind Energy Power Facility to the ORMECO 69 kV grid is technically feasible. A copy of the DIS is attached as **Annex "H"**.

15. Upon the issuance by the Honorable Commission to PHESI of the authority to develop, own and operate the Dedicated Facility subject of this Application, it intends to engage the services of ORMECO, Inc. or any of its authorized operation and maintenance providers in order 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.
16. PHESI will subsequently apply with the Honorable Commission for the issuance of a Certificate of Compliance (COC) for its 16 MW WEPP.
17. In further support of the application, PHESI hereby submits copies of the following documents:

Annex	Documents
"I"	Gantt Chart;
"J"	Audited Financial Statements for the years ended 31 December 2016 and 2015;
"K"	Secretary's Certificate attesting that PHESI authorized the construction of the Dedicated Facility;
"L"	Sworn Statement by the authorized representative that PHESI has applied and been granted permits for the Dedicated Facility;
"M"	Five-year projected Financial Ratios; and
"N"	Certification from Department of Environment and Natural Resources (DENR) Environmental Management Bureau.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed to this Honorable Commission that, after hearing thereon on the merits, a **DECISION** be rendered: (1) granting PHESI's application for authority to develop, own and operate dedicated point-to-point limited transmission facilities; (2) determining the proper party to bear the cost of the connection facilities that will be tapped along NPC's 69 kV transmission line as well as the proper mechanism for recovery; and (3) confirming PHESI's asset boundary and line protection responsibility.

Other just and equitable reliefs are likewise prayed for.

Finding the said *Application* to be sufficient 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 **30 August 2018 (Thursday) 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.

Accordingly, PHESI is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, with the date of publication to be made not later than 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 of Oriental Mindoro, the Municipal Mayor of Puerto Galera and their Local Government Unit (LGU) legislative bodies for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, 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, Applicant 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 of the filing of the *Application*, the reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (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.

Applicant and all 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.

PHESI 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, what the *Application* is all about and the reasons and justifications being cited in support thereof.

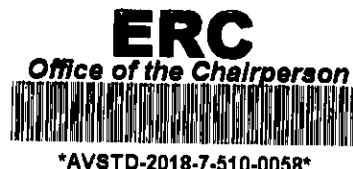
SO ORDERED.

Pasig City, 16 July 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson & CEO


LS, JB/ARG, GLS/APV



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Copy Furnished:

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4. Commission on Audit
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5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
6. House Committee on Energy
Batasan Hills, Quezon City
7. 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
8. Office of the Governor
Province of Oriental Mindoro
9. Office of the LGU legislative body
Province of Oriental Mindoro
10. Office of the Mayor
Puerto Galera, Oriental Mindoro
11. Local Government Unit (LGU) legislative body
Puerto Galera, Oriental Mindoro
12. National Grid Corporation of the Philippines
Quezon Avenue corner BIR Road, Diliman, Quezon City
13. National Power Corporation
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14. Regulatory and Operations Service (ROS)
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