

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO DEVELOP, OWN, AND OPERATE A DEDICATED POINT-TO-POINT LIMITED FACILITIES TO CONNECT THE 26.256 MW SIBULAN B HYDROELECTRIC POWER PLANT TO DAVAO LIGHT AND POWER COMPANY, INC.'S DISTRIBUTION SYSTEM,

ERC CASE NO. 2021-035 MC

HEDCOR SIBULAN INC. ("HSI"),

Applicant.

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Promulgated:
January 10, 2022

ORDER

On 22 December 2021, Hedcor Sibulan Inc. (HSI) filed an *Application* dated 10 December 2021, seeking the Commission's approval of its application for authority to develop, own, and operate a dedicated point-to-point limited facilities to connect the 26.256 MW Sibulan B Hydroelectric Power Plant to Davao Light and Power Company, Inc.'s (DLPC) distribution system.

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

1. HSI is a generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at Barangay Darong, Santa Cruz, Davao del Sur. It may be served with order, notices and other processes of this Honorable through undersigned counsel.
2. Pursuant to the Amended Distribution Services and Open Access Rules ("DSOAR"),¹ the instant Application is submitted to secure authority from the Honorable Commission for HSI to

¹ ERC Resolution No. 2, Series of 2010 entitled "A Resolution Adopting the Amendments to the Distribution Services and Open Access (DSOAR)".

develop, own and operate a dedicated point-to-point limited facilities connecting its Sibulan A (sic) Hydroelectric power plant to the distribution system of Davao Light and Power Company, Inc. (DLPC) (hereinafter, "Subject Facilities").

STATEMENT OF FACTS

3. In order to address power supply needs, DLPC entered into a Power Supply Agreement (PSA) for the supply of 400,000,000 kWh per year of new capacity beginning in 2009 with the consortium of Hedcor, Inc., Hedcor Sibulan Inc., Hedcor Tamugan, Inc., and Philippine Hydropower Corporation.
4. The PSA was approved through a Decision dated 3 April 2008, in the case entitled *"In the Matter of the Application for Approval of the Power Supply Agreement Between Davao Light and Power Company, Inc. (DLPC) and Consortium of Hedcor Inc., Hedcor Sibulan, Inc., Hedcor Tamugan, Inc. and Philippine Hydropower Corporation"*, docketed as ERC Case No. 2007-137 RC.
5. HSI undertook the construction, ownership, and operation of Sibulan A, and Sibulan B hydroelectric power plants located in Darong, Sta. Cruz, Davao del Sur, in order to supply the power requirements under the PSA. Further, HSI undertook the development, ownership, and operation of the Subject Facilities connecting the hydroelectric power plants to DLPC's distribution system through an approximate 19.4 km single circuit 69kV line transmission line, which in turn connects to DLPC's ERA Substation, via the Puan Switching Station.
6. The cost of the Subject Facilities, which includes the materials, labor, transportation, and other construction-related costs is PhP155,043,954.26, broken down as follows:

Subject Facilities Cost	
Direct Labor	12,659,991.16
Direct Materials	103,109,740.00
Poles	44,690,142.45
Transmission Line Materials	11,395,392.09
Warehouse Supplies	468,439.86
Electrical Materials	23,056,737.47
Other Material Expenses	23,499,028.14
Shop Supplies	170,024.08
Hauling Cost	3,297,544.62
Equipment Rental	98,913.73
Contingency/ Other Expenses	12,928,877.57
Puan Substation	22,778,863.10
Total Transmission Cost	PhP155,043,954.26

7. HSI is one of the legal entities under the Hedcor Group. The Hedcor Group is the country's leading run-of-river hydropower

operator and has been producing clean and renewable energy for over 40 years. HSI houses its own operations and maintenance department capable of owning, developing, and operating the Subject Facilities. HSI is fully equipped in designing and maintaining long length transmission lines in order to transmit generated power to several distribution utilities or through the grid.

8. The following documents are herewith submitted in support of the instant Application:

Annex	Documents
A	Description of the Project
B	Proof that the project is consistent with Distribution Development Plan (DDP)
C-1	Distribution Impact Study
C-2	Grid Impact Study
C-3	Distribution Asset Study Certification
D	Proof of Compliance with Philippine Distribution Code (PDC)
E	Detailed Single Line Diagram
F	Point-to-Point Application Relevant Dates
G	Names and company profiles of contractors
H	Demand-Supply Scenario
I	Connection Agreement
J	Secretary's Certificate dated 2 August 2021
K	Sworn Statement dated 12 August 2021
L	Environment Compliance Certificate
M	Certificate of Registration from the Department of Energy (DOE)
N	Operating Contract between the Plant or DOE
O	List of Key Management Officials (GIS)
P-1	Amended Articles of Incorporation
P-2	Amended By-Laws
Q-1	List of name and addresses of personnel responsible for the design, installation, maintenance and repair
Q-2	Statement of Compliance and Compliance Plan to the PDC

PRAYER

WHEREFORE, it is respectfully prayed that the Honorable Commission that after hearing on the merits, APPROVE the instant Application for authority to develop, own, and operate assets, including dedicated point-to-point limited transmission facilities consisting of the Subject Facilities.

Other relief, just and equitable, under the premises are likewise prayed for.

Finding the said *Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same 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 2020² dated 24 September 2020 and Resolution No. 01, Series of 2021 dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):³

Date	Platform	Activity
15 February 2022 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and expository presentation
22 February 2022 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and presentation of evidence

RELATIVE THERETO, HSI is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, 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 Virtual Hearing* the Offices of the Provincial Governors, the Mayors and the Local Government Unit (LGU) legislative bodies where HSI principally operates, and the area affected by the project for the appropriate posting thereof on its respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearings thereon;

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual 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 and attend the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to the resolution of the prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.⁴

Within five (5) calendar days before the date of the virtual hearing, HSI must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of 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 Virtual Hearing* consisting of affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual 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 Virtual 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 HSI 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 Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;

⁴ For the e-mail address of the applicant through its counsel, please see page 9.

- 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 proof of compliance with the requirements of the Commission.

Moreover, HSI is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Offices of the Governor, Mayor, and Local Legislative Bodies, and to submit proof of its posting thereof.

HSI and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled virtual 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 therefor, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

HSI must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of HSI 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.

HSI 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.

HSI is hereby directed to file a copy of its Expository Presentation via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. HSI shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via 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 expository presentation.

HSI is hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

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Finally, HSI, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 05 January 2022.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: CNR/LSP/MCCG



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Copy Furnished:

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5. Senate Committee on Energy
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6. House Committee on Energy
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7. Office of the City Mayor
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8. Office of the Sangguniang Bayan
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9. Office of the Governor
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10. Office of the Sangguniang Panlalawigan
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17th Floor Pacific Center Building, San Miguel Avenue, Pasig City