

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
AUTHORITY TO DEVELOP,
OWN AND OPERATE POINT
TO POINT LIMITED
FACILITIES, WITH PRAYER
FOR PROVISIONAL
AUTHORITY,**

ERC CASE NO. 2017-011 MC

**LAMSAN POWER
CORPORATION (LPC),
Applicant.**

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DOCKETED
Date: SEP 05 2017
By: [Signature]

ORDER

On 28 June 2017, Lamsan Power Corporation (LPC) filed an *Application* dated 15 June 2017 (*Application*) seeking the Commission's approval of its authority to develop, own and operate point to point limited facilities, with prayer for provisional authority.

LPC alleged the following in its *Application*:

1. LPC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Lamsan Industrial Complex, Barangay Crossing Simuay, Sultan Kudarat 9605, Maguindanao, Philippines. It may be served with pleadings, notices, orders and other legal processes through the undersigned Firm;
2. LPC is a corporation primarily engaged in the business of providing power generation and electric supply services to distribution utilities. Copies of relevant corporate documents of LPC are herewith attached to form integral parts hereof, as follows:

ANNEX	DOCUMENT
"A"	Certificate of Incorporation
"A-1"	General Information Sheet for Year 2017
"A-2"	Statement of Financial Position filed with the Bureau of Internal Revenue on 13 April 2016

3. LPC owns and shall operate the 15.0MW Lamsan Biomass Power Plant Project (the "Power Facility") located at Barangay Crossing Simuay, Sultan Kudarat, Maguindanao, in order to address the country's need for additional supply of electricity. LPC has been included in the NGCP Transmission Development Plan ("TDP") as of 16 May 2017. A copy of the NGCP Certification of Inclusion is herewith attached to form an integral part hereof as **Annex "B"**;
4. The 15 MW generating unit is rated at 69 kV output voltage with 18.75 MVA 13.8/69 kV step up transformer. The Power Facility is expected to deliver approximately 13.5 MW at full dispatch to the Grid through direct connection to the 69 kV feeder of NGCP Sultan Kudarat Substation;
5. To fully dispatch the power generated by the Power Facility, LPC shall be connected directly to the Grid through the point-to-point transmission facilities developed, owned and operated by LPC. The tapping points between the Power Facility and the NGCP Sultan Kudarat Substation is approximately One Thousand One Hundred Forty Five (1,145) meters;
6. The instant Application is hereby filed to seek the Honorable Commision's authorization to develop, own and operate the proposed dedicated point-to-point transmission facilities pursuant to Section 9(f) of the Republic Act No. 9136 otherwise known as "*Electric Power Industry Reform Act of 2001*", and Section 5, Rule 5 of its Implementing Rules and Regulations, which provides that:

Section 9 of the Republic Act No. 9136

"(f) xxx A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the 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 fair market price, the ERC shall determine the fair market value of the asset."

Section 5, Rule 5 of the IRR of R.A. No. 9136

“Section 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company. –

(a) Subject to prior authorization from the ERC, TRANSCO or its buyer or Concessionaire may allow a Generation company to develop, own and/or operate dedicated point-to-point limited transmission facilities: Provided, that:

- (i) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;
- (ii) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and
- (iii) Any other required documents that may be required by the ERC.

XXXXX

- 7. The foregoing proposed dedicated point-to-point transmission facilities are required only for the purpose of connecting the Power Facility to the Grid, and shall be used solely by LPC. They are not intended to serve end-users or suppliers directly;
- 8. A Third-Party System Impact Study (SIS) was conducted to determine the most feasible and viable means of dispatching energy from the Power Facility. The SIS was approved by the NGCP on 10 April 2015;¹
- 9. Considering that NGCP Sultan Kudarat Substation is adjacent to LPC's property, requiring a transmission line that is approximately 1,145 meters, LPC determined that this proposed connection is the most viable connection point to the Grid. Moreover, no other substation is within the vicinity of the Project Facility. A copy of the *Options/Alternatives* is herewith attached to form an integral part hereof as **Annex “C”**;
- 10. LPC intends to apply for Feed-In Tariff (FIT). Hence, the full 15.0 MW injection from the Power Facility does not have adverse impact to the Grid;
- 11. Further, the Third-Party SIS indicated the following favorable simulation results: (i) the entry of the Power

¹ Please see Annex “B”

Facility in Sultan Kudarat will approximately unload the existing Kibawe-Sultan Kudarat 138kV T/L by half; ii) the entry of the Plant Facility will increase the bus voltage magnitude in the area within acceptable limits; iii) the fault rating of the power circuit breakers in the area such as Sultan Kudarat, Kibawe and Tacurong Substations and nearby substations, are still sufficient for the resulting fault level upon entry of the Power Facility; iv) during maximum dispatch of the Power Facility, the simulation reveals that there will be no significant impact in the system frequency when the said unit is at its maximum capacity and then trips; and v) there will be no operational constraint for the direct connection of the Power Facility to NGCP's Sultan Kudarat Substation;

12. For the design, installation, testing, and commissioning of the proposed dedicated point-to-point limited transmission facilities, LPC engaged the services of Meter King Incorporated (Meter King), a corporation primarily involved in dealing, manufacturing, and importing of Transmission and Distribution Lines, Power Substations and other Electrical Works. A copy of Meter King's Company Profile is herewith attached to form an integral part hereof as **Annex "D"**;
13. Likewise, LPC engaged the services of Glemich Builders and Trading, Inc. (Glemich Builders) for the operation and maintenance of the transmission facilities. A copy of the contract of Glemich Builders' Company Profile is herewith attached to form an integral part hereof as **Annex "E"**;
14. Meanwhile, when completed, LPC shall, at its own cost and expense, be responsible for the operation and maintenance of the transmission facilities in accordance with the Philippine Grid Code (PGC) and/or other applicable laws or regulations and their interconnection agreements;
15. To fully support herein *Application* for the approval of the development and ownership or operation of the proposed dedicated point-to-point limited transmission facilities, LPC intends to submit the Judicial Affidavit of Engr. Emerald A. Gabatilla;
16. The following documents are hereby submitted for the Honorable Commission's consideration:

ANNEX	DOCUMENT
"F"	Project Description of the proposed dedicated point-to-point limited transmission facility
"C"	Options or alternatives considered in lieu of the proposed dedicated point-to-point limited transmission facilities
"G"	Single Line Diagram
"H"	Connection Line Lay-out
"I"	Key Management Officials of LPC
"J"	Work Schedule for the proposed dedicated point-to-point

	limited transmission facilities (“Gantt Chart”)
“K”	LPC’s Projected Income Statement and Balance Sheet
“L”	Secretary’s Certificate authorizing the filing of an application with the Honorable Commission for authority to undertake the same; designating a representative to said application; and engaging the services of MOSVELDTT Law Office thereof

ISSUANCE OF PROVISIONAL AUTHORITY

17. All the foregoing allegations are herein repleaded by reference in support of the instant *Prayer* for the issuance of a provisional authority;
18. A provisional authority to develop, own and operate the proposed dedicated point-to-point limited transmission facilities to connect the Power Facility to the Grid by direct connection to NGCP Sultan Kudarat Substation. The proposed dedicated point-to-point limited transmission facilities is indispensable for LPC to deliver temporary supply of power generated to South Cotabato II Electric Cooperative, Inc. (“SOCOTECO II), as committed under the provisions of the *Memorandum of Agreement* (“MOA”) between LPC and SOCOTECO II;
19. Meanwhile, to emphasize the necessity of a provisional approval of herein *Application*, LPC intends to submit a Judicial Affidavit of Engr. Emerald A. Gabatilla;
20. Rule 14, Section 3 of the *ERC Rules of Practice and Procedure*, provides for the issuance of a Provisional Authority pending approval of the *Application*, to wit:

“Section 3. Action on the Motion. – Motions for the provisional authority or interim relief may be acted upon with or without hearing. The Commission shall act on the motion on the bases of the allegations of the application or petitions and supporting documents and other evidences that applicant or petitioner has submitted and the comment or opposition filed by any interested person, if there be any.”
[Emphasis ours]

PRAYER

WHEREFORE, in view of all foregoing, it is most respectfully prayed for of this Honorable Commission that prior to and/or pending hearing on the merits, a **PROVISIONAL AUTHORITY** be issued to immediately allow the development or operation of the proposed dedicated point-to-point limited transmission facilities to connect the 15.0MW Lamsan Biomass Power Plant Project to the Grid by direct connection to the NGCP Sultan Kudarat Substation; and that after due notice and

hearing, **FINAL AUTHORITY** be issued to permanently authorize the same:

Other reliefs as may be just and equitable under the premises are, likewise, most respectfully prayed for.

Finding the said *Application* 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 **17 October 2017 (Tuesday) at ten o'clock in the morning (10:00 A.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, LPC 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 nationwide circulation in the Philippines, with the date of the 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 Governors, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected areas for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, the 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 the 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 the 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 Governor, 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 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 the 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.

LPC 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, 30 August 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:



ALFREDO J. NON
Officer-In-Charge of the ERC

Copy Furnished:

1. Atty. Anne Marie Joy B. Amantillo
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Counsel for Lamsan Power Corporation (LPC)
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2. Lamsan Power Corporation (LPC)
Lamsan Industrial Complex, Barangay Crossing Simuay
Sultan Kudarat 9605, Maguindanao, Philippines
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
4. Office of the Commission on Audit
Don Mariano Marcos Avenue, Diliman, Quezon City
5. The Committee On Energy
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City
6. The Committee On Energy
House of Representatives
Batasan Hills, Quezon City
7. Office of the City Mayor
Pasig City, Metro Manila
8. Office of the Local Government Unit (LGU) legislative body
Pasig City, Metro Manila
9. Office of the Municipal Mayor
Sultan Kudarat, Maguindanao
10. Office of the Local Government Unit (LGU) legislative body
Sultan Kudarat, Maguindanao
11. Office of the Governor
Province of Maguindanao
12. Office of the Local Government Unit (LGU) legislative body
Province of Maguindanao
13. 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
14. Regulatory Operations Service (ROS)
Energy Regulatory Commission
17th Floor, Pacific Center, San Miguel Avenue, Pasig City