

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 DEDICATED  
POINT TO POINT  
LIMITED TRANSMISSION  
FACILITIES TO CONNECT  
THE 100 MWP POWER  
PROJECT OF JOBIN -  
SQM, INC., TO THE  
LUZON GRID, WITH  
PRAYER FOR  
PROVISIONAL  
AUTHORITY**

**ERC CASE NO. 2016-005 MC**

**JOBIN-SQM, INC. (JSI),  
Applicant.**

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**D O C K E T E D**  
Date: **DEC 28 2018**  
By: \_\_\_\_\_

**DECISION**

Before this Commission for resolution is the *Application* filed on 02 February 2016 by Jobin-SQM, Inc. (JSI) seeking authority to develop, own and operate a dedicated point-to-point limited transmission line to connect the 100 MWP power project of Jobin - SQM, Inc., to the Luzon Grid, with prayer for provisional authority.

**Factual Antecedents**

On 02 February 2016, JSI filed the instant *Application*. The pertinent allegations of the said *Application* are hereunder quoted as follows:

1. That Applicant JSI is a generation company duly authorized and existing under the laws of the Republic of the Philippines, with principal address at Grande Island, Subic Bay Freeport Zone, Zambales.

Copies of JSI's Certificate of Incorporation, Certificate of Filing of Amended Articles of Incorporation with the attached Amended Articles of Incorporation, its By-Laws and

its latest General Information Sheet are attached to the Application as Annexes "A" and series.

2. JSI 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, the Application was submitted to secure authority from the Commission for JSI to develop, own, and operate its dedicated point-to-point limited transmission facilities, composed of a 230kV, 795 MCM conductor, single circuit interconnection that extends from its 100 MWp solar power generation project (the "Power Project") to the 230kV Substation of the National Grid Corporation of the Philippines ("NGCP") located in Subic, Zambales (the "NGCP Subic Substation").

#### **STATEMENT OF THE FACTS**

4. **Increasing Demand for Power Supply in the Luzon Grid.** The demand in the Luzon Grid is continuously increasing, and there is a need to ensure that power supply in the Grid will be sufficient to meet this steadily increasing demand. Otherwise, Luzon may suffer from outages, adversely affecting, not only the region's business growth and overall economic development, but also the quality of people's lives.
5. **Utilization of Renewable Energy Sources.** Renewable energy ("RE") sources such as solar 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.
7. Thus, the government's thrust is to promote renewable energy in order to reduce the country's dependence on fossil fuels. In line with this, legal reforms have been instituted towards increasing the country's RE capacities through increased investments in the sector, as well as through priority connections to the grid.
  - 7.1 In particular, Section 11 of the Renewable Energy Law of 2008 aims to ensure that the proposed RE

resources are integrated in the respective development plans of NGCP and distribution utilities. Thus, the law states:

Section 11. Transmission and Distribution System Development.

TRANSCO or its successors-in-interest or its buyer/concessionaire and all DUs, shall include the required connection facilities for RE-based power facilities in the Transmission and Distribution Development Plans: Provided, that such facilities are approved by the DOE. The connection facilities of RE power plants, including the extension of transmission and distribution lines, shall be subject only to ancillary services covering such connections. (Emphasis supplied.)

- 7.2 Also, Section 7 of the Renewable Energy Law mandates the formulation of a feed-in tariff (“FIT”) that will include priority connections for RE sources such as solar. 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; xxx (Emphasis supplied.)

- 7.3 In fulfilment of the said mandate, the Commission issued Resolution No. 16, Series of 2010, establishing the FIT system. Verily, 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. **Private Sector Initiated Power Projects.** To address the increasing need for power supply, the government has encouraged and mandated private sector investment in the electric power industry, particularly in power generation, to ensure additional capacity in Luzon and the entire country for the coming years.
9. **Additional Supply from JSI.** Applicant JSI has undertaken to develop, construct, own, operate, and maintain 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.
10. As discussed hereunder, in order to deliver the supply to be generated by the Power Project, it is necessary, feasible and cost-effective to connect the said Project to the Luzon Grid through the proposed dedicated point-to-point limited transmission facilities.
11. Under Republic Act No. 9136, authorization from the Commission is required for a generation company to develop, own, and operate point-to-point limited transmission facilities. Hence, the Application.

**ABSTRACT OF THE POWER PROJECT, THE  
DEDICATED TRANSMISSION FACILITIES AND  
RELATED INFORMATION**

12. The Power Project. The Power Project is a solar power generating facility located in Mount Sta. Rita, Subic Bay Freeport Zone, Zambales, with a generating capacity of 100 MWp. It shall supply power to the Luzon Grid under the FIT system.
13. **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, owned, and operated by Applicant JSI (the "Transmission Project").
  - 13.1. The Transmission Project consists of a 230kV, 795 MCM conductor, single circuit interconnection, extending from the Power Project to the existing 230kV NGCP Subic Substation, approximately seven kilometers in distance.
  - 13.2. The Transmission Project will use a combination of steel towers and poles. Steel poles will be used from the NGCP Subic Substation to the entry of Pamulaklakin Trail in Binictican, Subic Bay Freeport Zone, Bataan. From the Pamulaklakin Trail until Pastolan Village, Subic Bay Freeport Zone, Zambales ("Pastolan"), special towers with special foundations will be used, with heights from seventy (70) meters

up to ninety (90) meters. From Pastolan to the Power Project, standard lattice type towers will be used.

The proposed connection is illustrated in a single line diagram attached to the Application as Annex "B."

13.3. Applicant JSI shall own, construct, and install the said facilities in accordance with Philippine Grid Code and other applicable laws or regulations. JSI shall also be responsible for the operation and maintenance of the said facilities through a team of qualified, skilled and competent engineers.

13.4. **Dedicated Transmission Facilities.** The Transmission 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.

13.5. **Gantt Chart Schedule.** The timeline for the implementation of the Transmission Project was attached to the Application as Annex "C."

14. **Options Considered.** The specifications of the Transmission Project reflect the scheme with the least cost, and which can be delivered and constructed on time. Also, the plans and designs of the Transmission Project are based on plans and designs used by NGCP for its transmission lines.

A discussion of the options considered in determining the most practical and least costly manner of connecting the Power Project to the Luzon Grid was attached to the Application as Annex "D."

15. Moreover, the connection to the NGCP Subic Substation is the most cost effective because it is the nearest switching station to the Power Project, at a distance of only approximately seven kilometers.

16. **Technical Studies.** Consistent with the 2006 Open Access Transmission Service Rules, Applicant JSI engaged the services of a third-party consultant to undertake the preparation of the necessary studies for the Transmission Project.

16.1. Two System Impact Studies ("SIS") were conducted for the Power Project to determine the impact of the Power Project on the Luzon Grid. The first is for the initial 20 MWp of solar power capacity and some wind power capacity which JSI may put up later on (the "First SIS"), and the second is for an additional

80 MWp of solar power capacity (the "Second SIS"), which completes the entire intended capacity of the Power Project.

Copies of the First SIS and NGCP's report of its review of the First SIS were attached to the Application as Annexes "E" and "E-1," respectively. Copies of the Second SIS and Applicant JSI's request for NGCP's review were attached as Annexes "F" and "F1", respectively.

- 16.2. Notably, NGCP's report on its review of the First SIS states that it is technically feasible to connect the initial 20 MWp of solar power capacity and some wind power capacity to the Luzon Grid. In addition, the Second SIS states that the grid connection of the additional 80 MW is technically feasible. Further, it states that the full additional 80 MW capacity can be accommodated by the Luzon Grid without any required reinforcement. Furthermore, NGCP issued a certification that the SIS for the 80 MWp solar power plant is being reviewed by NGCP. The said certificate also states that JSI is in the process of securing with NGCP a Connection Agreement ("CA"). Moreover, the certification states that the parties have agreed, in principle, to the general terms and conditions of the CA and the same is being finalized.

A copy of the said NGCP certification was attached to the Application as Annex "F-2."

- 16.3. A Facilities Study ("FS") was also conducted for the Power Project. Likewise, Applicant JSI requested NGCP to review the FS. In relation to its review of the FS, NGCP issued a certification that the FS for the power plant is being reviewed by NGCP. The said certificate also states that JSI is in the process of securing with NGCP a Connection Agreement ("CA"). Moreover, the certification states that the parties have agreed, in principle, to the general terms and conditions of the CA were attached and the same is being finalized.

Copies of the FS, JSI's request for NGCP's review of the FS and NGCP's certification were attached to the Application as Annexes "G," "G-1" and "G-2," respectively.

17. **Estimated Project Cost.** The total project cost of the Transmission Project is estimated at PhP1,034,469,188.78.

A copy of the breakdown of the said project cost was attached to the Application as Annex "H."

18. **Environmental Compliance Certificate.** The Department of Environment and Natural Resources has

issued the necessary Environmental Compliance Certificate (“ECC”) covering the Power Project and the Transmission Project.

A copy of the ECC was attached to the Application as Annex “I.”

**Technical and Financial Capability of JSI**

19. JSI is fully equipped with the necessary technical and financial capacity to develop, own, operate, and maintain the Transmission Project.
20. **Technical Capability.** JSI has a team of qualified, experienced and competent engineers to operate and maintain the Transmission Project.

A copy of the summary of the curriculum vitae of the said engineers was attached to the Application as Annex “J.”

21. **Financial Capability.** JSI is capable of financing the cost of the Transmission Project, as indicated by the financial capability of its principal stockholder, Emerging Power Inc. (“EPI”), which owns 99.99% of JSI.

A copy of EPI’s latest Audited Financial Statements was attached to the Application as Annex “K.”

- 21.1. EPI is a generation company duly organized and existing under the laws of the Republic of the Philippines, with principal address at Suite 1603 B, 16th Floor, West Tower, Philippine Stock Exchange Centre, Exchange Road, Ortigas Business Center, Pasig City.
- 21.2. EPI is currently developing a 44 MW geothermal power station in Barangays Montelago, Montemayor and Melgar-B in Naujan, Oriental Mindoro, as well as a 20 MW bunker C-fired diesel power station in San Jose, Occidental Mindoro.
- 21.3. EPI has also recently signed power supply agreements with a distribution utility in an off-grid area for bunkerfired and solar power generating facilities. It also signed a sub-transmission service agreement with the said utility for the development of transmission lines.

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

22. As stated above, the Transmission Project is necessary in order to deliver the power generated by the Power Project to the Luzon Grid.

23. The Commission's provisional approval of the Application will greatly facilitate supply of additional power to the Luzon Grid.
24. Moreover, a provisional approval is also necessary in order to facilitate the application of JSI for the accreditation of the Power Project under the FIT system.
25. At present, the FIT rate for solar power is PhP8.69/kWh, which is effective until 15 March 2016.
26. JSI seeks to avail the PhP8.69/kWh tariff. The FIT rate subsequent to 15 March 2016 is expected to be lower. Thus, being unable to avail of the prevailing FIT will result in significant financial disadvantage to JSI.
27. Considering that JSI must obtain the accreditation of the Power Project for FIT availment before 16 March 2016, a provisional approval of the Application is necessary.
28. Hence, Applicant JSI respectfully moved 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 was attached to the Application as Annex "L."

**Prayer**

29. JSI prays that prior to and/or pending hearing on the merits, a PROVISIONAL AUTHORITY be issued to immediately allow the development and ownership or operation of the proposed dedicated point-to-point limited facilities to connect the 100 MWp Power Project of Jobin - SQM, Inc., to the Luzon Grid; and that after due notice and hearing, a 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.

The Commission, having found the said *Application* to be sufficient in form and substance with the required fees having been paid, issued an *Order* and a *Notice of Public Hearing*, both dated 23 May 2016, setting the case for jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on 29 June 2016.

In the same *Order*, JSI was directed to cause the publication of the *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. JSI was 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.

JSI was also directed to furnish with copies of the *Order* and the *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, whose duly authorized representatives were requested to be present at the initial hearing.

Likewise, JSI was directed to furnish with copies of the *Order* and the *Notice of Public Hearing* the Offices of the Governor of Zambales, the Mayor of the Municipality of Subic, and the Office of the Chairman and Administrator of Subic Bay Metropolitan Authority.

On 24 June 2016, JSI filed its *Pre-trial Brief* attaching therewith the *Judicial Affidavits* of Marlon F. Parot, Brian G. Cabactulan and Varnie C. Asedillo.

During the hearing held on 29 June 2016, only the representative of JSI appeared. No intervenor/oppositor appeared nor was there any intervention or opposition registered.

At the said hearing, JSI submitted its proofs of compliance with the Commission's posting and publication of notice requirements in accordance with the Order dated 23 May 2016, *to wit*:

1. Complete copy of the 13 June 2016<sup>1</sup> issue of the *Manila Times* newspaper where the *Notice of Public Hearing* was published;
2. *Affidavit of Publication*<sup>2</sup> of Mr. Mario Policarpio Jr., Chief Accountant of the Manila Times, attesting the publication of the *Notice of Public Hearing* in the Manila Times;
3. *Certificate of Posting* issued by the respective Offices of the Governor of the Province of Zambales<sup>3</sup>; Mayor of Subic<sup>4</sup>; Chairman and Administrator of the Subic Bay Metropolitan Authority<sup>5</sup>;

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<sup>1</sup> Exhibit "A"

<sup>2</sup> Exhibit "A-1"

<sup>3</sup> Exhibit "B"

<sup>4</sup> Exhibit "B-1"

<sup>5</sup> Exhibit "B-2"

4. Proof of other means dissemination information regarding the filing of the present Application, the hearing schedule and venue and the purpose of the hearing on the Application<sup>6</sup>; and
5. *Affidavit of Service* to show that the following agencies were furnished with copies of the *Order and Notice of Public Hearing*
  - a. Solicitor General (OSG)<sup>7</sup>;
  - b. Commission on Audit (COA)<sup>8</sup>;
  - c. Senate Committee on Energy<sup>9</sup>, and
  - d. House Committee on Energy<sup>10</sup>.

Upon perusal of the foregoing submissions of the Applicant, the Commission found that Applicant has fully complied with the Commission's publication and posting of notice requirements in accordance with its *Order* dated 23 May 2018. Having found Applicants' submissions to be complete and in order, the Commission acquired jurisdiction over the instant *Application*.

JSI conducted the expository presentation through Mr. Marlon Parot, the Electrical and Corporate Social Responsibility Consultant for the Power Generation Industry of Tamoin Industrial Services Corporation.

Since no intervenor or oppositor manifested its intent to participate in the proceedings, the Commission noted all the facts for stipulation and issues proposed by JSI as stated in its *Pre-Trial Brief*.

Thereafter, Mr. Varnie C. Asedillo, Site Manager of JSI was called to the witness stand and testified under oath. Mr. Asedillo identified his Judicial Affidavit (JA), which was marked as Exhibit "H". The Judicial Affidavit of Mr. Asedillo was likewise adopted as his direct testimony in the instant *Application*.

JSI also presented as witness, Mr. Brian G. Cabactulan, who also testified in support of the application. He identified his Judicial Affidavit, which was marked as Exhibit "G". The Judicial Affidavit of

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<sup>6</sup> Exhibit "C"

<sup>7</sup> Exhibit "D"

<sup>8</sup> Exhibit "D-1"

<sup>9</sup> Exhibit "D-2"

<sup>10</sup> Exhibit "D-3"

Mr. Cabactulan was also adopted as his direct testimony in the instant *Application*.

Likewise, JSI also presented as witness, Mr. Marlon F. Parot, who also testified in support of the *Application*. He identified his Judicial Affidavit, which was marked as Exhibit "F". The Judicial Affidavit of Mr. Parot was also adopted as his direct testimony in the instant application.

The applicant requested that it be allowed to present at least two (2) more witnesses to address questions pertaining to the technical aspect of the System Impact Study (SIS) and Facility Study (FS). Thus, the Commission granted the same and set the continuation of the hearing on 22 July 2016.

Furthermore, JSI was directed to submit the following documents, *to wit*:

1. Cost Benefit Analysis on all the three (3) options;
2. Clear copy of a detailed single line diagram;
3. Final FS, Final SIS approved by NGCP and Review Report of NGCP of the Final Facility Project;
4. Review report of the second SIS for the additional 80 MWp solar power plant;
5. Certification from NGCP that it can accommodate the 150 MWp plant;
6. Future plans of the applicant regarding the operation and maintenance; and
7. Copy of requirement by NGCP to use 24 core OPGW.

On 29 June 2016, the Commission issued an Order setting the case for the continuation of the hearing on 22 July 2016.

On 21 July 2016, JSI filed its *Compliance* in relation to the directive of the Commission during the 29 June 2016 hearing.

At the 22 July 2016 continuation of hearing, Mr. Parot was recalled to the witness stand. The Commission propounded clarificatory questions to Mr. Parot.

There being no other parties present, the direct examinations of all the witnesses of JSI had been declared terminated.

On 15 August 2016, JSI filed a *Compliance (re: Directives in Order dated 22 July 2016)* dated 10 August 2016.

On 20 September 2016, JSI filed its *Formal Offer of Evidence* submitting the following documentary exhibits, including the required additional documents, *to wit*:

<b>Exhibits Markings</b>	<b>Nature of Document</b>	<b>Purpose</b>
"A" and "A-1"	The Standard newspaper issue dated 13 June 2016 containing the Honorable Commission's Notice of Public Hearing dated 23 May 2016 ("the Notice"), and the corresponding Affidavit of Publication	To prove compliance with the Commission's Order dated 23 May 2016 (the "Order")
"B" and series	Proof of posting of copies of the Order and the Notice at the Office of the Governor of the Province of Zambales; Office of the Mayor of the Municipality of Subic, Zambales; and Office of the Chairman and Administrator of the Subic Bay Metropolitan Authority	- same as above -
"C"	Proof of other means of dissemination information regarding the filing of the present Application, the hearing schedule and venue and the purpose of the hearing on the Application	- same as above -
"D" "D-1" "D-2" "D-3"	Proof of service of copies of the present Application, the Order, and Notice on the Office of the Solicitor General; Commission on Audit; Senate Committee on Energy; and House of Representatives Committee on Energy	- same as above -
"E"	Print-out of JSI's expository presentation material	- same as above -
"F"	Judicial Affidavit of Engr. Marlon F. Parot	As part of the testimony of the affiant and to prove the truth of the statements therein
"F-1"	Signature of Engr. Marlon F. Parot on the said Judicial Affidavit	To prove the authenticity and due execution of the said Judicial Affidavit
"G"	Judicial Affidavit of Brian G. Cabactulan	As part of the testimony of the affiant and to prove the truth of the statements therein

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"G-1"	Signature of Brian G. Cabactulan on the said Judicial Affidavit	To prove the authenticity and due execution of the said Judicial Affidavit
"H"	Judicial Affidavit of Varnie C. Asedillo	As part of the testimony of the affiant and to prove the truth of the statements therein
"H-1"	Signature of Varnie C. Asedillo on the said Judicial Affidavit	To prove the authenticity and due execution of the said Judicial Affidavit
"I"	Single Line Diagram	To prove the details of the 230 kV dedicated limited point-to-point transmission facilities (the "Transmission Project")
"J"	Updated Single Line Diagram	To prove the updated details of the Transmission Project
"J-1"	Signature of Marlon F. Parot on the said updated Single Line Diagram	To prove the authenticity of the updated Single Line Diagram
"K"	Gantt Chart Schedule	To prove the timeline of the construction of the Transmission Project
"K-1"	Signature of A. E. Lavadia, Jr. appearing on the Gantt Chart Schedule	To prove the authenticity and due execution of the Gantt Chart Schedule
"L"	Written explanation entitled "Discussion on Options Considered for the Connection of the Power Project to the Luzon Grid"	To prove that JSI exercised due diligence in determining the most feasible option for the Transmission Project
"M" and "M-1"	Third Party System Impact Study ("SIS") for the initial 20MWp of solar power capacity and wind power capacity which may be installed later on ("First SIS"), and the National Grid Corporation of the Philippines' ("NGCP") review of the First SIS dated 30 June 2015 with the subject "Final Review Reports of the Third Party SIS for the 50 MW Wind Power Plant Project and 20 MW Solar Power Plant Project"	To prove the technical feasibility of the Transmission Project
"N"	Third Party System Impact Study for the additional 80 MWp of solar power capacity ("Second SIS")	- same as above -

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"O"	JSI's letter to NGCP dated 17 August 2015 with the subject "System Impact Study for the Additional 80 MW Solar Capacity at the Subic Bay Freeport Zone"	To prove that JSI requested NGCP to review the Second SIS
"O-1"	Signature of Roland R. Cabasa on the letter	To prove the authenticity of the said letter
"P"	Certification from NGCP dated 19 January 2016	To prove that the Second SIS is still being evaluated by NGCP
"Q"	Facilities Study ("FS")	To prove that a study was conducted to determine the interconnection limited facilities necessary for the Power Project to be connected to the Luzon Grid
"R"	JSI's letter dated 4 January 2015 with the subject: "Final Review for the Revised Facilities Study for the 100 MW Solar Power Plant Project and 50 MW Wind Power Plant Project"	To prove that JSI requested NGCP to review its FS
"R-1"	Signature of Roland R. Cabasa on the said letter	To prove the authenticity of the said letter
"S"	Certification from NGCP dated 19 January 2016	To prove that the FS was still then being reviewed by NGCP
"T"	NGCP's letter dated 11 March 2016 with the subject: "Jobin-SQM, Inc.'s Revised Facilities Study for the 100 MW Solar and 50 MW Wind Power Projects in Mt. Sta. Rita, Zambales"	To prove that the FS is in accordance with the SIS and that NGCP approved the Transmission Project
"U"	Written explanation entitled "Technical Capability and Professional Team"	To prove the capability of JSI and its officers and personnel to operate and maintain the Transmission Project
"V"	Estimated Project Cost with the headings "Bid Price Schedule" and "Total Cost Estimates"	To prove the estimated total cost of the Transmission Project
"W" and "W-1"	Emerging Power Inc.'s Audited Financial Statements as of 31 December 2014 and as of 31 December 2015	To prove the financial capability of JSI to finance the cost of the Transmission Project
"X"	Environmental Compliance Certificate ("ECC")	To prove compliance with Rule 20 B, Section 2 of the ERC Rules;

		To prove that the necessary ECC has been issued for the Transmission Project
"Y"	JSI's Certificate of Incorporation	To prove compliance with Rule 20 B, Section 2 of the ERC Rules;  To prove that JSI is a corporation duly organized and existing under the laws of the Republic of the Philippines
"Y-1"	JSI's Amended Articles of Incorporated dated 21 January 2011	- same as above -
"Y -2"	JSI's Amended Articles of Incorporation dated 22 February 2016	- same as above -
"Y-3"	JSI's General Information Sheet as of 2015	- same as above -
"Z"	Single Line Diagram reflecting the Interim Connection	To prove the details of the Interim Connection which was constructed prior to the Transmission Project
"AA"	JSI's letter to NGCP with the subject: "Jobin-SQM, Inc. Point-to-Point Connection Hearing Requirements"	To prove that JSI requested from NGCP the possible cost if the Transmission Project is constructed by the latter;  To prove that JSI requested for an update of the review of NGCP of its Second SIS;  To prove that JSI requested for a certification from NGCP that the Transmission Project can accommodate the 150 MWp load of the proposed power projects;  To prove that JSI requested for a copy of NGCP's requirement to use 24 core OPGW
"BB"	Cost-benefit analysis on the options	To prove that JSI

	considered by JSI in the construction of the Transmission Project	exercised due diligence in determining the most feasible option for the Transmission Project
“CC”	Write-up entitled “Operations and Maintenance of the Point-to-Point limited Transmission Facilities”	To prove the plans of JSI with regard to the operations and maintenance of the Transmission Project;  To prove that JSI has commenced communications with NGCP for the operations and maintenance of the Transmission Project
“DD”	Document entitled “Explanation on the use of the 24 Core OPGW”	To prove the necessity of the use of 24 core OPGW in the Transmission Project
“EE”	JSI’s letter to NGCP with the subject: “ERC Requirement for Clarification of NGCP Configuration on Subic Substation”	To prove that JSI requested NGCP to clarify the configuration of the NGCP Subic substation as indicated in NGCP’s review report of the FS
“FF”	Write-up on the ownership of the breaker and a half scheme utilized in the Transmission Project	To prove the ownership of the breaker and a half scheme

On 27 September 2016, Applicant filed its *Supplemental Compliance (re: Directives during the 22 July 2016 Hearing)*, and *Supplemental Formal Offer of Evidence with Motion for Additional Marking*.

Thus, having found the exhibits contained in the Applicant’s *Formal Offer of Evidence* and *Supplemental Formal Offer of Evidence* relevant and material in the final resolution of this case, the Commission admitted the same and declared the instant case submitted for resolution.

### **Issues**

The issues presented before the Commission are the following:



1. Whether or not JSI should be given authority to develop the subject facility to connect the 100 MWp Solar Power Plant to the Subic Substation of the National Grid Corporation of the Philippines (NGCP);
2. Whether or not the subject assets are dedicated point-to-point limited transmission facilities (or connection asset) that could be owned by JSI;
3. Whether or not to authorize JSI to operate the dedicated point-to-point limited facilities; and
4. In case the subject assets are required for competitive purposes and ownership of the same shall be transferred to NGCP, how should the cost be treated or recovered?

### **DISCUSSION**

JSI is a generation company duly authorized and existing under the laws of the Republic of the Philippines. It owns a solar power plant, with a capacity of 100 MWp, located in Mount Sta. Rita, Subic Bay Freeport Zone, Zambales. JSI has an Amended Certificate of Commerciality No. SCC-2015-09-021-A2 dated March 11, 2016 issued by the Department of Energy (DOE).

JSI was able to secure an Environmental Compliance Certificate Ref. Code No. R03-1501-0043 dated October 1, 2015 from Department of Environment and Natural Resources (DENR) Environment Management Bureau.

The dedicated point-to-point limited transmission facilities, subject of this Application, are necessary for the power plant to deliver its generated power to the Luzon Grid.

The 100 MWp Solar Power Plant of JSI will be connected to the Luzon Grid through the subject dedicated point-to-point limited facilities and the NGCP Subic Substation with the following composition:

- a) Takeoff substation at JSI power Plant with two (2) 50 MVA ONAN transformers;

- b) Single circuit, 230 kV transmission line with the approximate length of eight (8) kilometers using 795 MCM ACSR; and
- c) Upgrading and modification of NGCP's Subic Substation to accommodate JSI.

The total estimated cost of the proposed project is PhP1,034,469,188.78 including the cost of assets advanced by JSI for NGCP that are not dedicated point to point limited facilities. The details of the project costs are shown in the table below:

**Table 1**

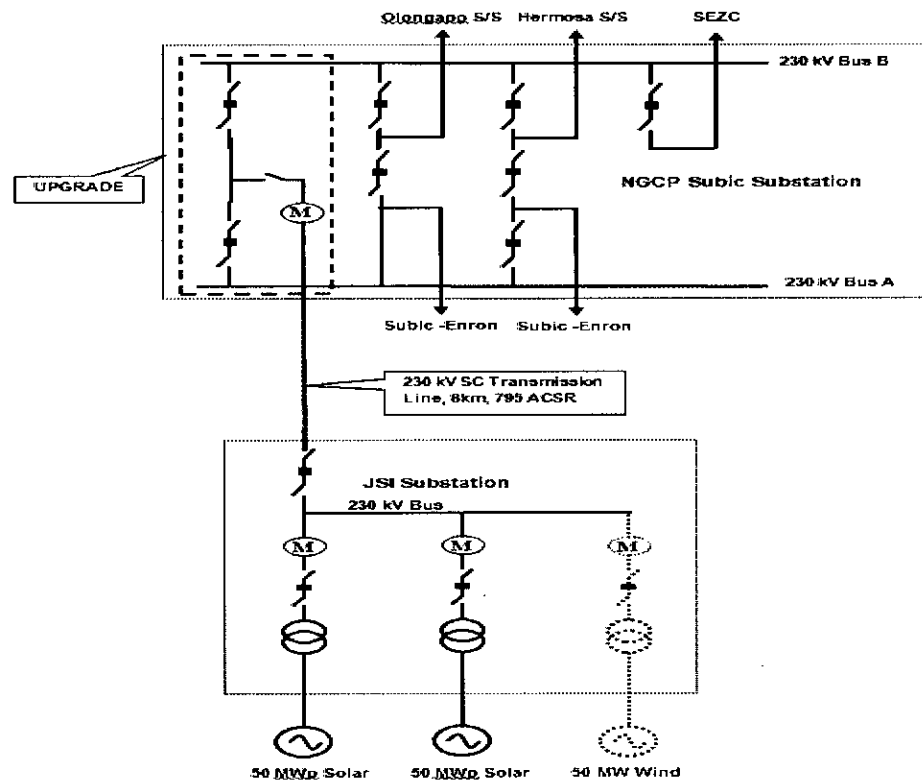
<b>Description</b>	<b>Total Cost</b>
JSI Connection Assets	774,029,928.98
NGCP Subic Substation (upgrade and modification)	260,439,259.80
<b>Grand Total</b>	<b>1,034,469,188.78</b>

It should be emphasized that the aforementioned amounts are not necessarily the fair market value that should be used when the subject assets are actually transferred to TransCo/NGCP.

To provide context on how to resolve the identified issues of this case, the Commission undertook to illustrate it through the Single Line Diagram below.

*(This space is intentionally left blank)*

Figure 1



**Approval for the authority of JSI to develop the subject facilities to connect the 100 MWp Solar Power Plant to the Subic Substation of NGCP**

Section 8 of Republic Act No. 9136, otherwise known as the *Electric Power Industry Reform Act of 2001 (EPIRA)*, authorized TRANSCO (or its concessionaire) to develop, own and operate transmission facilities. It, likewise, provides as follows:

*“xxx no other person, company or entity other than TRANSCO shall own any transmission facilities. xxx”*

Thus, TRANSCO or its concessionaire should provide transmission facilities and services. However, Section 9 of EPIRA provides for exemption, to wit:

*“x x x. 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: x x x.”*

Thus, JSI is authorized to develop the subject facility because of its compliance with the following technical and financial criteria, as discussed below.

**a) Need for the Project**

As stated in the application, the dedicated point-to-point limited facility is necessary for the 100 MWp Solar Power Plant to deliver its generated power to the Luzon Grid through NGCP Subic Substation.

**b) Result of the System Impact Study (SIS) and Facility Study (FS)**

As provided under existing regulations, JSI commissioned a third party (MN Electro Industrial Supply & Services) to conduct a System Impact Study (SIS) to determine the technical feasibility of connecting the 100 MW Solar Power Plant to the Luzon Grid.

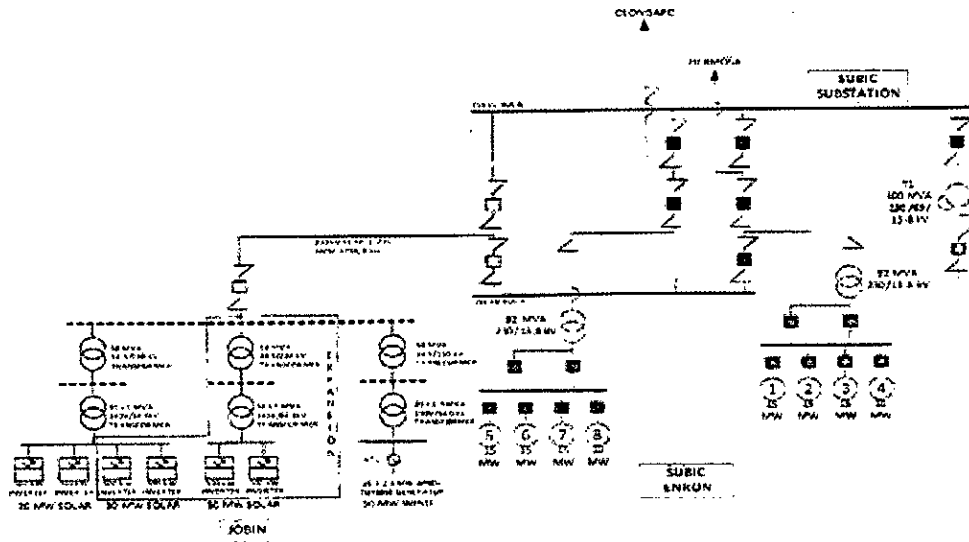
Likewise, two (2) SIS were conducted to determine the impact of the entry of the power plant to the Luzon Grid and NGCP released two (2) Final Review Reports on the Third Party System Impact Study (First - 20MWp solar and 50MW wind; and second - 100MWp [2 x 50MWp] solar and 50MW wind). Based on the said reports, the 100MWp solar power plant can be integrated to the Luzon Grid via direct connection in NGCP 230 kV Subic Substation.

**c) Compliance with the Technical Requirements**

The single line diagram shown below will illustrate JSI's compliance with the provisions of Philippine Grid Code (PGC) and requirements of NGCP in its FS and SIS:

*(This space is intentionally left blank)*

Figure 2



The point of interconnection (POI) will be at the NGCP 230 kV Subic Substation where the approximately 8 km 230 kV line, utilizing 795 MCM ACSR, is connected.

The connection point is controlled by a circuit breaker, which is consistent with the above-mentioned standards. In addition, the substation is equipped with disconnect switches, surge arresters, instrument transformers, protective relays and its accessories which are all compliant with the requirements of PGC and NGCP.

The substation at the Solar Power Plant has two (2) 50 MVA ONAN 230/34.5kV power transformer.

JSI complied with the standards in equipment grounding and the requirements in communication and SCADA for monitoring and control.

As confirmed during the ocular inspection, the metering point of JSI's Power Plant is located at the connection point, compliant with Section 9.2.1 of the PGC, to wit:

*"Section 9.2.1.1. The metering point between the Grid and User System shall be at the Connection Point"*

#### **d) Construction of the Subject Facility**

JSI engaged the services of S.L. Development Construction Corporation and Harty, Inc. for the supply, construction and installation of the subject facilities.

The said contractors developed and constructed the subject facilities in accordance with the SIS and FS requirements.

**e) Compliance with the Financial Criteria**

Regarding JSI's claim that it has the financial capability to undertake the development and construction of the dedicated point-to-point limited line, its financial capability will be assessed in the application of JSI for COC to ensure that the applicant is compliant with the financial qualifications set forth in the Financial Guidelines for Generation Companies.

It is worthy to note that during the ocular inspection, it was disclosed that the subject facility has already been completed without prior approval by the Commission which is in violation of Section 9 of the EPIRA, to wit:

*"x x x. 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: x x x."*

The same will be further investigated by the Commission for purposes of determining the propriety of imposition of sanctions, if warranted.

**Approval for the authority to own the dedicated point-to-point limited transmission facilities (or connection asset)**

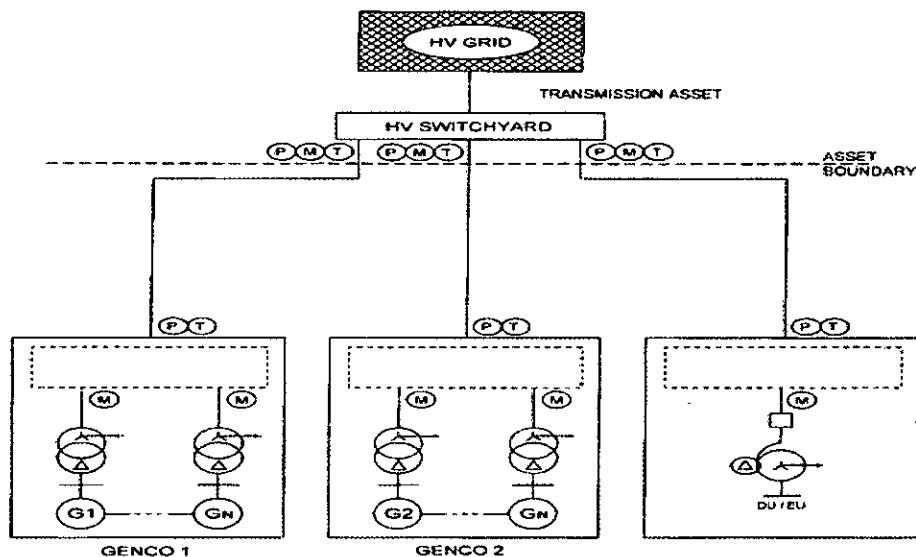
The Commission rules that the assets installed at the NGCP's Subic Substation are not considered dedicated point-to-point limited transmission facilities while the assets connecting the JSI's 100 MWp Solar Power Plant to NGCP Subic substation are the only dedicated point-to-point facilities qualified under Section 9 of EPIRA.

The assets installed at NGCP's Subic Substation are not considered dedicated point-to-point limited transmission facilities because the said assets connect other users of the grid [Subic-ENRON

(a generator) and a distribution utility Subic Enerzone Corporation (SEZ)]. Said transmission assets function as part of the NGCP asset in accordance with ERC Resolution No. 23, Series of 2016, entitled “Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider”.

The circuit breakers and equipment located at the NGCP Subic Substation are “transmission assets” by function, as stated above, and should be turned over to NGCP and shall not be part of the dedicated point-to-point limited facilities. This is consistent with the Standard Grid Interconnection Variant 3, to wit:

**Figure 3**



**Variant 3: Connection to the Grid of Different Generation Companies and Distribution Utilities/End-Users**

As to the assets connecting JSI’s 100 MWp Solar Power Plant to NGCP’s Subic substation, these assets are dedicated point-to-point limited facilities qualified under Section 9 of EPIRA. If these assets are removed or cut, only JSI will be disconnected since these are solely used by JSI’s generating facility.

Connection Assets or dedicated point-to-point limited transmission facilities are those assets that are placed primarily to connect a Customer/s to the Grid and used for purposes of Transmission Connection Services for the conveyance of electricity which if taken out of the System, will only affect the customer connected to it and will have minimal effect on the Grid, or other connected Customers.

**Denial of the authority  
of JSI to operate the  
dedicated point-to-point  
limited facilities**

With regard to the authority to operate the dedicated point-to-point facilities, the assets shall be operated by NGCP. There shall be assurance that the subject facility will be operated without adverse effect to the reliability of the grid. TransCo, now NGCP, is mandated in Section 9 (c) of R.A. 9136, to wit:

*“c) Ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid xxx”*

Likewise, Section 8 of the EPIRA also provides that *“xxx, no person, company or entity other than TransCo shall own any transmission facility.”*

Relative thereto, NGCP was likewise granted by Congress of the Philippines the exclusive franchise to operate and maintain the transmission system pursuant to Republic Act No. 9511.

The only exception is when EPIRA recognizes that a generation company may construct, own and operate a dedicated point-to-point limited transmission facility, subject to prior approval of the Commission. This exemption, however, is bounded by numerous strict limitations.

The applicant, failed to prove that it could operate the subject facility better than NGCP within the duration of the subject asset's life.

Thus, to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid, the operation and maintenance of subject facility will be through NGCP.

**Recovery of cost of the  
subject assets that are  
required for competitive  
purposes and ownership  
of the same shall be  
transferred to NGCP**

To reiterate, the Commission rules that the assets installed at the NGCP's Subic Substation are not considered dedicated point-to-point limited transmission facilities because the said assets function



as part of the NGCP asset in accordance with ERC Resolution No. 23, Series of 2016. In fact, it connects other users, such as SUBIC ENRON and SEZ. Since there are other users of the subject facility, it could not be considered as dedicated point-to-point limited transmission facilities. For this reason, JSI should turn over the assets to NGCP at fair market price subject to optimization and shall not be included in JSI's PSA.

Anent the assets connecting JSI power plant to the NGCP Subic Substation which are considered dedicated point to point assets, in the event that the subject dedicated point-to-point facility is required for competitive purposes or to connect any other user, ownership of the same shall be transferred to TransCo/NGCP at a fair market price but subject to optimization.

In determining the fair market price, the cost of the facility as incorporated in the determination of the PSA rate or Feed-in-Tariff (FIT), in the event that the generation company be FIT eligible, shall be accounted for, subject to the following conditions:

- a. If the fair market value (subject to optimization) is higher than the facilities' cost incorporated in the determination of the FIT, NGCP/TransCo shall pay the difference between the said cost and the fair market value.
- b. If the fair market value (subject to optimization) is lower than the facilities' cost incorporated in the determination of the FIT, the asset shall be treated as Contribution in Aid of Construction (CIAC). NGCP shall maintain a separate account of these amounts and the assets should not appear in rate base or in its asset appraisal.

It is worth mentioning that in the Final Review Report on the Third Party System Impact Study (100MWp [2 x 50MWp] solar and 50MW wind), the subject facilities will be serving two (2) different technologies (solar and wind). Although these assets are owned by JSI, they shall be treated as separate plants considering their operational characteristics and different Feed-in-Tariff (FIT) rates. Thus, to avoid any doubt on rate considerations, in the event the proposed 50MW wind power plant will be operational, the dedicated point-to-point limited transmission facilities up to the JSI switchyard (230 kV bus) shall be reclassified into transmission assets and turned over to TransCo/NGCP at a fair market price, subject to optimization.

**Payment of Permit Fee**

Pursuant to Commonwealth Act No. 146, as amended, a permit fee shall be imposed to JSI for the authority to construct the project subject of the *Application*. The prescribed permit fee is intended for the reimbursement of the expenses of the Commission in evaluating the *Application* based on the total project cost. The project includes facilities that have transmission function and not just dedicated point-to-point limited facilities. Since the application was filed solely by JSI (including the facilities to be transferred to NGCP), the permit fee shall be paid solely by the applicant based on the total cost of the project. The permit fee is computed as follows:

$$\begin{aligned} \text{Permit Fee} &= \frac{\text{Total Project Cost} \times 0.75}{100} \\ &= \frac{1,034,469,188.78 \times 0.75}{100} \\ \text{Permit Fee} &= \text{PhP}7,758,518.91 \end{aligned}$$

**WHEREFORE**, the foregoing premises considered, Applicant JOBIN-SQM, Inc. (JSI) is hereby **AUTHORIZED** to develop, and own a dedicated point-to-point limited facility to connect the 100 MWp JSI Solar Power Plant to the Luzon Grid of the National Grid Corporation of the Philippines (NGCP) via a direct connection at NGCP's Subic Substation, subject to the following conditions:

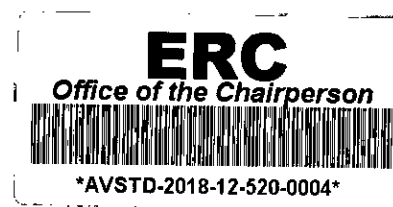
1. The National Grid Corporation of the Philippines (NGCP) shall operate and maintain the subject dedicated point-to-point limited facilities, to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid, subject to applicable charges;
2. JSI shall execute an undertaking or similar document/s that it will turn over to TransCo/NGCP those assets installed at the NGCP's Subic Substation that perform transmission function at fair market price subject to optimization. Said assets shall not be included in its Power Supply Agreement (PSA).
3. The dedicated point-to-point limited facilities shall be used solely by the generating facility;
4. The metering point shall be at the connection point in accordance with the Philippine Grid Code (PGC);

5. Any portion of the dedicated point-to-point limited facilities required for competitive purposes or to connect any other user, ownership of the same shall be transferred to TransCo/NGCP at a fair market price but subject to optimization. In determining the fair market price, the cost of the facility as incorporated in the determination of Feed-in-Tariff (FIT), in the event that the generation company be FIT eligible, shall also be considered; and
6. The authorization granted to JSI is without prejudice to its compliance with other government agency's requirements, rules and regulations.

Relative thereto, JSI is hereby **DIRECTED** to pay and remit to the Commission, within fifteen (15) days from receipt hereof, the Permit Fee in the total amount of **Seven Million Seven Hundred Fifty Eight Thousand Five Hundred Eighteen and 91/100 Pesos (PhP7,758,518.91)**.

**SO ORDERED.**

Pasig City, 11 December 2018.



  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

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

  
**ALEXIS M. LUMBATAN**  
*Commissioner*

  
**CATHERINE P. MACEDA**  
*Commissioner*

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**DECISION/11 December 2018**  
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