

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 FROM THE 12.6  
MW HERMOSA SOLAR  
POWER PLANT TO CONNECT  
TO THE TRANSMISSION  
SYSTEM OF THE NATIONAL  
GRID CORPORATION OF THE  
PHILIPPINES (NGCP), WITH  
PRAYER FOR PROVISIONAL  
AUTHORITY

**ERC CASE NO. 2015-068 MC**

**YH GREEN ENERGY, INC.  
(YHGEI),**

**Applicant.**

X -----X

**D O C K E T E D**  
Date: **NOV 06 2015**  
By: *[Signature]*

**O R D E R**

On October 14, 2015, YH Green Energy, Inc. (YHGEI), filed an application for authority to develop, own and operate dedicated point to point limited transmission facilities from the 12.6 MW Hermosa Solar Power Plant to connect to the transmission system of the National Grid Corporation of the Philippines (NGCP), with prayer for provisional authority.

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

1. YHGEI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at 8 S.E. Jaime Street, Paknaan, Mandaue City, Cebu, represented by its President Mr. Derrick Chua. A

*[Handwritten mark]*

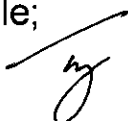
copy of YHGEI's Certificate of Registration, Articles of Incorporation, By-Laws and latest Audited Financial Statements are attached to the application as Annexes "A", "B" and "C", respectively;

2. The application was filed pursuant to the following provision of Republic Act No. 9136 (R.A. 9136), otherwise known as the "Electric Power Industry Reform Act of 2001" or EPIRA:

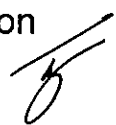
"SEC. 9. Functions and Responsibilities. xxx

*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. "*

3. The application consists of the construction of approximately 4.0 km. 69 kV, Single Circuit, using 1-336.4 MCM ACSR that will connect its solar generation plant to the transmission grid, as well as certain power circuit breakers and equipment at the new substation (the line and these systems, breakers and equipment are hereinafter referred to as the Connection Assets). These Connection Assets are more particularly described in the Interconnection Facilities Study Report attached to the application as Annex "D";
4. YHGEI's 12.6 MW Solar Power Plant is being constructed in Hermosa, Bataan (the Generation Plant);
5. YHGEI has already applied for the Solar Energy Service Contract (Service Contract) with the Department of Energy (DOE). It undertakes to submit the Service Contract as soon the same is available;



6. In its 2013 Supply-Demand Outlook, the DOE recognized the growing demand for power in the Philippines. For the Luzon Grid, the DOE projected the energy demand to increase at an average annual growth rate (AAGR) of 4.13%, from 7,969 MW in 2012 to 10,693 MW in 2020 and will increase further to 16,477 MW in 2030. Based on the 2013 Supply-Demand Outlook, the grid still needs 8,100 MW of additional capacities of 6,000 MW base-load plant and 2,100 MW peaking plants to meet the electricity demand and the required reserve margin of the grid;
7. In the report submitted to Congress, the DOE officials forecast an energy shortage in Luzon at 400 megawatts (MW) to 1,000 MW during the first half of 2015. To address the looming power deficiency, the Government planned to contract and secure additional generating capacity under terms and conditions Congress may approve invoking Section 71 of the EPIRA;
8. As an alternative, the government has called for the private sector to invest in additional capacity in order to address the power supply problem in the Philippines;
9. In support of the government call for power investment to address the need for additional capacity in the Luzon Grid, YHGEI will design, engineer, construct, test, commission, own, operate and maintain an approximately 14 MW solar power plant together with its associated ancillary and auxiliary equipment and associated switchyards and transformers in Hermosa Ecozone Industrial Park, Hermosa, Bataan, which is underway and scheduled for completion in December 2016;
10. It has already secured an Environmental Compliance Certificate (ECC, R03-1506-0230) from the Department of Environment and Natural Resources (DENR) pursuant to Presidential Decree No. 1586 (P.D. 1586);
11. YHGEI has executed a Land Lease Agreement with Hermosa Ecozone Development Corporation for the project. It has also secured Resolution No. 05, Series of 2015 issued by the Municipality of Hermosa, Bataan, endorsing the power plant project;
12. To test, commission and dispatch the solar power plant soon after the completion, there is a need for YHGEI's Generation



Plant to connect to the Luzon Grid through the transmission system of NGCP to be constructed soonest. Since YHGEI will be utilizing the transmission system of NGCP, the latter has already approved YHGEI's System Impact Study (SIS) and Interconnection Facilities Study Report (IFSR) and has determined the technical feasibility of connecting the Generation Plant to the Luzon Grid. Copies of the approved SIS and IFSR are attached to the application as Annexes "G" and "H", respectively;

13. YHGEI and NGCP have executed a Connection Agreement for the abovementioned Generation Plant. A copy of the Connection Agreement is attached to the application as Annex "I";
14. Under the Connection Agreement, YHGEI shall be responsible for the financing and construction of the transmission assets, and shall also own, operate and maintain them unless the Commission decided to commission the services of NGCP or its accredited entities for their operation and maintenance;
15. The YHGEI's Generation Plant being situated in the Hermosa Ecozone which is almost 4 kms. from the transmission system of NGCP is the shortest, most viable and best option to connect the Generation Plant to the Luzon grid system;
16. The proposed transmission line meets the requirements provided under Section 9 of the EPIRA and the relevant regulations issued by the Commission, as follows:
  - a. The transmission line is a dedicated point-to-point limited interconnection facility whose sole purpose is to connect the Generation Plant to the Luzon Grid through NGCP's assets and is considered as "Connection Asset" under the Commission's Resolution No. 16, Series of 2011;
  - b. The transmission line will be exclusively used by YHGEI for the operations of the Generation Plant and will not serve any end-user;
  - c. The transmission line is consistent with the TDP of the NGCP;



- d. The transmission line is technically feasible and will not result to the degradation of the Luzon Grid; and
  - e. It has the technical and financial ability to develop, construct, operate and maintain the transmission line;
17. The cost of the transmission line and switchyard is about PhP121,000,000.00;
  18. Based on YHGEI's Financial Feasibility Study submitted to the DOE in support of its application for declaration of commerciality, the construction of the project as well as the transmission line will be funded by YHGEI through equity from shareholders and debt service financing 30% by equity and 70% by debt;
  19. Since the development and construction of the transmission line will be solely funded by YHGEI and its shareholders and the transmission line will be exclusively used by it for the operation of the power plant, the construction of the transmission line will not have any impact on the transmission rates currently being charged by NGCP;
  20. The portion of the transmission line will be constructed by MN Electro Industrial Supply and Services, Inc. It is a corporation engaged in consultancy, engineering and design and construction services for the electric power industry;
  21. Once completed, YHGEI shall undertake the operation, service, and maintenance of the transmission line through MN Electro Industrial Supply and Services, Inc. pursuant to a Owner Contractor Agreement. Under the said Agreement, MN Electro Industrial Supply and Services, Inc. will conduct regular patrolling of the transmission line, check the pole and guy wire conditions, and trim over-grown bushes and conduct tree and grass-cutting operations, among other operation and maintenance activities;
  22. In the event that it will be allowed by the Commission to operate and maintain the transmission assets, YHGEI undertakes to comply with the Statement of Compliance prescribed by the Philippine Grid Code (PGC);

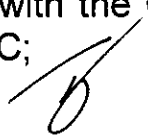


23. In further support of its application, YHGEI hereby submits the following:

<b>ANNEX REFERENCE</b>	<b>DOCUMENTS</b>
A	SEC Certificate of Registration
B	Articles of Incorporation
B-1	By-Laws
C	Latest Audited Financial Statements, with Audited Balance Sheet and Income Statement
D	Connection Agreement
E	Environmental Compliance Certificate
F	Land Lease Agreement
F-1	Municipal Resolution No. 05, Series of 2015
G	System Impact Study
H	Interconnection Facilities Study Report
I	Owner-Contractor Agreement between YHGEI and MN Electro Industrial Supply and Services, Inc.
J	Affidavit executed by Mr. Derrick N. Chua dated October 2015 in support of the prayer for issuance of provisional authority

24. The requirement that proof of public information dissemination of the proposed capital expenditure was conducted within an applicant's franchise area is not applicable to the application because YHGEI is not a distribution utility but a generation company and therefore has no franchise area to speak of.;

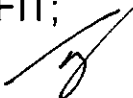
25. The requirement that a copy of the Commission's Certificate of Compliance (COC) for the Generation Plant be submitted is also not yet applicable because the Generation Plant is still in the early stages of construction and the EPIRA IRR only requires a generation company to obtain a COC for a new generation facility before that facility commences commercial operations and it is YHGEI's observation that the documentary requirements for the issuance of a COC presupposes that such facility has been completed or nearing completion. YHEGI undertakes to apply for a COC prior to the Generation Plant's commencement of operations and will comply with the Commission's requirements for the issuance of a COC;



26. The foregoing circumstances clearly show that the proposed dedicated transmission line complies with Section 9 of the EPIRA and relevant regulations of the Commission;

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

27. Rule 14 of the Commission's Rules of Practice and Procedure authorizes the issuance of a provisional authority or an interim relief prior to a final decision, provided that the facts and circumstances warrant the issuance of the same;
28. The facts and circumstances of the application warrant the issuance by the Commission of the provisional authority prayed for even as the Commission is considering whether to fully approve the application;
29. The urgent need for additional capacity in the Luzon Grid and the insufficient levels of power reserve and supply merit the issuance of the provisional authority so that the Connection Assets may be constructed in conjunction with the construction of the Generation Plant;
30. YHGEI believes that it will be able to complete the development and construction of the Generation Plant and transmission facilities at the soonest possible time in order to be able to dispatch the electricity to the Luzon Grid through the transmission system of NGCP;
31. This project is in consonance with the objective of the EPIRA and Renewable Energy Act of 2008, which aims to encourage private sector participation in power generation and to accelerate the development and utilization of the country's renewable energy sources. Thus, there is an urgent need for YHGEI, as an RE Developer, to achieve commerciality and commence operations at the soonest possible time;
32. The issuance of a provisional authority by the Commission is necessary and critical in light with the DOE's first-come, first served policy on Feed-In Tariff (FIT) allocation so that it can immediately commence the construction of the transmission facilities to avail of the FIT;



33. An affidavit attesting to the necessity of this Commission's issuance of a provisional authority in YHGEI's favor is attached to the application as Annex "J";
34. It prays that the Commission:
- a) Issue an Order authorizing YHGEI to develop, own and operate the limited transmission facilities to connect its Generation Plant to the Luzon Grid; and
  - b) After due notice and hearing, issue an Order making the provisional authority permanent.

Finding the said application to be sufficient in form and in substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **November 23, 2015 (Monday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

YHGEI is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, with the date of the publication to be made not later than ten (10) days before the scheduled date of initial hearing. It is also directed to inform the consumers within its franchise area, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (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.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of Mandaue City, Cebu and the Municipality of Hermosa for the appropriate posting thereof on their respective bulletin boards.





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

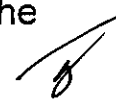
On the date of the initial hearing, YHGEI must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the Mayors and or their duly authorized representatives, bearing the seals of their offices, and the affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

YHGEI and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- a) A summary of admitted facts and proposed stipulation of facts;
- b) The issues to be tried or resolved;
- c) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of YHGEI to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, YHGEI must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the



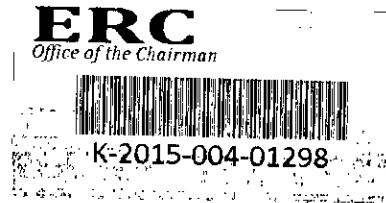
application is all about and the reasons and justifications being cited in support thereof.

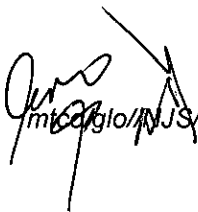
**SO ORDERED.**

Pasig City, October 26, 2015.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**JOSE VICENTE B. SALAZAR**  
Chairman 



  
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**Copy Furnished:**

1. **ATTY. ARNIDO O. INUMERABLE**  
Counsel for YHGEI  
405 Elisa Street, U.E. Village, Cainta, Rizal
  
2. **Mr. Derrick Chua**  
President  
YH Green Energy, Inc. (YHGEI)  
8 S.E. Jaime Street, Paknaan, Mandaue City  
Cebu
  
3. **The Office of the Solicitor General**  
134 Amorsolo Street, Legaspi Village, Makati City  
Metro Manila
  
4. **The Commission on Audit**  
Don Mariano Marcos Avenue  
Diliman, Quezon City, Metro Manila
  
5. **The Senate Committee on Energy**  
Senate of the Philippines  
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
  
6. **The House Committee on Energy**  
House of Representatives  
Batasan Hills, Quezon City, Metro Manila
  
7. **Office of the City Mayor**  
Mandaue City, Cebu
  
8. **Office of the Municipal Mayor**  
Municipality of Hermosa  
Province of Bataan

