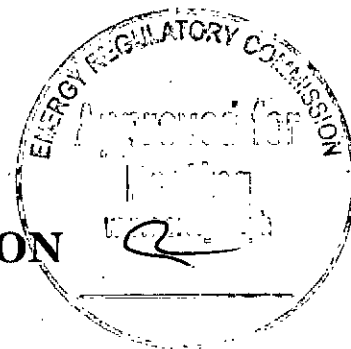


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
APPLICATION FOR AUTHORITY
TO DEVELOP, OWN, OPERATE,
AND MAINTAIN DEDICATED
POINT-TO-POINT LIMITED
FACILITIES TO CONNECT TO
THE TRANSMISSION SYSTEM
OF NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP), WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2015-100 MC

ASIAN GREENENERGY CORP.

Applicant.

X-----X

D O C K E T E D
Date: FEB 04 2016
By: W

ORDER

On 2 December 2015, the Asian Greenenergy Corp. (AGEC) filed an application for authority to develop, own and operate and maintain dedicated point-to-point limited facilities to connect to the transmission system of the National Grid Corporation of the Philippines (NGCP), with prayer for provisional authority.

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

1. AGECE is a power generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 10F VGP Center, 6772 Ayala Avenue, Makati City, and business office address at Floor 3B 111 Paseo de Roxas Bldg., Paseo de

Roxas cor. Legaspi Streets, Legaspi Village, Makati City. It may be served orders and other legal process through its counsel;

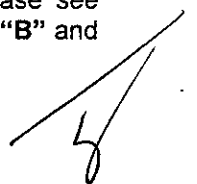
2. AGEC's primary purpose is to engage in all aspects of exploration, assessment, development and utilization of renewable energy resources, including the procurement, acquisition, importation, construction, installation, erection, ownership, lease, operation, and maintenance of edifices, structures, facilities, materials, machinery and equipment, for or related to the generation and sale of power; to acquire, purchase, own, lease, sub-lease, and obtain rights and access to real and personal property; to form, organize, or otherwise acquire ownership interest in any general or limited partnership, corporation, association, or other entity, and to be a general or limited partner, shareholder, member, associate or manager of such entity; to obtain, enter, and perform any and all contracts, agreements, and instruments, and engage in any and all transactions as may be necessary or incidental to the conduct of the foregoing purposes;¹

3. In its 2013 Supply-Demand Outlook,² the Department of Energy ("DOE") recognized the growing demand for power in the Philippines. For the Mindanao Grid, the DOE recognizes that it has been experiencing under generation since 2010. A total of 1,600 MW additional energy capacities are needed to meet the electricity demand in the region, which has a 4.57% average annual growth rate;

4. To help address the need for additional capacity in the Visayas Grid, AGEC will design, engineer, procure, construct, supply, start-up, test, commission, own, operate, and maintain a Solar Plant with a capacity of approximately 10.5 MWp or 8.16 MWac (the Power Plant), to be located in Kibawe, Bukidnon, and which project is intended to be completed and energized by January 2016. Power generated from the solar plant shall be delivered both to FIBECO and to the grid;

¹Copies of AGEC's Certificate of Incorporation, Articles of Incorporation and By-Laws are attached as **Annexes "A", "A-1" and "A-2"** and made integral part hereof.

² A copy of the Department of Energy's ("DOE") 2013 Supply-Demand Outlook (please see Figure: Mindanao Grid Supply-Demand Outlook, 2012-2030, p. 4) is attached as **Annex "B"** and made an integral part hereof

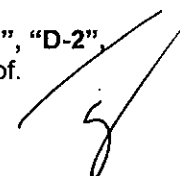


5. On 19 June 2015, AGEC was issued a Confirmation of Commerciality No. SCC-2015-06-019³ (COC) by the DOE, confirming the commercial viability of the Power Plant, in accordance with relevant regulations;
6. To test, commission and dispatch its generating facility, soon after completion, AGEC proposes to connect the Power Plant to the transmission system of the National Grid Corporation of the Philippines (NGCP) through a dedicated point-to-point limited interconnection facility (the Transmission Line) which shall be tapped through the existing 69 kV Kibawe-Palma line owned by Bukidnon Sub-Transmission Corporation (BSTC);⁴
7. AGEC has secured the relevant permits for the Power Plant and/or the Transmission Line,⁵ as follows:
 - 7.1 Resolution No. 2014-1241 (12th SP) Series of 2014 dated 8 September 2014 of the Sangguniang Panlalawigan of the Province of Bukidnon Favorably Endorsing the Request of Asian Green Energy Corporation for their 12 MW Solar Power Project at Barangay Labuagon, Municipality of Kibawe, Province of Bukidnon (Annex “D”);
 - 7.2 Resolution No. 42 dated 17 March 2014 of the Sangguniang Bayan of the Municipality of Kibawe (expressing) Support and Cooperation for the 12 MW Solar Energy Plan of Asian Green Energy Corporation (Annex “D-1”);
 - 7.3 Resolution No. 158 dated 7 September 2015 of the Sangguniang Bayan, Municipality of Kibawe, Interposing No Objection to the Construction/Installation, Operation, and Maintenance of the Asian Green Energy Corporation (AGEC) 10.49 MW Solar Power Plant Over the Finalized Project Site of 18 Hectares, including its

³ A copy of the COC and its accompanying letter-approval dated 19 June 2015 are attached as **Annex “C”**, and **“C-1”**, respectively, and made an integral part hereof.

⁴ Bukidnon Sub-Transmission Corporation is the consortium between FIBECO and BUSECO. The Facilities Study Report and System Impact Study Review Report, however, indicate FIBECO as the owner of the existing 69 kV line.

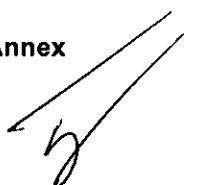
⁵ Copies of the Resolutions and Permits are attached herewith as **Annexes “D”**, **“D-1”**, **“D-2”**, **“D-3”**, and **“D-4”**, in the order as enumerated herein, and made an integral part hereof.

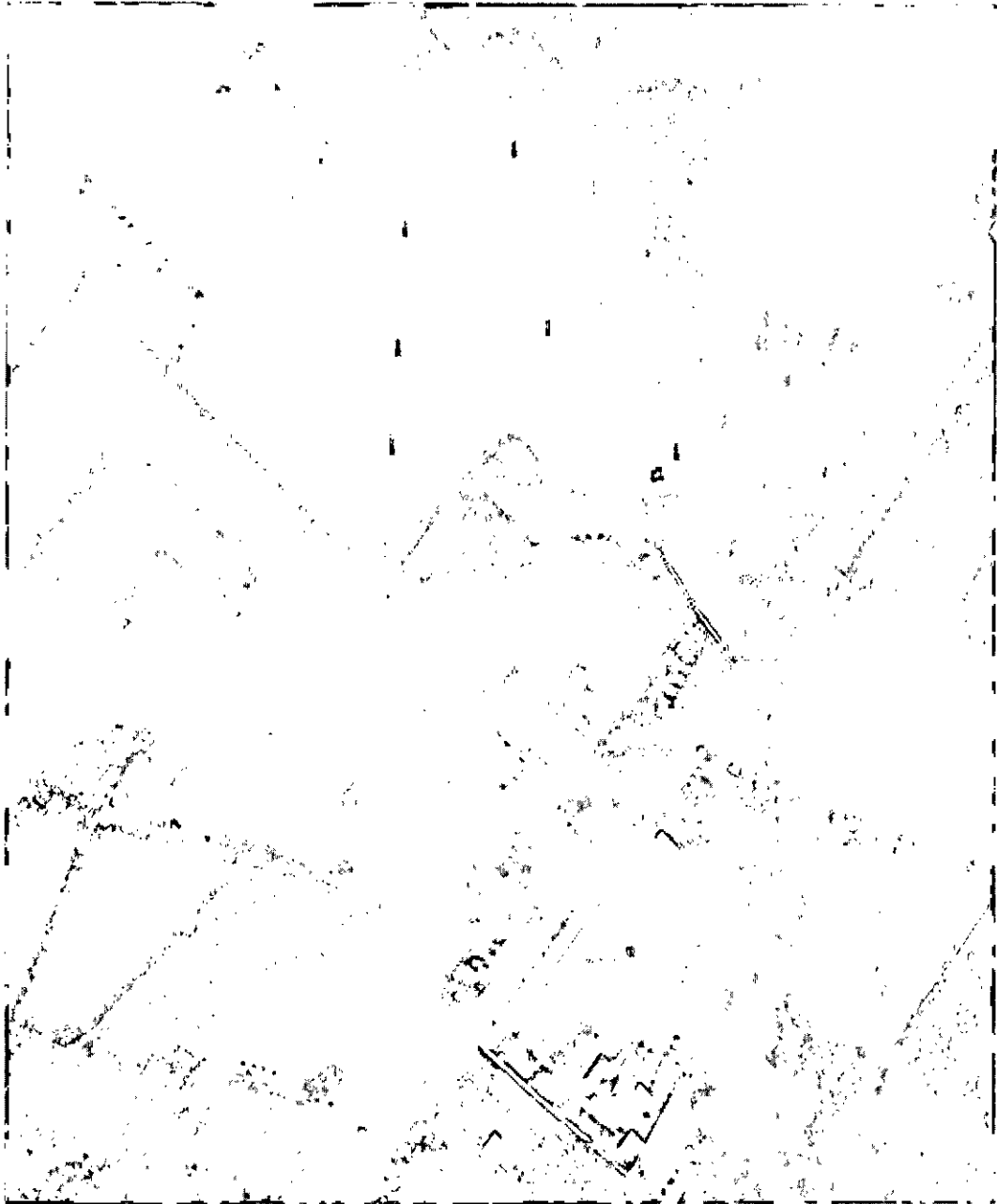


Associated Transmission Lines in Barangay Labuagon, Kibawe, Bukidnon (Annex "D-2");

- 7.4 Letter dated 15 July 2015 of Department of Public Works and Highways Bukidnon 2nd Engineering District Office of the District Engineer granting permission for the installation of the transmission line (Annex "D-3"); and
- 7.5 Environmental Compliance Certificate No. ECC-R10-1404-0083 dated 3 April 2014 issued by the Environmental Management Bureau of the Department of Environment and Natural Resources ("EMB-DENR") for the 12 MW Solar Power Plant (Annex "D-4");
8. AGEC intends to connect the Transmission Line to NGCP through a "tapped" connection along the existing 69 kV Kibawe-Palma Line owned by BSTC. The 69 kV Transmission Line will span only 200 meters in length, and shall utilize a single circuit, 336.4 MCM ACSR "Linnet" conductor with optical fiber ground wire (OPGW) aluminum clad steel wire as overhead ground wire;
9. As a related and necessary facility, AGEC shall construct a take-off substation, containing relay and protective equipment. AGEC shall also install upgrades/additional equipment to serve as communication facilities at the NGCP Kibawe substation;
10. An over-all view of the proposed connection for the Power Plant/the Transmission Line route is shown below:⁶

⁶ A more detailed graphic is provided in the Facilities Study Report, attached herein as Annex "E", and is made an integral part hereof.





11. The construction of the Transmission Line will take approximately two (2) months from initial pre-construction works. Consistent with the projected date of energization of the Power Plant, the Transmission Line is targeted to be completed and commissioned by January 2016.⁷ The estimated cost of the 69kV transmission line is Php2,794,105.00,⁸ while the estimated cost of the take-off substation is Php38,463,500.00.⁹ The total estimated cost of the Transmission Line is Php41,257,605.00;

⁷ A copy of the Project Schedule Gantt chart is attached as **Annex "F"** and made an integral part hereof.

⁸ A copy of the 69kV Transmission Line Bill of Materials is attached as **Annex "E-1"**, and is made an integral part hereof.

⁹ A copy of the Bill of Materials for the AGEC Take-off Sub-station and Protection and Communications Systems Labeled as **Annex "E-2"** and **"E-3"**, respectively, and forming part of

12. A System Impact Study Review Report (SIS Review Report) on the proposed project has been conducted and based on the results thereof, the 10 MW solar power plant has no significant impact on the reliability, stability, and operating characteristics of the Mindanao power transmission system, and could be safely and reliability integrated to the grid;¹⁰
13. AGEC and NGCP have agreed on the general terms and conditions and are now finalizing the Connection Agreement, Transmission Service Agreement, and Metering Service Agreement;¹¹
14. Section 9(f) of the Electric Power Industry Reform Act (EPIRA) provides:

“Xxx

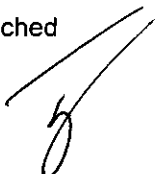
A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: Provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC. Xxx”

15. In accordance with the requirement of Section 9(f) of the EPIRA, AGEC hereby seeks the Commission’s authorization to develop, own, and operate the Transmission Line, a dedicated point-to-point limited interconnection facility, to connect the Power Plant to the NGCP Kibawe Substation;
16. The proposed Transmission Line meets the requirements provided in Section 9 of the EPIRA and the relevant regulations issued by this Commission as follows:

the Facilities Study Report. The amount reflected is an amount converted to Philippine Pesos (Php) representing the combined sum of the estimated cost of the supply of materials for the AGEC Take-off Sub-station and Protection and Communications Systems (in US Dollars; USD). The rate used for conversion is Php43.00=USD1.00.

¹⁰ A copy of the System Impact Study Review Report is attached as **Annex “G”** and made an integral part hereof.

¹¹ A copy of the Certification dated 3 August 2015 issued by the NGCP in this regard is attached as **Annex “H”** and made an integral part hereof.



- 16.1 The Transmission Line is a dedicated point-to-point limited interconnection facility whose sole purpose is to connect the Power Plant to the Grid through the NGCP Kibawe Substation and is considered a "Connection Asset" under ERC Resolution No. 16, Series of 2011 (ERC Resolution);
- 16.2 The facilities are included in the list of the Department of Energy's (DOE) approved private-sector initiated projects and is currently being reviewed by the NGCP;
- 16.3 The Transmission Line will be exclusively used by AGECE for the operations of the Power Plant and will not serve any end-user;
- 16.4 The Transmission Line is technically feasible; and
- 16.5 AGECE has the technical and financial ability to develop, construct, operate, and maintain the Transmission Line;

The Transmission Line is a dedicated point-to-point transmission facility and will be used exclusively by AGECE

17. The Transmission Line is designed for the sole purpose of connecting the Power Plant to the Grid through the NGCP Kibawe Substation, as illustrated in the single-line diagram below, showing that the Transmission Line shall be exclusively used by AGECE and is not designed and configured to serve end-users:

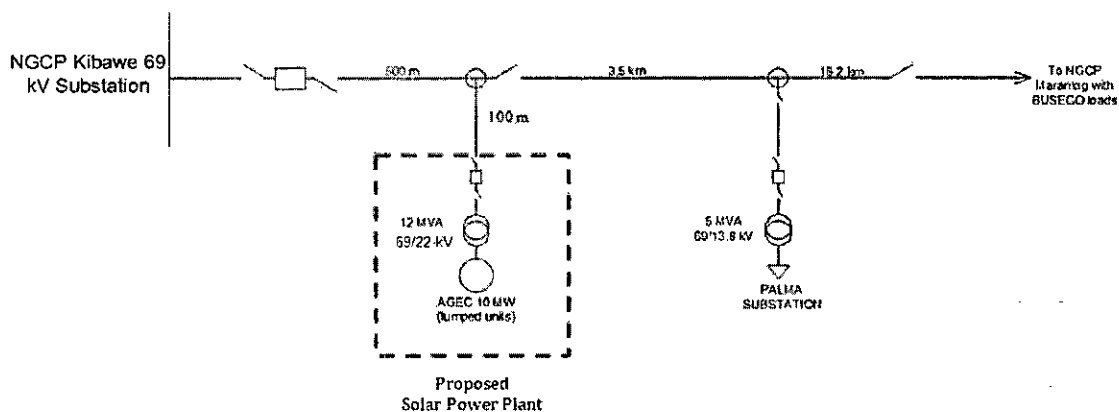


Figure 2. Single Line Diagram of the Interconnection

18. The Transmission Line is classified as a “Dedicated Point-to-Point Transmission Facility” under the ERC Resolution since it is primarily designed to connect the Power Plant to the Grid and will be used for the conveyance of electricity from the Power Plant to the Grid.¹² If the Transmission Line is taken out of the transmission system of NGCP, such disconnection will only affect AGEC and will have no effect on the Grid, or other connected customers;

The Transmission Line/Power Plant is included in the DOE List of Private Sector-Initiated Power Projects for Mindanao

19. The Power Plant is included as one of the indicative projects in the DOE List of Private Sector-Initiated Power Projects for Mindanao as of October 2015;¹³
20. NGCP is currently finalizing its review of the SIS Review Report submitted by AGEC, and has certified that preliminary results indicated that the Mindanao Grid will be able to accommodate the capacity of the said solar power project;¹⁴

The Transmission Line is technically feasible

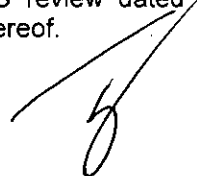
21. The SIS review conducted by Power System Research and Consultancy Group shows that the connection of the Power Plant through the Transmission Line is technically feasible. The connection poses no significant system impact to the stability, reliability, and operating characteristics of the Mindanao Grid. Further, the SIS review concluded that the proposed project could be safely and reliably integrated thereto;¹⁵

¹² Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provides, ERC Resolution No. 16, Series of 2011.

¹³ A copy of the DOE List of Private Sector-Initiated Power Projects (Mindanao), as of October 2015 is attached as **Annex “I”** and made an integral part hereof.

¹⁴ A copy of NGCP’s Letter-Certification on preliminary results of the SIS review dated 13 November 2015 is attached herein as **Annex “J”** and made an integral part hereof.

¹⁵ Conclusion of the SIS Review Report.



22. AGEC designed the Transmission Line connection route and mode to the NGCP Substation thru the tapped connection to the existing BSTC line because of its proximity and technical feasibility. The connection of the Power Plant through the Transmission Line to the Kibawe Substation using the proposed mode/route is the most viable option among the other interconnection schemes considered, recommended, and evaluated by AGEC that will enable AGEC to dispatch the Power Plant's capacity when the need arises;¹⁶
23. AGEC has likewise ensured that the design and technical specifications for the Transmission Line are consistent with the standards of the Philippine Grid Code;¹⁷

AGEC has the technical and financial capability to develop, construct, operate, and maintain the transmission line

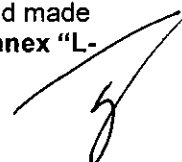
24. AGEC has the technical and financial capability to develop the Transmission Line.
- 24.1 AGEC, through the contractor it engaged, Juwi Philippines Inc., will develop the Transmission Line. Juwi Philippines Inc., is part of the Juwi Group, which specializes in engineering construction, maintenance, and monitoring operations, in solar and wind power projects;¹⁸
- 24.2 AGEC likewise has the financial capability to undertake the development and construction of the Transmission Line, as shown by its latest Audited Financial Statements.¹⁹ The development and construction of the Power Plant and the Transmission Line will be funded by AGEC through equity from shareholders and/or debt financing. As an added

¹⁶ Supra, Note 6.

¹⁷ *Id.*

¹⁸ A copy of the profile of Juwi Philippines, Inc. and the Juwi Group is attached herein as **Annex "K"** and made an integral part hereof.

¹⁹ A copy of AGEC's 2014 Audited Financial Statements are attached as **Annex "L"** and made an integral part hereof. A copy of AGEC's 5-Year Financial Projection is attached as **Annex "L-1"**.



funding source, AGEC has been issued a Confirmation of Financial Support by Bukidnon Holdings Inc., who has committed to provide support to the solar project by financing its construction and completion;²⁰

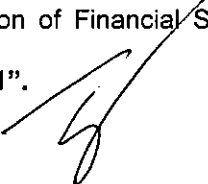
25. Since the development and construction of the Transmission Line will be solely funded by AGEC through its various sources, and the Transmission Line will be exclusively used by AGEC for the operations of the Power Plant and will not serve any end-user, the Transmission Line will not have an impact on the transmission rates currently being charged by the NGCP;
26. Once completed, AGEC will undertake the operations and will subsequently fund the operations of the Transmission Line from its generation sales;²¹
27. AGEC also undertakes to file a Statement of Compliance/Compliance Plan of its Transmission Line system with the standards of the Philippine Grid Code, and an application for a Certificate of Compliance with the Commission;
28. The foregoing clearly shows that the proposed Transmission Line complies with Section 9 of the EPIRA and the relevant regulations of this Commission;

**Motion for Provisional Authority and Allegations
in Support of Prayer for Provisional Authority**

29. 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;
30. AGEC prays that the Commission provisionally authorize the development, ownership, and operation of the Transmission Line considering that the facts,

²⁰ A copy of the Confirmation of Financial Support is attached as **Annex "M"** and made an integral part hereof

²¹ Please refer to **Annex "L-1"**.



circumstances and the magnitude of the opportunity costs entailed by any further delay in the interconnection of the Project warrants the issuance of a Provisional Authority.

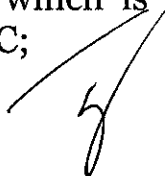
30.1 AGEC hopes to be able to complete development and construction of the facilities at the soonest possible time in order to be able to dispatch electric power supply to the transmission system of NGCP;

30.2 The Power Plant is one of the energy projects under Republic Act No. 9513 or the Renewable Energy Act of 2008, which aims to accelerate the development and utilization of the country's renewable energy sources. Thus, it is in the interest of the government to help RE developers such as AGEC to achieve commerciality and commence operations at the soonest practicable time;

30.3 The construction of the Transmission Line is a prerequisite for the testing and commissioning of the Power Plant, and ultimately, the commercial operations of AGEC. The Power Plant is projected to be completed and energized on January 2016. Consistent with this timeline, AGEC intends to complete the development and construction of the Transmission Line by December 2015;

30.4 Further, given the immediate need for additional capacity by 2015, the completion of the Power Plant and the Timeline within the timeframe is critical to ensure that additional capacity will be available to the Mindanao Grid in a timely manner; and

30.5 The issuance of a provisional authority is also critical in light of the DOE's first-come, first-served policy on the Feed-in Tariff (FIT) allocation. It is thus necessary for AGEC to secure a provisional authority to immediately commence with the construction of the Transmission Line in order to avail of the initial FIT, which is essential to the economic viability of AGEC;



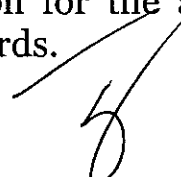
31. It is in such context that AGEC prays that provisional authority be immediately issued for the development and construction of the proposed Transmission Line; and
32. AGEC prays that the Commission:
 - a. ISSUE an order provisionally authorizing AGEC to undertake the development, ownership, operation and maintenance of the Transmission Line; and
 - b. GRANT the application for authority to develop, own, operate and maintain the Transmission Line.

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 initial hearing, expository presentation, pre-trial conference and evidentiary hearing on **24 February 2016 (Wednesday) 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.**

AGEC 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 Governor of the Province of Bukidnon, Mayors of the Cities of Makati, Metro Manila and Municipality of Kibawe, Bukidnon for the appropriate posting thereof on their respective bulletin boards.



AGEC 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.

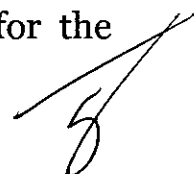
On the date of the initial hearing, AGECE must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governor, 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.

AGECE 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 AGECE 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.

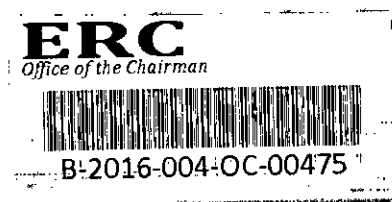
As part of the pre-trial conference, AGECE must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the



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, 25 January 2016.



FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman *y*

Copy Furnished:

1. **PUNO AND PUNO**
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Counsel for the Applicant
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Philippine Stock Exchange Center
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Business Office Address: Floor 3B 111 Paseo de Roxas Bldg., Paseo de Roxas cor. Legaspi Streets, Legaspi Village, Makati City

3. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village
Makati City, Metro Manila

4. **Commission on Audit**
Commonwealth Avenue
Quezon City, Metro Manila

5. **Senate Committee on Energy**
GSIS Bldg., Roxas Blvd., Pasay City
Metro Manila

6. **House Committee on Energy**
Batasan Hills, Quirino City, Metro Manila

7. **Office of the President-PCCI**
Philippine Chamber of Commerce and Industry (PCCI)
3RD Floor ECC Building
Sen. Gil Puyat Avenue, Makati City

8. **Office of the City Mayor**
Makati City

9. **Office of the Municipal Mayor**
Kibawe, Bukidnon

10. **Office of the Provincial Governor**
Province of Bukidnon

