

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



IN THE MATTER OF THE  
APPLICATION FOR THE  
APPROVAL OF CERTIFICATE  
OF PUBLIC CONVENIENCE  
AND NECESSITY (CPCN)

ERC CASE NO. 2014-031 MC

FIRST BAY POWER  
CORPORATION (FBPC),  
Applicant.

X-----X

**D O C K E T E D**  
Date: JUL 23 2014  
By: [Signature]

**O R D E R**

On May 7, 2014, First Bay Power Corporation (FBPC) filed an application for the approval of its Certificate of Public Convenience and Necessity (CPCN).

In the said application, FBPC alleged, among others, that:

1. It is a corporation organized and existing under the laws of the Philippines, with main office at Kapitan Ponso Street Extension, Bauan, Batangas, where it may be serve with legal processes. It is represented in this instance by its General Manager, Ray Florence T. Reyes who is of legal age, Filipino, married and with office address at Kapitan Ponso Street Extension, Bauan, Batangas;
2. It was organized primarily to operate as an electric distribution utility and presently operates as such in the Municipality of Bauan, Batangas;
3. On March 21, 2005, it entered into contract with the Bauan Electric Light System (BELS), wherein the power to operate the electric distribution in the Municipality of Bauan, Batangas was transferred to FBPC, including its Franchise thereto. Copy of the Contract of Sale, Resolution No. 68 and Resolution No. 69 from the Office of the Sangguniang Bayan of the Municipality of Bauan, Batangas is hereto attached and duly marked as Annexes "A", "A-1", and "A-2", respectively;

4. On June 30, 2005, BELS was granted a franchise by the National Electrification Commission (NEC) to operate an electric light, heat and power systems for the purpose of generating and/or distributing electricity for sale within the Municipality of Bauan, Province of Batangas for a period of twenty (20) years from the expiry date of its CPCN or up to June 30, 2019. Copy of the Certificate of Franchise issued in NEC Case No. 99-03 in favor of BELS is hereto attached and duly marked as Annex "B";
5. By virtue of the said Franchise, it now seeks for approval of its own Certificate of Public Convenience and Necessity (CPCN);
6. Considering further that it is actually providing electric service under the same terms, conditions and rates to all kinds of customers within its franchise area, as a continuation of the authority of the BELS to operate an electric service, it prays that a CPCN with a term of twenty (20) years be granted it by the Commission;
7. It has been providing electric service to the Municipality of Bauan, Batangas since June 1, 2005 and operates electric distribution lines, substation, other electric distribution facilities, heavy equipment, motor vehicles, office premises and other assets needed for such service. Attached as Annex "C" and "C-1" (in electronic form in a Compact Disc [CD]) are documents to show and prove the existence of these facilities. Also attached is Annex "D" to prove its financial status;
8. It, therefore, possesses the resources and the technical and financial capabilities to continue serving all kinds of customers in the service area just mentioned, such as residential, street light, commercial and industrial customers or end-users;
9. Furthermore, the terms and conditions in the service that it provides to its customers are governed by the *Magna Carta* of Residential Customers, the Distribution Service and Open Access Rules (DSOAR), and other rules and regulations that were or will be issued by the Commission. These terms and conditions of its services include reasonable company policies and practices, as well as reasonable customer contract provisions, which

terms and conditions are subject to the Commission's rules and regulations issued from time to time;

10. On February 4, 2013, Ms. Marilyn B. Barua-Yap, Secretary General of the House of Representatives informed the Senate of the Philippines that the House of Representatives passed House Bill N. 6724 entitled "An Act Granting the First Bay Power Corporation (FBPC) a Franchise to Construct, Install, Establish, Operate and Maintain a Distribution System for the Conveyance of Electric Power to the End-Users in the Municipality of Bauan, Province of Batangas". A certified true copy of the House of Representatives' letter to Hon. Juan Ponce Enrile, President of the Senate dated March 19, 2014 is hereto attached as Annex "F";
11. In support of the foregoing allegations and pursuant to the existing Resolution No. 5, Series of 2008 or a "*Resolution Adopting the Rules to Govern the Issuance of a CPCN to Entities Engaged in the Transmission and Distribution of Electricity*" it attached supporting documents marked as Annexes "D" to "Q";
12. The approval of the application will be beneficial to the electricity end-users in its franchise area since they will continue to be provided with efficient and reliable electric service at reasonable rates; and
13. It prays that, after due notice and hearing and consideration, a Certificate of Public Convenience and Necessity (CPCN) be granted to First Bay Power Corporation (FBPC) to cover its franchise area of the Municipality of Bauan, Province of Batangas with a period of twenty (20) years from the time of approval.

Finding the said application 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 **August 12, 2014 (Tuesday) 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.**

FBPC 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, at least 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 hearings.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor of Batangas and the Mayor of the Municipality of Bauan in the Province of Batangas for the appropriate posting thereof on their respective bulletin boards.

FBPC 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, FBPC must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governor and Mayor or their duly authorized representatives, bearing the seals of their offices, and the affidavit of the Editor or Business Manager of the newspaper where 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.

FBPC 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 thereof 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 FBPC 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, FBPC 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, July 21, 2014.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ZENAIDA G. CRUZ-DUCUT**  
Chairperson 4

**Copy Furnished:**

1. **ATTY. ARNIDO O. INUMERABLE**  
405 Elisa Street, U.E. Village, Cainta, Rizal
2. **FIRST BAY POWER CORPORATION (FBPC)**  
Kapitan Ponso Street Extension, Bauan, Batangas
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 Committee on Energy**  
Senate of the Philippines  
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
6. **The Committee on Energy**  
House of Representatives  
Batasan Hills, Quezon City, Metro Manila
7. **Office of the President of PCCI**  
Philippine Chamber of Commerce and Industry (PCCI)  
3<sup>rd</sup> Floor, ECC Building, Sen. Gil Puyat Avenue  
Makati City
8. **Office of the Provincial Governor**  
Province of Batangas
9. **Office of the Municipal Mayor**  
Bauan, Batangas