

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 TO
THE TRANSMISSION SYSTEM
OF THE NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP), WITH
PRAYER FOR PROVISIONAL
AUTHORITY

ERC CASE NO. 2014-107 MC

PHILIPPINE SOLAR FARM-
LEYTE, INC. (PSFLI),

Applicant.

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DOCKETED

Date: OCT 03 2014

By: *W*

ORDER

On August 22, 2014, Philippine Solar Farm-Leyte, Inc. (PSFLI) filed an application for authority to develop, own, and operate dedicated point-to-point limited transmission 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, PSFLI alleged, among others, that:

1. It 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 U204 Buma Building, 9595 Kamagong Street, Barangay San Antonio, Makati City. It may be served orders and other legal process through its undersigned counsel;

2. Its primary purpose is to engage in, conduct and carry on the business of exploration, development, utilization and commercialization of solar, wind, hydro and other renewable energy resources that are indigenous, renewable, environment-friendly and, to enter into all kinds of contracts for the exploration, development, utilization, commercialization of and other energy resources¹;
3. In its 2013 Supply-Demand Outlook, the Department of Energy (DOE) recognized the growing demand for power in the Philippines. For the Visayas Grid, the DOE projects the energy demand to increase by 4.53 percent Average Annual Growth Rate (AAGR), from 1,568 MW in 2012 to 2,237 MW in 2020 and 3,431 MW in 2013. Thus, with “the current dependable capacity of 2,037 MW, the system will still need additional of 1,700 MW which is composed of 1,300 MW base-load and 400 MW peaking power plants to meet the future electricity demand”²;
4. To help address the need for additional capacity in the Visayas Grid, it will design, engineer, procure, construct, supply, start-up, test, commission, own, operate, and maintain an approximately 30 MW solar power plant (Project) to be located at Barangay Dolores, Ormoc City, Leyte Province. The Project is projected to be completed and energized in March, 2015;
5. It has already secured the endorsement of the affected Local Governments for the Project and the Transmission Line³. The Office of the Zoning Administrator of Ormoc City has also issued Certificates of Zoning Compliance for

¹ Copies of PSFLI's Certificate of Incorporation, Articles of Incorporation and By-Laws are attached hereto 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: Visayas Grid Supply-Demand Outlook, 2012-2030, p. 3) is attached hereto as **Annex “B”** and made an integral part hereof.

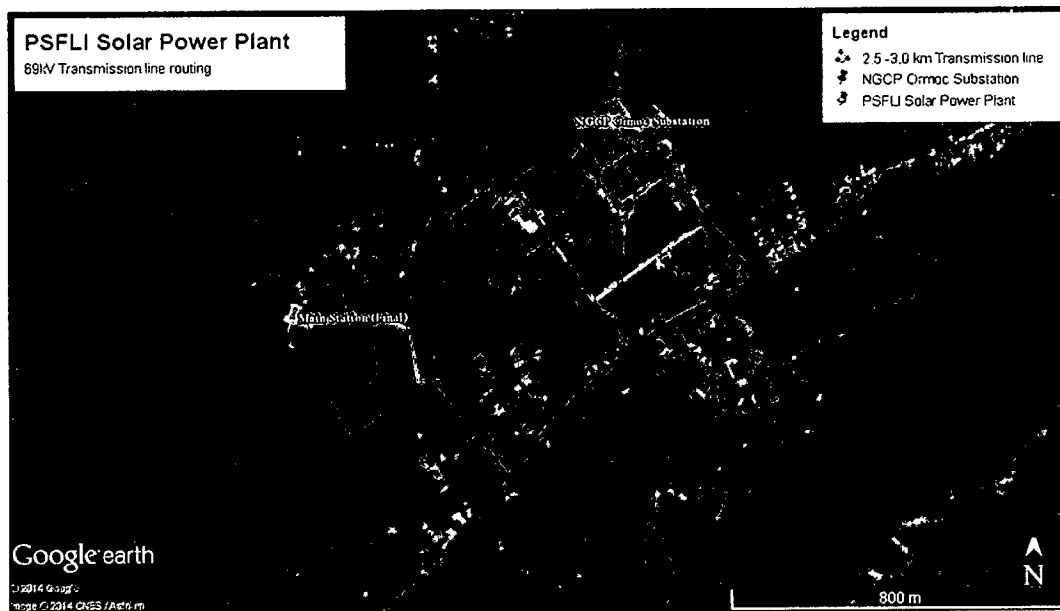
³ Copies of Resolution Nos. 2013-24 and 2014-43 issued by the Sangguniang Barangay of Barangay Dolores, Resolution No. 2013-021 issued by Sangguniang Barangay of Barangay Milagro, and Resolution Nos. 2013-086 and 2014-119 issued by Sangguniang Panlungsod of Ormoc City are attached as **Annexes “C” to “C-4”** respectively, and made integral parts hereof.

the Project and the Transmission Line⁴. It has likewise obtained Environmental Compliance Certificate (ECC) for the Project and a Certificate of Non-Coverage for the Transmission Line from the Department of Environment and Natural Resources⁵(DENR);

6. To test, commission and dispatch its generating facility, soon after completion, it proposes to connect the Project to the Transmission System of the NGCP through a dedicated point-to-point limited interconnection facility (the Transmission Line) to be developed by PSFLI⁶;

6.1 It intends to connect the Transmission Line to NGCP's 69 kV Ormoc Substation. The Transmission Line will be a 69 kV, Single Circuit transmission line consisting of 336.4 MCM ACSR conductors equipped with Optical Fiber Ground Wire (OFGW)⁷. The Transmission Line will consist of approximately 2.5 to three (3) kilometers;

6.2 The proposed interconnection of the Project to the Ormoc Substation is as follows:



⁴ Copies of Certificates of Zoning Compliance under Decision Nos. OC-DZA-5205-2013 and OC-CZC-5205-2013 are attached as **Annexes "D"**.

⁵ Copies of Environmental Compliance Certificate and Certificate of Non-Coverage are attached as **Annexes "E"** and **"E-1"** and made integral parts hereof.

⁶ A copy of the description and scope of the project denominated as Project Description is attached as **Annex "F"** and made an integral part hereof.

⁷ A copy of the conceptual engineering design denominated as Transmission Line Design is attached as **Annex "G"** and made an integral part hereof.

7. The construction of the Transmission Line will take approximately ten (10) weeks from initial pre-construction works. Consistent with the projected date of energization of the Project, the Transmission Line is targeted to be completed by January 2015⁸. The estimated cost for the Transmission Line is Sixteen Million Two Hundred Eighty-Three Thousand Five Hundred Sixty-One and 16/100 Pesos (PhP16,283,561.16)⁹;
8. The connection of the Project through the Transmission Line to the Ormoc Substation is the most viable option among all the interconnection schemes it considered, recommended, and evaluated which will enable it to dispatch the Project's capacity when the need arises¹⁰. A System Impact Study (SIS) on the proposed Transmission Line has been conducted and based on the results thereof, the said interconnection is technically feasible¹¹. The SIS has also been reviewed and approved by NGCP¹². It is in the process of entering into discussions for a connection agreement with NGCP;
9. The Project has already been considered in NGCP's 2013 Consultation Draft Report of the Transmission Development Plan (TDP)¹³;
10. Section 9 (f) of Republic Act No. 9136 (R.A. No. 9136) or the "*Electric Power Industry Reform Act of 2001*" or the EPIRA provides:

⁸ A copy of the Project Schedule Gantt chart is attached as **Annex "H"** and made an integral part hereof.

⁹ A copy of the detailed cost estimates denominated as Transmission Line Cost is attached as **Annex "I"** and made an integral part hereof.

¹⁰ The discussion of the options/alternatives considered in lieu of the proposed Transmission Line is found in the Project Description attached as **Annex "F"** and made integral parts hereof.

¹¹ A copy of the System Impact Study is attached as **Annex "J"** and made integral parts hereof.

¹² A copy of NGCP's Review of the Third Party Grid Impact Study is attached as **Annex "K"** and made an integral part hereof.

¹³ A copy of NGCP's 2013 Transmission Development Plan Consultation Draft Report, Volume I Major Network Development (Please see Table 4.4(b): List of Visayas Generation Capacity Addition, pp. 25-28) is attached as **Annex "L"** and made an integral part hereof.

“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.”

11. In accordance with the requirement of Section 9 (f) of R.A. No. 9136 or the EPIRA, it 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 Project to the NGCP’s Ormoc Substation;

12. The proposed Transmission Line meets the requirements provided in Section 9 of R.A. No. 9136 or the EPIRA and the relevant regulations issued by the Commission as follows:
 - 12.1 The Transmission Line is a dedicated point-to-point limited interconnection facility whose sole purpose is to connect the Project to the Grid through the NGCP Ormoc Substation and is considered a “Connection Asset” under ERC Resolution No. 16, Series of 2011 (“ERC Resolution”);

 - 12.2 The Transmission Line will be exclusively used by it for the operations of the Project and will not serve any end-user;

 - 12.3 The Transmission Line is part of the 2013 TDP of the NGCP¹⁴;

 - 12.4 The Transmission Line is technically feasible¹⁵;

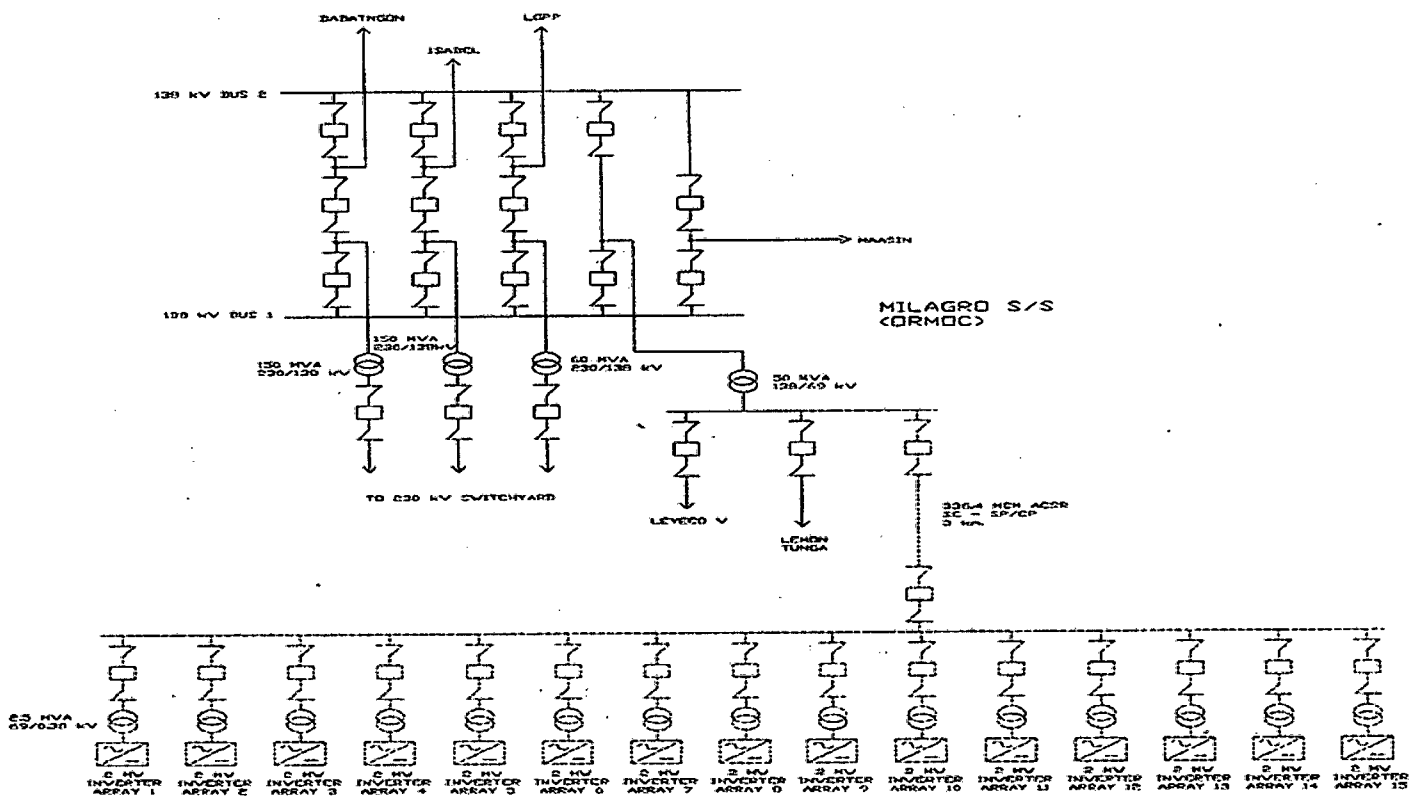
 - 12.5 It has the technical and financial ability to develop, construct, operate, and maintain the Transmission Line.

¹⁴ Supra note 13.

¹⁵ Supra note 11.

13. To reiterate, the Transmission Line is designed for the sole purpose of connecting the Project to the Grid through the Ormoc Substation. The SIL of the proposed interconnection shows that the Transmission Line will be exclusively used by it and, is not designed and configured to serve end-users;

The SIL of the Transmission Line is illustrated in Figure 2 below.



14. The Transmission Line is also classified as a “Connection Asset” under the ERC Resolution since it is primarily designed to connect the Project to the Grid and will be used for the conveyance of electricity from the Project to the Grid¹⁶. If the Transmission Line is taken out of the transmission system of NGCP, such disconnection will only affect PSFLI and will have no effect on the Grid, or other connected customers;

¹⁶ 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, Annex A, § 2, p.1.

15. The proposed Transmission Line is consistent with the TDP. The TDP refers to the program for managing the transmission system through efficient planning for the expansion, upgrading, rehabilitation, repair, and maintenance, formulated by the DOE and implemented by the NGCP. The 2013 TDP identifies the Project as one of the proposed generating plants in Visayas¹⁷. The 2013 TDP states:

“4.4 Generation Capacity Addition

This section shows the proposed generating plants in Luzon, Vizayas and Mindanao Grids based on DOE List of Private Sector-Initiated Power Projects as of December 13, 2013 (the 2012 PDP Update).

The DOE has also provided the list of generating plants that already have clearance to undertake System Impact Study (SIS) but are not included yet in the said 2012 PDP Update since the reports on the status of their development are not yet submitted. This list will fall under the new classification named the Prospective Projects.

Thus, there will be three generation project classifications, as follows:

- a. Committed - These are projects that have service contracts in place, are in the development/commercial stage and have financial close already;
- b. Indicative – Projects with service contracts, in the development/commercial stage but with no bank financing yet; and
- c. Prospective – Projects with DOE clearance to undertake SIS and service contracts and on the predevelopment stage. These projects are not included in the official list of DOE’s “Private Sector-Initiated Power Projects”.

¹⁷ Supra note 13.

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Table 4.4(b):
 List of Visayas Generation Capacity Addition
 (DOE List of Private Sector-Initiated Power Projects as of December
 13, 2013)

Comm. Year	Proposed Generation Facility	Capacity (MW)	Location
2015	Leyte Solar	30	Ormoc City, Leyte

16. Recently, the Project was included as one of the indicative projects in the DOE List of Private Sector-Initiated Power Projects for Visayas as of May 31, 2014.¹⁸ The said DOE list reads in part:

Committed / Indicative	Name of the Project	Project Proponent	Location	Rated Capacity (MW)	Project Status	Target Testing and Commissioning
	SOLAR					
Indicative	Leyte Solar Photovoltaic Power Project	Phil. Solar Farm – Leyte, Inc.	Ormoc City, Leyte	30	- Awarded with Solar Energy Service Contract (SESC No. 2012-08-019) on 19 Sept. 2012; Conducted Third Party SIS, currently under review by NGCP; Acquired ECC from DENR, CNO from NCIP, Provincial, Municipal and Barangay Resolutions of Support, Lease Agreements with land owners, EPC Contract with DS Steel Com. Ltd., and proof of negotiations/certifications with financial institutions for project financing; - Clearance to Undertake GIS from DOE issued on 12 October 2012; -On-going negotiations for Project Financing; -Total project cost is US\$72.0Million; -Acquired the DOE Certificate of Confirmation of Commerciality on 31 May 2013; -Pre-construction Stage – 15% completed as of 31 March 2014	January 2015

¹⁸ A copy of the DOE List of Private Sector-Initiated Power Projects (Luzon), as of May 31, 2014 is attached as Annex “M” and made an integral part hereof; please see p. 6 thereof.

17. The SIS conducted by EAGLE Engineering Solutions Corporation shows that the connection of the Project through the Transmission Line to be developed, owned, and operated by PSFLI, to Ormoc Substation is technically feasible¹⁹;

17.1 The SIS concluded that connection of the proposed 30 MW Project to the Visayas grid is technically acceptable and that no new grid reinforcement is required that can be attributed to the connection of the power plant²⁰; and

17.2 On January 2, 2014, NGCP approved the SIS submitted by PSFLI for the Project²¹.

18. It proposed the Transmission Line connection to the Ormoc Substation because of its proximity for the connection of the Project. Between the options considered for the route of the Transmission Line, the option traversing and utilizing the city road right of way was found to be more feasible and economical considering the cost and difficulty of acquiring easements and rights of way in private lands²²;

19. It is also in the process of finalizing the Facility Study and negotiating with the NGCP for the Connection Agreement;

20. It has likewise ensured that the design and technical specifications for the Transmission Line are consistent with the standards of the Philippine Grid Code (PGC)²³;

21. It has the technical capability to develop the Transmission Line;

¹⁹ Supra note 11.

²⁰ Id.

²¹ Supra note 12.

²² Supra note 6.

²³ Supra note 7.

21.1 The Transmission Line will be constructed by JC Electrofields Power System Inc. (JCEPSI), a corporation engaged in consultancy, engineering and design and construction services for the electric power industry²⁴;

21.2 It likewise has the financial capability to undertake the development and construction of the Transmission Line. The development and construction of the Project and the Transmission Line will be funded by PSFLI through equity from shareholders and debt financing²⁵;

22. Since the development and construction of the Transmission Line will be solely funded by PSFLI and its shareholders and the Transmission Line will be exclusively used by it for the operations of the Project 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;

23. Once completed, it will undertake the operations and maintenance of the Transmission Line through the NGCP and PSFLI will subsequently fund the operations of the Transmission Line from its generation sales²⁶;

24. It also undertakes to file an application for a Certificate of Compliance (COC) with the Commission;

25. The foregoing clearly shows that the proposed Transmission Line complies with Section 9 of R.A. No. 9136 or the EPIRA and the relevant regulations of the Commission;

²⁴ A copy of the Company Profile of JC Electrofields Power Systems Inc. with a list of projects undertaken is attached as **Annex "N"** and made an integral part hereof.

²⁵ A copy of PSFLI's 2011, 2012 and 2013 Audited Financial Statements are attached as **Annex "O", "O-1" and "O-2"** and made an integral part hereof.

²⁶ A copy of PSFLI's Financial Feasibility Study and Projected Financial and Economic Cost Analysis are attached as **Annex "P" and "Q"** and made an integral part hereof.

26. 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;

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

27. It prays that the Commission provisionally authorize the development, ownership, and operation of the Transmission Line considering that the facts, 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;

27.1 PSFLI 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.

27.2 The Project 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 PSFLI to achieve commerciality and commence operations at the soonest practicable time.

27.3 The construction of the Transmission Line is a prerequisite for the testing and commissioning, and ultimately, the commercial operations of PSFLI. The Project is projected to be completed and energized on March 2015. Consistent with this timeline, PSFLI intends to complete the development and construction of the Transmission Line by January 2015.

27.4 Moreover, the use of solar energy reduces the country's dependence on fossil fuels, which not only minimizes harmful carbon green house emissions in the environment but also reduces the country's

exposure to price fluctuations in the international markets.

27.5 Further, given the immediate need for additional capacity by 2015, the completion of the Project and the Timeline within the timeframe is critical to ensure that additional capacity will be available to the Visayas Grid in a timely manner.

27.6 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 PSFLI 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 PSFLI.

A copy of the Affidavit executed by **Mr. Gerald Rubis Pagobo**, in support of the prayer for the issuance of provisional authority is attached to the application and made an integral part thereof as **Annex "R"**.

28. It prays that provisional authority be immediately issued for the development and construction of the proposed Transmission Line; and

29. It prays that the Commission: (1) issues an order authorizing it to implement and develop, own, and operate the Transmission Line; and (2) approve the application for authority to develop, own and operate 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 jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **November 4, 2014 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

PSFLI 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, 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 Office of the Governor of Leyte and the Mayor of the City of Ormoc, Province of Leyte for the appropriate posting thereof on their respective bulletin boards.

PSFLI 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, PSFLI 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.

PSFLI 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.

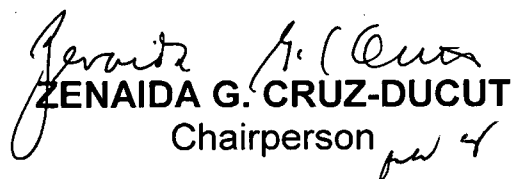
Failure of PSFLI to submit the required Pre-Trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, PSFLI 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, September 30, 2014.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson *per 4*

Copy Furnished:

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