

Republic of the Philippines
ENERGY REGULATORY COMMISSION
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 OR INTERIM
RELIEF AND MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION

ERC CASE NO. 2024-008 MC

SP NEW ENERGY
CORPORATION
(FORMERLY SOLAR
PHILIPPINES NUEVA ECIJA
CORPORATION),

Applicant.

X-----X

Promulgated:
February 14, 2024

ORDER

On 07 February 2024, SP New Energy Corporation¹ filed an *Application*, dated 23 January 2024, seeking the Commission's approval of its 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 or interim relief and motion for confidential treatment of information.

The pertinent allegations of the *Application* are hereunder quoted as follows:

¹ Formerly known as Solar Philippines Nueva Ecija Corporation.

1. SP New Energy Corporation² is a generation company (“GenCo”) duly organized and existing under the laws of the Republic of the Philippines, with principal office at 112 Legaspi Street, Legaspi Village, Brgy. San Lorenzo, Makati City, Philippines. It may be served with summons and other legal processes at 22/F ACCRALAW Tower, 2nd Avenue Corner 30th Street, Crescent Park West, Bonifacio Global City, 1635 Taguig, Metro Manila. SP New Energy Corporation is represented in this instance by its authorized representative Ms. Hazel Iris P. Lafuente.³
2. SP New Energy Corporation is a subsidiary of Solar Philippines Power Project Holdings, Inc. and owns (and is presently developing) its Sta. Rosa Nueva Ecija 2 Solar Power Plant with a capacity of five hundred (500) Megawatt peak (“MWp”)/Megawatts of direct current (“MWdc”) (the “Project”). The Project is divided into two phases, comprising of a two-hundred twenty-five (225) MWp/MWdc (“Phase 1”) and a two-hundred seventy-five (275) MWp/MWdc (“Phase 2”) power plant. Phase 1 is further comprised of two (2) sub-phases consisting of a fifty (50) MWp/MWdc power plant (“Phase 1A”) and a one-hundred seventy-five (175) MWp/MWdc power plant (“Phase 1B”) all located in the Municipality of Peñaranda, Nueva Ecija.
3. SP New Energy Corporation falls within the ambit of Sections 6 and 29 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (“EPIRA”) and is therefore classified as a GenCo under the supply sector.
4. In connection thereto, the Department of Energy (“DOE”) approved and issued Solar Service Energy Contract No. 2017-06-404 in favor of Solar Philippines Commercial Rooftop Projects, Inc. the assignment of which to SP New Energy Corporation was likewise approved by the DOE in 2018.⁴
5. In the 2016-2040 Demand-Supply Outlook, the DOE recognized the growing demand for power in the Philippines.⁵ For the Luzon Grid, the DOE projected the energy demand to increase from 9,726 MW in 2016 to 29,852 MW by 2040.⁶ Based on the foregoing, the Luzon Grid still needs a total of 24,385 MW of additional capacities in the form of 13,635 MW base-load plants, 8,300 mid-merit plants and 2,450 MW peaking plants to meet the electricity demand.⁷ Recent

² A copy of the Articles of Incorporation of Solar Philippines Nueva Ecija Corporation is attached hereto as Annex “A-1” and made integral parts hereof.

³ A copy of the Secretary’s Certificate dated 6 October 2022 is attached hereto as Annex “A-4” and made an integral part hereof.

⁴ A copy of the Solar Service Energy Contract No. 2017-06-404 and approval of the Deed of Assignment are attached hereto as Annexes “V-Series” and made an integral part hereof.

⁵ 2016-2040 Demand-Supply Outlook, *Department of Energy*, available at <https://www.doe.gov.ph/sites/default/files/pdf/announcements/iloilo-a-bs4-02-power-demand-and-supply-outlook.pdf>

⁶ *Id.*

⁷ *Id.*

developments in the power industry showed that the required power system capacity addition for the Luzon Grid between the years 2016 to 2040 would be 24,385 MW.

6. To help address the need for additional capacity in the Luzon Grid, SP New Energy Corporation has entered into a Renewable Power Supply Agreement dated 7 February 2022 (“PSA”) with Angeles Electric Corporation (“AEC”), with a contracted capacity of 13 MW to be supplied from the Phase 1A Renewable Energy Facility (“Phase 1A Facility”).⁸ To date, the Joint Application docketed as 2023-004 RC before this Honorable Commission is pending approval.
7. For the purpose of the Project, SP New Energy Corporation likewise intends to construct, install and operate a point-to-point limited interconnection facility (the “Transmission Line”) to support the converted energy output of approximately three hundred (300) Megawatts, Alternating Current (“MWac”). In order to test, commission, and dispatch its Project, SP New Energy Corporation proposes to transmit its generated power to the National Grid Corporation of the Philippines (“NGCP”) Luzon Grid via a double circuit direct connection to the Cabanatuan 230kV Substation. The connection will be through the 11.7km, 230Kv transmission line from the plant to the said substation using a 1-410mm² TACSR power conductor from CSPPP Take-Off Substation.⁹
8. A System Impact Study (“SIS”) on the proposed Transmission Line has been conducted and based on the results of the study, the interconnection is technically feasible for up to twenty (20) MW while waiting for the completion of the necessary grid reinforcements. This capacity can increase to up to one hundred fifty (150) MW in the scenario that the North Luzon Hydro Power Plants are at a lower dispatch level.¹⁰ Thus, the contracted capacity of 13MW under the PSA is well within the allowable capacity identified in the SIS even pending the grid reinforcements. Notably, the Transmission Development Plan for 2022 – 2040 (“TDP”)¹¹ has identified upgrades to the San Jose – San Rafael 230 kV Transmission Line scheduled for October 2027¹² and upgrades to the Marilao – Mexico 230 kV Transmission line scheduled for August 2027, the latter of which has already been filed with this Honorable Commission.¹³ Upon completion of the grid reinforcements, the Cabanatuan 230kV Substation, San Jose – San Rafael 230 kV Transmission Line, and Marilao – Mexico 230 kV Transmission Line can fully accommodate the approximate three hundred (300) MWac output of the entire Project.

⁸ A copy of the Power Supply Agreement and its Amendment are attached hereto as Annexes “U-Series” and made an integral part hereof.

⁹ A copy of the Project Description is attached hereto as Annex “C” and made an integral part hereof.

¹⁰ A copy of the System Impact Study is attached hereto as Annexes “H-series” and made an integral part hereof.

¹¹ A copy of the Transmission Development Plan for 2022 – 2040 is attached hereto as Annex “J-1” and made an integral part hereof.

¹² *Id.*, at p. 84.

¹³ *Id.*, at p. 84.

9. This proposed connection is also the most viable and reasonable option that will enable SP New Energy Corporation to dispatch the contracted capacity under the PSA, considering its close proximity to the NGCP Cabanatuan 230kV Substation. The estimated cost for construction and installation of the Transmission Line is One Billion One Hundred and Five Million Eight Hundred Eighty-Three Thousand Six Hundred Forty Nine Pesos and Twenty-Six Centavos (PhP1,105,883,649.26).¹⁴
10. Likewise, a Facilities Study Report has been conducted and approved by the NGCP.¹⁵
11. In further support of the Application, SP New Energy Corporation most respectfully submits to the Honorable Commission the following documents:

ANNEX	DOCUMENTS
A	Securities and Exchange Commission Certificate of Registration
A-1	Amended Articles of Incorporation
A-2	Amended By-laws
A-3	Board of Directors Approval of Connection Assets
A-4	Secretary’s Certificate dated 6 October 2022
A-5	Key Management Officers
B	General Information Sheet
C	Project Description
C-1	Project Rationale
C-2	Project Timeline
D	Transmission Service Agreement
E	Connection Agreement
F	Certification from the NGCP on the Status of the Metering Service Agreement
G-series	Interconnection Design
H-Series	System Impact Study
I-Series	Facilities Study Report
J-Series	Transmission Development Plan
K	DENR Environmental Compliance Certificate
L-Series	Transmission Line Route Options
M	Detailed Electrical Single Line Diagram
N	Conceptual Engineering Design and Drawings
O-Series	Breakdown of Project Costs
P	Gantt Chart Schedule
Q	Sworn Statement (To File Application for the Approval of the Transmission Line With All Concerned Government Agencies)

¹⁴ A copy of the Breakdown of Project Costs is attached hereto as Annex “O-series” and made an integral part hereof.

¹⁵ A copy of the Facilities Studies Report is attached hereto as Annexes “I-series” and made an integral part hereof.

ANNEX	DOCUMENTS
R-Series	Compliance with the Philippine Grid Code and Philippine Distribution Code
S	Audited Financial Sheet
T	Inconsistencies Analysis
U-Series	Power Supply Agreement as Amended
V-Series	Solar Service Energy Contract
W-Series	Company Profile of Contractors
X	Actual Historical and Forecasted Demand Supply Scenario
Y	DOE Certifications

12. Section 9(f) of the EPIRA provides:

“A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the Transmission Development Plan (“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.”

13. In accordance with the requirement of Section 9(f) of the EPIRA, SP New Energy Corporation hereby seeks this Honorable Commission’s authorization to develop, own, and operate a dedicated point-to-point limited interconnection facility, to connect the Project to the grid. The proposed Transmission Line meets the requirement provided in Section 9 of the EPIRA and the relevant regulations issued by this Honorable Commission as follows:

- a) The Transmission Line is a dedicated point-to-point limited interconnection facility whose sole purpose is to connect the Project to the grid and is considered a “Connection Asset” under ERC Resolution No. 23, Series of 2016 (“ERC Resolution”);
- b) The Transmission Line will be exclusively used by SP New Energy Corporation for the operations of the Project pursuant to the PSA and for any energy off-take arrangements it may enter into in the future, hence, will not serve any end-user;
- c) The Transmission Line is technically feasible, as evidenced by the SIS, for both the Phase 1A Facility and, upon completion of the grid reinforcements, the entire Project; and SP New Energy Corporation has the technical and financial ability to develop, construct, operate, and maintain the Transmission Line as evidenced by its financial documents.

MOTION FOR CONFIDENTIAL TREATMENT OF
INFORMATION

14. Section 1, Rule 4 of the ERC Revised Rules of Practice and Procedure states that information may be treated as confidential, as follows:

“Section 1. Motion for Confidential Treatment of Information. - A party to a proceeding before the Commission may move for information to be treated as confidential.

The motion shall:

- a) Describe therein with particularity the information to be treated as confidential, stating the specific grounds thereof, and specifying the period during which the information must not be disclosed.
- b) Be accompanied with one (1) copy of the document that contains the information sought to be treated as confidential, placed in a sealed envelope, with the envelope and each page thereof stamped with the word “Confidential”. The sealed envelope shall be accompanied by an index enumerating the contents thereof with sufficient particularity.
- c) The movant shall serve the other parties with the motion but not copies of the documents and/or information sought to be treated as confidential.
- d) If the information for which confidentiality is requested is part of the attachments to an application, petition or other pleading, the same must comply with this Section by incorporating therein the motion.

The movant has the burden of proof to establish that the information is entitled to such confidentiality.”

15. SP New Energy Corporation thus respectfully requests that the information in Annexes “G-series” Interconnection Design, “I-series” Facilities Study Report, “N”- Conceptual Engineering Design and Drawings and “O-series” – Breakdown of Project Costs, submitted in compliance with the said rule, be treated as confidential in nature pursuant to afore-stated provision.
16. Annexes “G-series,” “I-series,” “N,” and “O-series” contain information which is not available to the public and which involves, among others, trade secrets reflecting SP New Energy Corporation’s intellectual property, investment, business calculations, and pricing structures. Moreover Annex “O-series” also contains proprietary information and, financial, investment, and business calculations of SP New Energy Corporation. The data and information contained

therein relate to SP New Energy Corporation's specific solar power plant design and technology, as well as vital data which serve as a component of the overall formula and process in arriving at its competitive rates, all of which were specifically developed by SP New Energy Corporation. If the information contained in these annexes are unduly disclosed, this will seriously prejudice the competitiveness of SP New Energy Corporation as it may be used by other GenCo's in designing their power plants and calculating their offers/tariff structure/rate design, undermining competition. As such, they are solely for SP New Energy Corporation's use and treated as a trade secret.

17. A trade secret has been defined in jurisprudence as follows:

"A trade secret is defined as a plan or process, tool, mechanism or compound known only to its owner and those of his employees to whom it is necessary to confide it. The definition also extends to a secret formula or process not patented, but known only to certain individuals using it in compounding some article of trade having a commercial value. A trade secret may consist of any formula, pattern, device, or compilation of information that: (1) is used in one's business; and (2) gives the employer an opportunity to obtain an advantage over competitors who do not possess the information. Generally, a trade secret is a process or device intended for continuous use in the operation of the business, for example, a machine or formula, but can be a price list or catalogue or specialized customer list. It is indubitable that trade secrets constitute proprietary rights. The inventor, discoverer, or possessor of a trade secret or similar innovation has rights therein which may be treated as property, and ordinarily an injunction will be granted to prevent the disclosure of the trade secret by one who obtained the information 'in confidence' or through a 'confidential relationship.'"¹⁶

18. To this end, the confidentiality of trade secrets is protected by various laws and rules,¹⁷ and no less than the Supreme Court has emphasized that the privileged nature of trade secrets is "beyond quibble."¹⁸
19. Likewise, this Honorable Commission has previously held that in the electric power industry, information relating to pricing structures are confidential and may not be disclosed, to wit:

"In the case of PNOC RC, the documents sought to be protected from disclosure contain formula and pricing structures used in arriving at their proposed tariff. In fact, all there (3) documents were used by the Commission in evaluating the reasonableness of the proposed

¹⁶ Air Philippines Corp. v. Pennswell, Inc., G.R. No. 172835, 13 December 2007.

¹⁷ Rules of Court, Rule 130, Sec. 26; Section 4, Rule 3 of the Interim Rules of Procedure on Government Rehabilitation; Section 66 of the Securities Regulation Code of 2000; Rev. Penal Code, Art 291-292; Rep. Act No. 8424, Sec. 278; Rep. Act No. 6969, Sec. 12.

¹⁸ Air Philippines Corp. v. Pennswell, Inc., G.R. No. 172835, 13 December 2007.

rate. In the electric power industry w(h)ere prices is[sic] a major consideration in selecting one's supplier, it is apparent that the assumptions used in arriving at one's proposed tariff is considered a competitive leverage by one player against its competitors.

Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed.”¹⁹

20. Indeed, the information contained in the above-stated documents is vital to the determination of SP New Energy Corporation's pricing structure and competitive advantage and undoubtedly constitute proprietary information or trade secrets as defined. Thus, SP New Energy Corporation respectfully moves that the above information be treated as confidential, and that the information contained therein be solely used for the purposes of examination and evaluation by this Honorable Commission.

**MOTION FOR ISSUANCE OF PROVISIONAL AUTHORITY
OR INTERIM RELIEF**

21. Under Section 4(e), Rule 3 of the EPIRA IRR and Rule 14 of the ERC Revised Rules of Practice and Procedure, this Honorable Commission may grant provisional authority or interim relief.
22. The connection of the Project to the Cabanatuan 230kV Substation will accommodate the rapidly increasing demand for energy²⁰ amidst the drastic and constant price increases in fuel,²¹ commodities²² as well as power prices. In March 2022, the peak electricity demand exceeded the annual figures from 2019 and 2021 as prices at the WESM remained high due to the thinning of reserves in the Luzon grid.²³ Higher coal and fuel prices abroad,²⁴ exacerbated by the depreciation of the

¹⁹ In the Matter of the Application for Approval of the Power Supply Agreement between Nueva Ecija II Electric Cooperative, Inc.-Area 2 (NEECO II – Area 2) and PNOC Renewables Corporation (PNOC RC), ERC Case No. 2015-11 RC, 30 May 2017.

²⁰ A copy of the Project Rational is attached hereto as Annex “C-1” and made an integral part hereof. A copy of the Actual Historical and Forecasted Demand Supply Scenario is attached hereto as Annex “X” and made an integral part hereof.

²¹ DOE expects more fuel price increases in the coming weeks, Philstar, 8 June 2022, available at <https://www.philstar.com/headlines/2022/06/08/2186937/doe-expects-more-fuel-price-increases-coming-weeks>, (last accessed on 13 June 2022).

²² Supermarket industry warns of rising prices due to higher material costs, Business World, 6 March 2022, available at <https://www.bworldonline.com/economy/2022/03/06/434156/supermarket-industry-warns-of-rising-prices-due-to-higher-materials-costs/>, (last accessed on 13 June 2022).

²³ Power rates up in April as generation charges rise, Business World, 12 April 2022, available at [https://www.bworldonline.com/corporate/2022/04/12/441805/electricity-rates-rise-in-april-as-power-generation-charge-climbs-meralco/#:~:text=\(Meralco\)%20will%20see%20more%20than,5363%20per%20kWh%20to%20P10,](https://www.bworldonline.com/corporate/2022/04/12/441805/electricity-rates-rise-in-april-as-power-generation-charge-climbs-meralco/#:~:text=(Meralco)%20will%20see%20more%20than,5363%20per%20kWh%20to%20P10,) (last accessed on 13 June 2022).

²⁴ Power rates headed upward due to more expensive coal, Business World, 6 March 2022, available at <https://www.bworldonline.com/economy/2022/03/06/434154/power-rates-headed-upward-due-to-more-expensive-coal/>, (last accessed 13 June 2022).

Philippine Peso, which showed no indication of slowing down,²⁵ lead to further increases in prices. Further, in 2023, demand increased to record-breaking figures, peaking in April 2023 at 12,221 MW, 2,380 MW and 2,363 MW for Luzon, Visayas and Mindanao, respectively.²⁶ The demand is projected to rise even higher this 2024 to 13,917 MW, 2,891 MW and 2,584 MW, respectively.²⁷ The connection for the entire Project will likewise encourage more partnerships and projects which promote the use of clean energy, specifically solar energy, which, in turn, reduces the country's dependence on fossil fuels.

23. Additionally, pending the grid reinforcements to the San Jose – San Rafael 230 kV Transmission Line and Marilao – Mexico 230 kV Transmission, the output provided under the PSA from the Phase 1A Facility is ripe for connection to the grid, its capacity being well within the twenty (20) MW range identified in the SIS. While the Joint Application for Approval of the PSA is a separate and distinct proceeding, which is currently ongoing before this Honorable Commission, it is respectfully submitted that, for the benefit of the consuming public, SP New Energy Corporation be allowed to conduct preparatory works for the construction, installation and eventual operation of the Transmission Line.
24. Thus, in view of the urgency above-mentioned, SP New Energy Corporation respectfully prays for the issuance of a Provisional Authority or other Interim Relief for the development, construction and operation of the proposed Transmission Line.
25. SP New Energy Corporation, most respectfully reserves the right to seek the amendment and/or revision of the operating capacity of the Transmission Line, subject to the approval by the Honorable Commission, as maybe deemed necessary for the Project and dependent upon the progress of the adverted grid reinforcement.

PRAYER

WHEREFORE, premises considered, SP NEW ENERGY CORPORATION (FORMERLY SOLAR PHILIPPINES NUEVA ECIJA CORPORATION) respectfully prays that this Honorable Commission issue an order:

²⁵ Peso skids past P53:\$1 level to hit a fresh 3-year low, Ramon Royandoyan, PhilStar, 13 June 2022, available at <https://www.philstar.com/business/2022/06/13/2188106/peso-skids-past-p531-level-hit-fresh-3-year-low>, (last accessed 13 June 2022).

²⁶ IEMOP Observes A Rise in Electricity demand this April 2023, Independent Electricity Market Operator of the Philippines Inc., 25 April 2023, available at <https://www.iemop.ph/news/iemop-observes-a-rise-in-electricity-demand-this-april-2023/#:~:text=The%20increase%20in%20demand%20led,MW%20on%20April%2019%2C%202023>, (last accessed 23 January 2024).

²⁷ DOE braces for El Nino's impact on power, Philippine New Agency, 14 December 2023, available at <https://www.pna.gov.ph/articles/1215413#:~:text=In%202024%2C%20peak%20demand%20in,and%202%2C315%20MW%20in%20Mindanao>, (last accessed 23 January 2024).

1. IMMEDIATELY GRANTING the Motion for Issuance of Provisional Authority or Interim Relief and immediately ISSUING a Provisional Authority or Interim Relief authorizing SP New Energy Corporation to develop, own and maintain the dedicated point-to-point limited facilities for the Project;
2. IMMEDIATELY:
 - a) GRANTING the Motion for Issuance of Provisional Authority or Interim Relief and immediately ISSUING a Provisional Authority or Interim Relief authorizing SP New Energy Corporation to operate the dedicated point-to-point limited facilities for the Project;

Or in the ALTERNATIVE:

- b) GRANTING the Motion for Issuance of Provisional Authority or Interim Relief and immediately ISSUING a Provisional Authority or Interim Relief authorizing SP New Energy Corporation to operate the dedicated point-to-point limited facilities for the Phase 1A Facility;
3. GRANTING the Motion for Confidential Treatment of Information and treat the documents, and the information therein, duly marked as Annexes "G-series," "I-series," "N" and "O-series" as CONFIDENTIAL;
4. After due notice, hearing and consideration, the Provisional Authority/ies be made PERMANENT and FINAL; and
5. GRANTING the Application (With Prayer for the Issuance of Provisional Authority or Interim Relief and Motion for Confidential Treatment of Information).

SP New Energy Corporation likewise prays for such further or other relief as may be deemed just or equitable.

Finding the said *Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for hearing for determination of compliance with the jurisdictional requirements, expository presentation, and Pre-trial Conference²⁸ **on**

²⁸ In the Commission's *Advisory* dated 26 July 2023, the Commission adopted the Summary Proceedings in accordance with Rule 17 of the Commission's Revised Rules of Practice and Procedure (ERC Revised RPP) in the filing, processing and evaluation of the applications for authority to develop and own or operate dedicated point-point limited transmission facilities, in the following instances: (1) Applications without intervenor, or uncontested applications; and (2) Applications with intervenors, provided all parties have agreed to subject the application to summary proceedings. Under the said summary proceedings and in accordance with Rule 17 of the ERC Revised RPP, the Applicant's presentation of evidence is through the

15 March 2024 (Friday) at nine o'clock in the morning (9:00 A.M.), through **MS Teams Application** as the online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020²⁹ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure).³⁰

RELATIVE THERETO, SPNEC is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, at least ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies of the areas affected by the project for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected areas, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, 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 and attend the scheduled hearings; and
- 5) Furnish with copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, all those making requests therefor, subject reimbursement of reasonable photocopying costs.

submission and offering of the affidavits of its witnesses and other pieces of evidence within the time allowed by the Commission.

²⁹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

³⁰ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Within five (5) calendar days prior to the date of the virtual hearing, SPNEC must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements attaching the following methodically arranged and duly marked documents:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavit of the Editor or Business Manager of the newspaper where the said *Notice of Virtual Hearing* was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by SPNEC to inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those subject of a motion for confidential treatment of information, by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Moreover, SPNEC is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Offices of the Provincial Governor, Mayors, and Local Legislative Bodies, and to submit proof of posting thereof.

Applicant SPNEC and all interested parties are also required to submit via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-trial Conference, their respective Pre-trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Applicant SPNEC must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission **at least five (5) calendar days** before the date of the scheduled virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of SPNEC to comply with the above requirements 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 the said date of cancellation.

Applicant SPNEC must also be prepared to make an expository presentation of the instant *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, the nature of the *Application*. Relevant information and pertinent details substantiating the reasons and justifications for the *Application* must be cited in support thereof.

Applicant SPNEC is hereby directed to file a copy of its Expository Presentation via e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, **at least five (5) calendar days** prior to the scheduled virtual hearing. SPNEC shall also be required, upon the request of any stakeholder, to provide an advance

copy of its expository presentation, **at least five (5) calendar days** prior to the scheduled virtual hearing.


Applicant SPNEC is further directed to submit, through personal service, registered mail, or ordinary mail/private courier, one (1) set of the original or certified true hard copies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavits of witnesses, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

Finally, Applicant SPNEC, including its authorized representatives and witnesses, is hereby directed to provide the Commission, thru legal.virtualhearings@erc.ph, their e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

SO ORDERED.

Pasig City, 14 February 2024.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: AVL/MYM/LSP

ERC
Office of the Chairperson and CEO



MCD2024-014674

ERC CASE NO. 2024-008 MC
ORDER/14 FEBRUARY 2024
PAGE 15 OF 15

COPY FURNISHED:

1. SP New Energy Corporation
Applicant
112 Legaspi St., Legaspi Village, Brgy. San Lorenzo, Makati City, Philippines
2. ANGARA ABELLO CONCEPCION REGALA & CRUZ
Attys. Antonio Jose Gerardo T. Paz, Jonn Kenneth Laurence A. Gonzales,
Gino Ismael S. Gerodias, Paulo Romeo J. Yusi
Counsel for Applicant
22nd Floor ACCRALAW Tower
2nd Avenue corner 30th Street, Crescent Park West, Bonifacio Global City, 1635 Taguig
accra@accralaw.com; atpaz@accralaw.com; jagonzalaes@accralaw.com;
gsggerodias@accralaw.com; pjyusi@accralaw.com
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
docket@osg.gov.ph
4. Commission on Audit (COA)
Don Mariano Marcos Avenue, Diliman, Quezon City, Metro Manila
citizensdesk@coa.gov.ph
5. Senate Committee on Energy
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
senateenergycommittee@gmail.com
6. House of Representatives Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
committee.energy@house.gov.ph
7. Office of the Mayor
Makati City
8. Office of the LGU legislative body
Makati City
9. Office of the Governor
Province of Nueva Ecija
10. Office of the LGU legislative body
Province of Nueva Ecija
11. Office of the Mayor
Cabanatuan, Nueva Ecija
12. Office of the LGU legislative body
Cabanatuan, Nueva Ecija
13. Office of the Mayor
Peñaranda, Nueva Ecija
14. Office of the LGU legislative body
Peñaranda, Nueva Ecija
15. Office of the Mayor
Sta. Rosa, Nueva Ecija
16. Office of the LGU legislative body
Sta. Rosa, Nueva Ecija
17. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive, Ortigas Center, Pasig City
ros@erc.ph