

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO DEVELOP, OWN AND/OR OPERATE DEDICATED POINT-TO-POINT LIMITED TRANSMISSION FACILITIES TO CONNECT THE 34.37MWac ARMENIA SOLAR POWER PROJECT TO THE LUZON GRID VIA INTERIM TAP CONNECTION TO THE CONCEPCION- CAMILING 69KV TRANSMISSION LINE AND FINAL TAP CONNECTION TO THE CONCEPCION- STA. IGNACIA 69KV TRANSMISSION LINE 2 OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES, WITH PRAYER FOR PROVISIONAL AUTHORITY AND/OR INTERIM RELIEF AND FOR CONFIDENTIAL TREATMENT OF INFORMATION

ERC CASE NO. 2024-013 MC

RE RESOURCES, INC. (RERI),
Applicant.

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Promulgated:

March 12, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 08 March 2024, RE Resources, Inc. (RERI) filed an *Application* dated 26 February 2024, seeking the Commission's approval for authority to develop, own and/or operate dedicated point-to-point limited transmission facilities to connect the 34.37MWac Armenia Solar Power Project to the Luzon Grid via

Interim Tap Connection to the Concepcion-Camiling 69KV Transmission Line and Final Tap Connection to the Concepcion-Sta. Ignacia 69kV Transmission Line 2 of the National Grid Corporation of the Philippines (NGCP), with prayer for provisional authority and/or interim relief and confidential treatment of information.

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

THE APPLICANT

1. RERI, formerly Mount Apo Geopower, Inc., is a private corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at NAC Tower, 32nd Street, Bonifacio Global City, Taguig City. It may be served with orders, notices, and other processes of this Honorable Commission through the undersigned counsel.

NATURE OF THE APPLICATION

2. The instant Application is being filed pursuant to Section 9 of the Electric Power Industry Reform Act of 2001 ("EPIRA"), which states that:

"xxx A generation company may develop and own or operate dedicated point-to-point limited transmission line 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 for the purpose of connecting to the transmission system, and are used solely by the generating facilities, subject to prior authorization by the ERC xxx"

3. This Application is similarly being filed pursuant to Section 5 (a) of the Implementing Rules and Regulations of the EPIRA, which states that:

"Section 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company. (a) Subject to prior authorization from ERC, TRANSCO, or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: Provided, That:

- 1) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;
- 2) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and

- 3) Any other documents that may be required by the ERC.
4. RERI proposes to develop, own, and/or operate interconnection facilities to connect its 34.37MWac Armenia Solar Power Plant (Armenia SPP) project to the Luzon Grid, consisting of two (2) stages: *first*, is via an interim tap connection to the National Grid Corporation of the Philippines' ("NGCP") existing Concepcion-Camiling 69kV Transmission Line ("Interim Connection Dedicated Facility Project"), and, *second*, a final or permanent tap connection to the NGCP's proposed Concepcion-Sta. Ignacia 69kV Transmission Line 2 ("Final Connection Dedicated Facility Project").

STATEMENTS OF FACTS

5. RERI is duly registered to, among others, engage in the business of exploring, owning, developing, constructing, operating, repairing, maintaining, managing, investing or otherwise engaging in the business of power plant systems, including power transmission lines, converting stations and generation plants which utilize hydro, coal, oil, natural gas, geothermal, wind, solar and all other types of renewable or non-renewable resources, and other related businesses.
6. To connect the Armenia SPP to the Luzon Grid, RERI shall develop and construct first the Interim Connection Dedicated Facility Project, and, subsequently, the Final Connection Dedicated Facility Project. These facilities are dedicated point-to-point limited connection facilities to be used solely by the Armenia SPP for its dispatch and connection to the Luzon Grid.
 - 6.1. Considering that RERI expects to complete its Armenia SPP ahead of the NGCP's proposed Concepcion-Sta Ignacia 69kV Transmission Line 2, RERI will establish the Interim Connection Dedicated Facility Project, which is an interim tap connection to NGCP's existing Concepcion- Camiling 69kV Transmission Line, in the meantime that NGCP's proposed Concepcion- Sta. Ignacia 69kV Transmission Line 2 is being put up. This Interim Connection Dedicated Facility consists of an approximately 11km, 69kV, single-circuit line connecting RERI's Armenia SPP to NGCP's Concepcion-Camiling 69kV Transmission Line. The said NGCP line, in turn, is directly connected to NGCP's Concepcion Substation.
 - 6.2. Once NGCP's proposed Concepcion- Sta. Ignacia 69kV Transmission Line 2 is in place, RERI will utilize the same Interim Connection Dedicated Facility to be its Final Connection Dedicated Facility that will connect to the said transmission line. This Final Connection Dedicated Facility Project also consists of an approximately 11km, 69kV, single-circuit line connecting RERI's Armenia SPP to NGCP's Concepcion- Sta. Ignacia 69kV Transmission Line 2. The said NGCP line, in turn, is directly connected to NGCP's Concepcion Substation.

- 6.3. Said facilities for both the Interim and Final Connection Dedicated Facility Projects are necessary to test, commission and dispatch the capacity of the Armenia SPP and shall be exclusively utilized by RERI. These connections will allow movement of power from the Armenia SPP to the Luzon Grid. RERI studied its options and found that the connection scheme consisting of 2 stages and such direct connections are the best options to timely connect the Armenia SPP project to the Luzon Grid.
7. Considering that the Interim and Final Connection Dedicated Facility Project will utilize essentially the same assets with only 70 meters difference between their connection point, the estimated cost of the construction of both, which consists of generator substation, transmission line, and connection point is Two Hundred Eighty Three Million Eight Hundred Sixty Six Thousand One Hundred Seventy Four and 11/100 Pesos (Php283,866,174.11), broken down as follows:

Description	Amount
Substation and Associated Accessories	67,008,607.39
Switchyard and Associated Accessories	44,618,938.35
Transmission Line/s and Associated Accessories	86,420,126.43
Other requirements	85,234,282.81
Total Estimated Cost	283,281,954.98

Meanwhile, the additional estimated cost to extend the transmission line by approximately 70 meters for the Final Connection Dedicated Facility Project is Php584,219.13.

The Estimated Cost will still vary depending on the final cost from the Engineering, Procurement and Construction (EPC) contractor.

8. On 7 February 2022, NGCP offered its service to AP Renewable Energy Corporation (AP REC), an entity also under Aboitiz Power that was initially the intended project owner of Armenia SPP, to conduct a System Impact Study (SIS) for the proposed connection of the Armenia SPP to the Luzon Grid via the tap connection to the NGCP's proposed Concepcion-Sta. Ignacia 69kV Transmission Line 2.
9. Based on the SIS for Armenia SPP dated August 2022, NGCP found that the proposed connection to the Luzon Grid is technically feasible provided that the proposed Concepcion-Sta. Ignacia 69kV Transmission line 2 project and the North Luzon substation upgrading project are already completed.

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10. AP REC then engaged Almario's Computer, Civil-Electrical Protection and Safety Technology to conduct the Facilities Study (FS) to ensure that the equipment to be installed will satisfy the recommendation of the SIS, and that the Final Connection Dedicated Facility complies with the provisions of the Philippine Grid Code.
11. Subsequently, AP REC assigned its rights and obligations over the Armenia SPP to RERI. Through a letter dated 5 January 2023, AP REC notified NGCP as regards the assignment to RERI.
12. On 13 January 2023, NGCP issued a letter “grant[ing] consent to the assignment to RERI of the Armenia SPP” and confirming that “all documents previously released by NGCP related to the Project to the former company (APREC) shall remain valid and effective”¹.
13. Subsequently, through a Letter dated 17 April 2023, RERI requested NGCP for an interim connection for the Armenia SPP considering that NGCP encountered several right-of-way challenges for its proposed Concepcion-Sta. Ignacia 69kV Transmission Line 2.
 - 13.1 In the said Letter, RERI proposed to temporarily utilize the NGCP’s Concepcion- Camiling 69kV as Armenia SPP’s interim connection.
14. Through a Letter dated 15 June 2023, NGCP found that the proposed interim connection is acceptable considering that “the capacity of the existing Concepcion-Camiling 69kV line can accommodate both RERI’s Project as well as the existing solar plant connected in the line”.
15. Another FS was conducted by Almario's Computer, Civil-Electrical Protection and Safety Technology to include the Interim Connection Dedicated Facility, which was further evaluated by NGCP through its FS Report dated 7 November 2023.
16. NGCP and RERI are currently in the process of finalizing the terms of their Connection Agreement for the interconnection of the Armenia SPP to the Luzon Grid through the Dedicated Facility Project.
17. Per NGCP’s Certification dated 23 January 2023, the Armenia Solar SPP will be included in the formulation of the succeeding Transmission Development Plan (TDP) update following its classification as an Indicative Private Sector Initiated Power Project as indicated in the Department of Energy’s (DOE) list of 2022 Private Sector Initiated Power Projects in Luzon (Indicative) as of 30 November 2022.
18. In addition, AP REC and DOE have entered into a Solar Energy Service Contract (SESC No. 2019-12-557) dated 23 December

¹ NGCP Letter dated 13 January 2022, attached as Annex “P”.

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2019 (SESC) for AP REC’s exploration, development and utilization of solar energy resources within Tarlac City and Municipality of San Jose, Province of Tarlac.

19. Subsequently, AP REC submitted a request to DOE for the assignment/transfer of SESC to RERI. After a thorough review of the documents submitted by AP REC, the DOE granted AP REC’s request to transfer/assign all its rights under the SESC to RERI through a letter dated 10 October 2022. Consequently, the DOE issued Certificate of Registration No. SESC 2019-12-557-AFI under the name of RERI.
20. The DOE has also issued a Certificate of Endorsement in favor of RERI certifying that the point-to-point application to connect Armenia SPP to the Luzon Grid is “consistent with the provisions of Section 9 of the Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001”.
21. Upon completion of the Dedicated Facility Projects and the commercial operation of the Armenia SPP, RERI intends to operate and maintain the Interim Connection Dedicated Facility Project and, thereafter, the Final Connection Dedicated Facility Project.
22. As of date, RERI has secured or is in the process of securing the necessary permits, licenses, and authority from the appropriate regulatory agencies for the Interim and Final Connection Dedicated Facility Projects.
23. The following documents are herewith submitted in support of the instant Application:

Annex	Documents
A	RERI’s Amended Articles of Incorporation
B	RERI’s Amended By-laws
C	RERI’s General Information Sheet
D	RERI’s Secretary’s Certificate dated 24 January 2023
E	Sworn Statement dated 6 January 2023
F*	Project Description (Armenia Solar Power Project Armenia, Tarlac City, Tarlac Dedicated Point to Point Limited Facility)
G	Relevant Dates of the project
H	Single Line Diagram of the Dedicated Facility Project
I*	Conceptual Drawings and Design
J and J-1	Environmental Compliance Certificate (ECC) No. ECC-OL-R03-2022-0227 issued by the Department of Environment and Natural Resources (DENR); and ECC Amendment dated 19 December 2022
K*	System Impact Study dated August 2022
K-1	NGCP’s SIS Final Review Report dated 8 September 2022

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L	RERI's Letter to NGCP dated 17 April 2023 Re: Request for an Interim Connection
L-1	NGCP's Letter dated 15 June 2023 Re: Evaluation of the Proposed Interim Connection Scheme
M*	Facilities Study dated 25 September 2022
M-1*	NGCP's Facilities Study Report dated 14 November 2022
N*	Facilities Study dated 22 August 2023 (Revision 4)
N-1*	NGCP's Facilities Studies Report dated 7 November 2023
O and Series*	Contractors' Profile: <ul style="list-style-type: none"> - Southern J. Power Electric, Inc. - Power Dimension, Inc. - Hefty Power Systems Corporation - Hansei Corporation
P	NGCP Letter dated 13 January 2023 regarding the Assignment of Rights and Obligations of APREC to RERI
Q	NGCP Certification dated 23 January 2023 regarding the inclusion of Armenia SPP of RERI in the TDP
R	NGCP Certification dated 23 January 2023 regarding the Status of Connection Agreement with RERI
S	DOE Letter dated 10 October 2022 with Certificate of Registration No. SESC 2019-12- 557-AFI
T	Solar Energy Service Contract (SESC No. 2019- 12-557)
U	Demand-Supply Scenario (Power Development Plan 2020-2040)
V	Affidavit of Compliance with the Philippine Grid Code and the Philippine Distribution Code dated 6 January 2023
W	DOE Certificate of Endorsement dated 9 June 2023 with DOE-EPIMB-ERC-P2P No. 2023- 06-012
X	DOE Letter dated 10 May 2023 with Certificate of Confirmation of Commerciality No. SCC- 2023-04-124
Y	Judicial Affidavit of Mr. Danny Caro

**Subject to a Motion for Confidential Treatment of Information*

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY OR INTERIM RELIEF**

24. Section 2 (a) of the Renewable Energy Act of 2008 (“RE Act”) mandates that it is the policy of the State to “accelerate the exploration and development of renewable energy resource such as, but not limited to, biomass, solar, wind, hydro, geothermal and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country’s exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy”.
25. Further, Section 6, Chapter III of the RE Act mandates that the stakeholders in the electric power industry contribute to the growth of the renewable energy industry of the country.
26. RERI’s construction of the Armenia SPP is in furtherance of the RE Act and consistent with the implementation of the Renewable Portfolio Standards by the DOE. In order to fulfill such a mandate, permits must be secured, and construction and commissioning must be accomplished immediately.
27. RERI needs to immediately test, commission, and dispatch the Armenia SPP upon its completion to avoid unnecessary delays that can lead to opportunity costs and contribute to the rising demand growth. Thus, it is necessary for RERI’s Armenia SPP to be connected to the grid, initially through the Interim Connection Dedicated Facility Project, at the earliest possible opportunity.

A copy of the Affidavit executed by RERI’s authorized representative in support of the prayer for issuance of provisional authority or interim relief is hereto attached and made an integral part hereof as Annex “Y”.

28. Considering the foregoing, RERI submits that there is clear and sufficient basis for the issuance of a provisional authority or interim relief for the development, ownership and operation of the Interim Connection Dedicated Facility Project, as well as the Final Connection Dedicated Facility Project by RERI to connect the Armenia SPP to the Luzon Grid, pending the Honorable Commission’s issuance of a final decision on the instant Application.

**ALLEGATIONS IN SUPPORT OF THE CONFIDENTIAL
TREATMENT OF INFORMATION**

29. Under Rule 4 of the Honorable Commission’s Rules of Practice and Procedure, a party to any proceeding before the Honorable Commission may request that certain information not be disclosed and be treated as confidential. In this regard, RERI prays for the confidential treatment of Annexes “F”, “I”, “K”, “M”, “M-1”, “N”, “N-1”, and “O and series” and the information contained therein and to not disclose the same except to the officers and staff of the Honorable Commission.

30. RERI respectfully manifests that Annexes “F”, “I”, “K”, “M”, “M-1”, “N”, “N-1”, and “O and series” of the instant *Application* contain valuable, non-public information, data and insight, or are covered by the Data Privacy Act of 2012², that should be treated as confidential. These confidential documents contain privileged and sensitive information, if unduly disclosed, will seriously prejudice RERI’s competitiveness.

30.1 Annex “F” contains transmission options considered for the connection, project cost, and other details pertaining to the Armenia SPP Project that reflect management/business strategies;

30.2 Annex “I” refers to the conceptual engineering design and drawings, having proprietary value and constitutes trade secrets of RERI;

30.3 Annexes “O and series” contain personal information and data that are subject to protection under the Data Privacy Act of 2012;

30.4 Annexes “K”, “M”, “M-1”, “N”, and “N-1”, are commissioned studies that have proprietary value and constitute trade secrets of RERI.

31. Considering that RERI has actual and valuable proprietary interest to protect with respect to such information, Annexes F”, “I”, “K”, “M”, “M-1”, “N”, and “N-1” fall within the bounds of “trade secrets”, which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.

32. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*,³ the Supreme Court defined “trade secrets” and explained 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.**” (*Emphasis supplied.*)

² Republic Act No. 10173

³ 564 Phil. 774 (2007), G.R. No. 172835.

33. Clearly, the Honorable Commission recognizes the importance of treating trade secrets as confidential in order to ensure the competitiveness of the generation sector. The information in Annexes F", "I", "K", "M", "M-1", "N", and "N-1" therefore falls within the definition of a trade secret as defined by jurisprudence, merits the confidential treatment provided for under Rule 4 of the ERC Rules of Practice and Procedure.
34. As regards Annexes "O and series", RERI is obligated to protect the personal information contained therein pursuant to the Data Privacy Act of 2012.
35. In view of the foregoing, RERI respectfully requests that the documents attached as Annexes "F", "I", "K", "M", "M-1", "N", "N-1", and "O and series" be marked and treated as confidential and privileged, and not be disclosed to persons other than the necessary officers and staff of this Honorable Commission.
36. Accordingly, RERI respectfully submits the instant Application for the Honorable Commission's urgent and utmost consideration.

PRAYER

WHEREFORE, premises considered, Applicant RE RESOURCES, INC. (RERI) respectfully prays that the Honorable Commission:

1. Issue an Order granting provisional authority or interim relief for the implementation of the development, ownership and operation of the Interim Connection Dedicated Facility Project and Final Connection Dedicated Facility Project by RERI to connect the Armenia SPP to the Luzon Grid;
2. Issue an Order treating Annexes "F", "I", "K", "M", "M-1", "N", "N-1", and "O and series" and the information contained therein as confidential information within the purview of Rule 4 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof; and
3. After hearing on the merits, a Decision be rendered approving the instant Application.

Other just and equitable relief are likewise prayed for.

The Commission has set the instant *Application* for hearing for the determination of compliance with the jurisdictional requirements, expository presentation, and Pre-Trial Conference⁴ on **09 May 2024**

⁴ 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-to-point limited transmission facilities, in the following instances: (1) Applications without intervenor, or uncontested applications; and (2)

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(Thursday) 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 09, Series of 2020,⁵ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure).⁶

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of

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

⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

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the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgement receipt e-mail sent by the Commission.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearing by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 12th day of March 2024 in Pasig City.

Medimalanta
MONALISA C. DIMALANTA
Chairperson and CEO

Spurred along by bp
LS: JJP/ARG/LSP

ERC

Office of the Chairperson and CEO



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