

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 67.07 MWac SAN MANUEL POWER PROJECT TO THE LUZON GRID VIA THE 69kV SAN MANUEL SUBSTATION OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES, WITH PRAYER FOR PROVISIONAL AUTHORITY AND/OR INTERIM RELIEF AND CONFIDENTIAL TREATMENT OF INFORMATION

ERC CASE NO. 2024-011 MC

RE RESOURCES, INC. (RERI),
Applicant.
X-----X

Promulgated:
April 17, 2024

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 26 February 2024, RE Resources, Inc. (RERI) filed an *Application* dated 15 February 2024, seeking the Commission's authority to develop, own and/or operate dedicated point-to-point limited transmission facilities to connect the 67.07 MWac San Manuel Solar Power Project to the Luzon Grid via the 69 kV San Manuel Substation 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 of 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 67.07 MWac San Manuel Solar Power Plant (San Manuel SPP) project to the Luzon Grid via the 69kV San Manuel Substation of the National Grid Corporation of the Philippines ("NGCP") ("Dedicated Facility Project").

STATEMENT OF FACTS

5. RERI is duly registered to, among others, engage in the business of exploring, owning, developing, constructing,

ERC CASE NO. 2024-011 MC
NOTICE OF VIRTUAL HEARING/17 April 2024
PAGE 3 OF 11

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 San Manuel SPP to the Luzon Grid, RERI shall develop and construct the Dedicated Facility Project, a dedicated point-to-point limited connection facility to be used solely by the San Manuel SPP for its dispatch and connection to the 69kV San Manuel Substation owned and operated by NGCP. Said facilities are necessary to test, commission and dispatch the capacity of the San Manuel SPP and shall be exclusively utilized by RERI.
7. The San Manuel SPP will be connected to NGCP's 69kV San Manuel Substation through a 7km, 69kV, double-circuit transmission line. The connection of the Dedicated Facility Project to the San Manuel Substation will allow movement of power from the San Manuel SPP to the Luzon Grid. RERI studied its options and found that such direct connection is the viable option to connect the San Manuel SPP project to the Luzon Grid due to its proximity and ease of physical connection.
8. The estimated cost of the construction of the Dedicated Facility Project is Three Hundred Twenty Five Million Four Hundred Eighty Thousand Three Hundred Eighty-Six and 42/100 Pesos (Php325,480,386.42), with the following components:

Component	Cost (Php)
Substation and its associated accessories	71,458,253.24
Transmission Line/s and associated accessories	81,193,235.53
Other Requirements	172,828,897.65
TOTAL ESTIMATED COST	325,480,386.42

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

9. On 12 May 2022, NGCP offered its service to PV Sinag Power, Inc. (PVSPI), the initial project owner of the San Manuel SPP, to conduct the System Impact Study (SIS) for the proposed connection of the 67.07 MWac San Manuel SPP to the Luzon Grid via the 69kV San Manuel Substation.
10. Subsequently, PVSPI transferred its rights over the San Manuel SPP project to RERI. On 13 January 2023, NGCP "grant[ed] consent to the assignment to RERI of the 67MW San Manuel Solar Power Project" and declared that "all documents previously released by NGCP related to the project

to the former company (PVSPI) shall remain valid and effective”.

11. Based on the SIS and the SIS Review Report prepared by NGCP to determine the technical feasibility of the Dedicated Facility Project and the impact of connecting the San Manuel SPP to the Luzon Grid, the connection of the San Manuel SPP to the Luzon Grid requires the completion of the North Luzon Substation Upgrading Project, specifically the upgrading of the NGCP’s San Manuel Transformer.
12. RERI also engaged MN Electro Industrial Supply and Services, Inc. to ensure that the equipment to be installed will satisfy the recommendation of the SIS and that the Dedicated Facility Project complies with the provisions of the Philippine Grid Code.
13. RERI and NGCP are currently in the process of finalizing the terms of their Connection Agreement for the interconnection of the Laoag [*sic*] SPP to the Luzon Grid through the Dedicated Facility Project.
14. Likewise, PVSPI and DOE have entered into a Solar Energy Operating Contract (SEOC) for the development and utilization of solar energy resources within San Manuel, Pangasinan.
15. Subsequently, through a letter dated 7 October 2022, after a thorough review of the documents submitted by PVSPI, the DOE granted the “assignment/transfer of the SEOC from PVSPI to RERI” and issued a new Certificate of Registration under the name of RERI.
16. The DOE has also issued a Certificate of Endorsement in favor of RERI certifying that the point-to-point application to connect San Manuel 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”.
17. Furthermore, the San Manuel SPP has been considered in NGCP’s Transmission Development Plan (TDP). In a Certification dated 23 January 2023, NGCP has confirmed that the San Manuel SPP “will be included in the formulation of the succeeding TDP update following its classification as an “Indicative” Private Sector Initiated Power Project as indicated in the DOE List of 2022 Private Sector Initiated Power Projects in Luzon (Indicative)”.
18. Upon completion of the Dedicated Facility Project and the commercial operation of the San Manuel SPP, RERI intends to operate and maintain the Dedicated Facility Project.
19. As of date, RERI has secured or is in the process of securing the necessary permits, licenses, and authority from the

ERC CASE NO. 2024-011 MC
NOTICE OF VIRTUAL HEARING/17 April 2024
PAGE 5 OF 11

appropriate regulatory agencies for the Dedicated Facility Project.

20. In light of the foregoing, RERI respectfully seeks the confirmation and approval of the Honorable Commission that the Dedicated Facility Project is the most viable option for the connection of the San Manuel SPP to the Luzon Grid.
21. 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 24 January 2023
F*	RERI San Manuel Solar Power Project - Project Description
G	Relevant Dates of the project
H	Single Line Diagram of the Dedicated Facility Project
I*	Conceptual Engineering Drawings and Design
J-1 to J-4*	Contractor's Profile: <ul style="list-style-type: none"> ● Hansei Corporation ● Hefty Power Systems Corporation ● Power Dimension, Inc. ● Southern J. Power Electric, Inc.
K*	NGCP Offer of Service dated 12 May 2022
K-1	NGCP Letter dated 13 January 2023 Re: Assignment of Rights and Obligations to RERI
L*	System Impact Study dated April 2023
L-1	SIS Final Review Report dated 18 May 2023
M*	Preliminary Facilities Study (FS) dated June 2023
M-1*	FS Report dated 25 July 2023
M-2*	Supplement to the FS Report dated 16 August 2023

ERC CASE NO. 2024-011 MC
NOTICE OF VIRTUAL HEARING/17 April 2024
PAGE 6 OF 11

Annex	Documents
N	RERI Letter dated 16 January 2023 Re: Request for Certifications for San Manuel Power Project
N-1	NGCP Letter dated 23 January 2023 Re: TDP Certification
N-2	NGCP Letter dated 17 November 2023 Re: Certification for Connection Agreement
O	DOE Certificate of Endorsement No. DOE-EPIMB-ERC-P2P No. 2023-02-004
P	Solar Energy Operating Contract (SEOC No. 2021-11-596)
Q	DOE Letter dated 7 October 2022 with Attached Certificate of Registration No. SEOC 2021-11-596-AFI
R	Demand-Supply Scenario (Power Development Plan 2020-2040)
S and S-1	Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR) with No. ECC-OL-R01-2022-0271; ECC 1st Amendment for ECC-OL-R01-2022-0271
T	DENR Certificate of Non-Coverage No. CNC-OL-R01-2022-12-02317
U	Affidavit of Compliance with the Philippine Grid Code and the Philippine Distribution Code dated 24 January 2023
V	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

22. 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”.

23. 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.
24. RERI's construction of the San Manuel 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.
25. RERI needs to immediately test, commission, and dispatch the San Manuel 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 San Manuel SPP to be connected to the grid, through the 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 "V".

26. 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 Dedicated Facility Project by RERI to connect the San Manuel 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**

27. 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", "J-1", "J-2", "J-3", "J-4", "K", "L", "M", "M-1", and "M-2" and the information contained therein and to not disclose the same except to the officers and staff of the Honorable Commission.
28. RERI respectfully manifests that Annexes "F", "I", "J-1", "J-2", "J-3", "J-4", "K", "L", "M", "M-1", and "M-2" of the instant *Application* contain valuable, non-public information, data and insight, or are covered by the Data Privacy Act of 2012¹, that should be treated as confidential. These confidential documents contain privileged and sensitive information that, if unduly disclosed, will seriously prejudice RERI's competitiveness.

¹ Republic Act No. 10173

- 28.1. Annex “F” contains transmission options considered for the connection, project cost, and other details pertaining to the San Manuel SPP Project that reflect management/business strategies;
 - 28.2. Annex “I” refers to conceptual engineering design and drawings having proprietary value and constitutes trade secrets of RERI;
 - 28.3. Annexes “J-1” to “J-4” contain personal information and data that are subject to protection under the Data Privacy Act of 2012;
 - 28.4. Annex “K” refers to a private agreement with NGCP for the conduct of SIS, and is not public in nature; and
 - 28.5. Annexes “L”, “M”, “M-1”, and “M-2” are commissioned studies that have proprietary value and constitute trade secrets of RERI.
29. Considering that RERI has actual and valuable proprietary interest to protect with respect to such information, Annexes “F”, “I”, “K”, “L”, “M”, “M-1”, and “M-2” fall within the bounds of “trade secrets”, which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
30. In the case of *Air Philippines Corporation vs. Pennswell, Inc.*,² 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.*)
31. 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”, “L”, “M”, “M-1”, and “M-2” 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.
32. As regards Annexes “J-1” to “J-4”, RERI is obligated to protect the personal information contained therein pursuant to the Data Privacy Act of 2012.

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

33. In view of the foregoing, RERI respectfully requests that the documents attached as Annexes "F", "I", "J-1", "J-2", "J-3", "J-4", "K", "L", "M", "M-1", and "M-2" 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.
34. 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 Dedicated Facility Project by RERI to connect the San Manuel SPP to the Luzon Grid;
2. Issue an Order treating **Annexes "F", "I", "J-1", "J-2", "J-3", "J-4", "K", "L", "M", "M-1", and M-2"** 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 hereby sets the instant *Application* for hearing for the determination of compliance with the jurisdictional requirements, expository presentation, and Pre-Trial Conference³ **on 16 May 2024 (Thursday) at two o'clock in the afternoon (2:00 P.M.)**, through **MS Teams Application** as the online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁴

³ 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 submission and offering of the affidavits of its witnesses and other pieces of evidence within the time allowed by the Commission.

⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

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

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, and 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, any person who has 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, and 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, and 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 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

⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

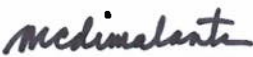
3) The grounds relied upon.

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 acknowledgment 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 initial virtual hearing by providing the Commission, through legal.virtualhearings@erc.ph, 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 17th day of April 2024 in Pasig City.


MONALISA C. DIMALANTA
Chairperson and CEO

ERC
Office of the Chairperson and CEO



MCD2024-016417