

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
FACILITIES TO CONNECT
THE 18.750MW_{AC}
BONGABON SOLAR POWER
PLANT TO THE LUZON
GRID THROUGH THE
CABANATUAN-BALER 69KV
LINE WITH PRAYER FOR
PROVISIONAL AUTHORITY
AND PROTECTIVE ORDER
FOR CONFIDENTIAL
TREATMENT OF
INFORMATION**

ERC CASE NO. 2023-019 MC

GREENTECH SOLAR
ENERGY INC.,
Applicant.

Promulgated:
October 25, 2023

X-----X

ORDER

On 19 October 2023, Greentech Solar Energy Inc. (GSEI) filed an *Application*, dated 14 September 2023, seeking the Commission's approval for authority to develop, own and/or operate dedicated point-to-point limited facilities to connect the 18.750MW_{AC} Bongabon Solar Power Plant to the Luzon Grid through the Cabanatuan-Baler 69kV line with prayer for provisional authority and protective order for confidential treatment of information.

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

1. GSEI is a corporation duly organized and existing by virtue of and under the laws of the Republic of the Philippines, with principal office address at Tower 1, Rockwell Business Center,

Ortigas Avenue, Pasig City.

Copies of GSEI's Certificate of Registration, original Articles of Incorporation, By-Laws, and latest amended Articles of Incorporation are attached hereto and made integral parts hereof as Annexes "A," "B," "C," and "D," respectively.

2. GSEI may be served with orders, notices, and other processes of this Honorable Commission through its undersigned counsel.

NATURE OF THE APPLICATION

3. This Application is submitted to this Honorable Commission pursuant to Section 9 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act ("EPIRA"), for its consideration and approval of GSEI's development, ownership, and operation of dedicated point-to-point limited transmission facilities which shall connect the 18.750MWac Bongabon Solar Power Plant to be located at Brgy. Pesa, Municipality of Bongabon, Province of Nueva Ecija ("Bongabon Solar Power Plant") to the Luzon Grid via tap connection at the National Grid Corporation of the Philippines' ("NGCP") Cabanatuan-Baler 69kV Transmission Line through an approximately 0.35km line from the Solar Power Plant to the tapping point.

A copy of the Secretary's Certificate authorizing the filing of the instant Application and appointing the authorized representatives thereof is attached hereto and made an integral part hereof as Annex "E."

STATEMENT OF FACTS

4. A Solar Energy Service Contract (SESC) No. 2016-08-319 dated 07 November 2016 was executed between the Philippine Government, through the Department of Energy ("DOE"), and GSEI. By virtue of such SESC, GSEI was granted the exclusive right to explore, develop and utilize Solar Energy Resources within an area located in Bongabon, Nueva Ecija.

A copy of the SESC is attached hereto and made integral part hereof as Annex "F."

5. Consequently, a Certificate of Registration and Certificate of Confirmation of Commerciality were issued by the DOE to GSEI.

A copy of the DOE Certificate of Registration No. SESC-2016-08-319, and DOE Certificate of Confirmation of Commerciality No. SCC-2021-04-099 are attached respectively as Annexes "F-1," and "F-2," respectively, and made integral parts hereof.

6. The DOE issued a Notice of Auction dated 20 March 2023 inviting all Qualified Suppliers¹ to participate in the Second Green Energy Auction Round (“GEA-2”) for Renewable Energy (“RE”). GEA-2 covers the Luzon, Visayas, and Mindanao with installation targets for delivery dates for years 2024, 2025, and 2026. Applicant GSEI participated, submitted bidding documents, and nominated its Bongabon Solar Power Plant for the GEA-2. After the competitive process, Applicant GSEI emerged successful in the recently concluded GEA-2 and was included on the *List of Winning Bidders for GEA-2* with 2025 Installation Target under the DOE’s Notice of Award dated 12 July 2023. Part of its submission and commitments under the GEA-2 shall be that Applicant GSEI’s Delivery Commencement Date will be on 1 July 2025.

A copy of the DOE’s Notice of Award is attached hereto and made integral part hereof as Annex “G.”

7. Pursuant thereto, GSEI will soon start the development of the 18.750MWac Bongabon Solar Power Plant Project which is targeted to undergo testing and commissioning in the second half of 2024, ahead of its committed Delivery Commencement Date.
8. In order to test, commission, and dispatch energy from the Bongabon Solar Power Plant, GSEI shall develop and construct the dedicated point-to-point limited transmission facilities which comprise of the: (a) 25 MVA transformer and related equipment, and (b) 69kV overhead transmission line to the National Grid Corporation of the Philippines’ (“NGCP”) Cabanatuan-Baler 69kV Transmission Line (collectively, the “Dedicated Transmission Facilities”).
9. GSEI considered two (2) possible routes for the Dedicated Transmission Facilities:
 - Option 1: Connection to the Luzon Grid via tap connection along NGCP’s Cabanatuan-Baler 69kV Line using the paved access road going to the power plant substation.
 - Option 2: Connection to the Luzon Grid via tap connection along NGCP’s Cabanatuan-Baler 69kV Line using the unpaved access road going to the power plant substation.
10. After a review of its options, GSEI determined that Option 1 is the most cost-effective and technically viable option for the immediate interconnection of the Bongabon Solar Power Plant and such was approved by GSEI’s Board of Directors.

¹ As defined under Section 4.12 of DOE Department Circular No. DC 2021-11-0036, otherwise known as “*Providing the Revised Guidelines for the Green Energy Auction Program in the Philippines*” or the “*GEAP Guidelines*”.

Copies of the Comparison of Options and Alternatives Considered is attached as Annex “H” and made integral parts hereof.

11. The NGCP conducted a System Impact Study (SIS), which included a study of the supply and demand in the area, and determined that the connection of the Bongabon Power Plant to the Luzon Grid is acceptable.

A copy of the SIS is attached hereto and made integral part hereof as Annex “I” and the Demand-Supply data found on page 5 are marked as Annex “I-1.”²

12. GSEI also engaged EAGLEngineering Solutions Corporation to conduct the Facilities Study for the Bongabon Solar Power Plant to ensure that the equipment to be installed will satisfy the recommendation in the SIS, and that the Dedicated Transmission Facilities complies with the Philippine Grid Code. Furthermore, in view of the Honorable Commission’s requirements, the Facilities Study conducted by an independent third party was subjected under the review of the NGCP as the Transmission Network Provider (TNP).

A copy of the Facilities Study prepared by EAGLEngineering Solutions Corporation and the NGCP’s Interconnection Facilities Study Report are hereto attached and made integral parts hereof as Annex “J,” and “J-1,” respectively.³

13. In light of the foregoing, GSEI respectfully seeks approval from the Honorable Commission to construct, own, and operate the Dedicated Transmission Facilities to connect the Bongabon Solar Power Plant to the Luzon Grid.
14. Once completed, the operation, service and maintenance of the Dedicated Transmission Facilities will be undertaken by GSEI.
15. In further support of this Application, GSEI respectfully submits the following documents:

Annex	Documents
K	Project Rationale
L	Project Description
M	Copy of the portion of the approved 2022-2040 Transmission Development Plan (TDP) showing the Bongabon Solar Power Plant Project
N	Single Line Diagram
O*	CONFIDENTIAL: Conceptual Engineering Design and Drawings*
P*	CONFIDENTIAL: Project Estimated Costs *
Q and Q-1	Gantt Chart Schedule and Relevant Dates

² Subject of a Motion for Confidential Treatment of Information.

³ Subject of a Motion for Confidential Treatment of Information.

Annex	Documents
R	Clarifications with Respect to the Contractor Profile to be Involved in the Construction of the Dedicated Point-To-Point Limited Transmission Facilities
S	NGCP Certification with Respect to the Connection Agreement
T	Sworn Statement that GSEI has filed or shall file an application for a Certificate of Compliance and other government permits.
U	Certificate of Non-Coverage issued by the Department of Environment and Natural Resources
V	Key Management Officials of GSEI
W	General Information Sheet for 2022
X	List of technical personnel who will conduct Operations and Maintenance and their qualifications
X-1	Affidavit of Compliance with the Philippine Grid Code

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

**ALLEGATIONS IN SUPPORT OF
PRAYER FOR PROVISIONAL AUTHORITY**

16. As RE Law aims to accelerate the development of the country's renewable energy resources and increase the utilization of renewable energy, it is in the interest of the government to help RE developers, such as GSEI, to achieve commerciality and commercial operations at the soonest practicable time. Needless to state, the construction of the Dedicated Transmission Facilities is a pre-requisite for the testing and commissioning, and ultimately, the commercial operations of the Bongabon Solar Power Plant. A provisional authority is thus urgently needed to enable GSEI to achieve the target commercial operations date of the Solar Power Plant by December 2024 and avoid adverse consequence to GSEI.
17. Based on demand-supply simulations, the DOE issued the GEAP Guidelines upon its determination that the country needs immediate additional capacities to adequately serve the increasing electricity demand and system security requirements. The Bongabon Solar Power Plant will not only help address the need for additional supply especially in the Luzon Grid but is also consistent with the government's efforts to increase the country's installed RE capacities.
18. Based on GEA-2 Terms of Reference ("TOR") and annexes thereof, as amended and supplemented accordingly through relevant Bid Bulletins by the DOE, Applicant GSEI is faced with hefty and cumbersome penalties in the unfortunate event that it will not meet the committed Delivery Commencement Date. Depending on the circumstances, Applicant GSEI may not be eligible to be paid based on its Green Energy Tariff,

while its Notice of Award and other documents issued as a Winning Bidder shall be deemed revoked, after due notice. Worse, its Performance Bond, or any portion thereof, shall be drawn under the following:

B.2.11. The Performance Bond, or any portion thereof, shall be drawn in any of the following circumstances:

a) *xxx;*

b) *Failure to deliver on the DCD [Delivery Commencement Date] and which is due to the fault of the Winning Bidder, one-tenth (1/10) of one (1) percent of the Performance Bond shall be drawn for every day of delay as penalty; Provided that the maximum period of delay shall be three hundred sixty-five (365) days from the DCD; or*

c) *If the delay exceeds 365 days, the Performance Bond shall be drawn in full, the Notice of Award, COE-GET, and other documents issued in favor of the Winning Bidder shall, upon due notice, be deemed revoked, and the Winning Bidder shall not be entitled to the GET [GreenEnergy Tariff] for the Offered Capacity and shall not be entitled to enter into a REPA [Renewable Energy Purchase Agreement]; Provided, that the vacated capacity shall be included in the installation target for the succeeding auction round, if any, and shall not be filled up with the capacity offer of the next-in-line Bidder/s in the ranking of bids.⁴*

(Underscoring provided for emphasis)

19. In undertaking to develop, construct, own, operate, and maintain the proposed Dedicated Transmission Facilities, Applicant GSEI will be able to connect to the Luzon Grid via the Cabanatuan-Baler 69kV Transmission Line and deliver energy to be generated by the Bongabon Solar Power Plant as promptly as possible through viable, efficient, and cost-effective means. As a Winning Bidder in the GEA-2 with a Delivery Commencement Date of 1 July 2025, the immediate construction and consequent approval by the Honorable Commission is imperative in order to meet its commitments and deliverables to the DOE, and likewise immediately contribute to the much needed supply of energy for the Luzon Grid.
20. In addition, the RE Law has declared it the policy of the State to “accelerate the exploration and development of renewable

⁴ Annex B, GEA-2 TOR, as amended by the DOE’s Bid Bulletin No. 5 for the Second Green Energy Auction Round dated 22 June 2023.

energy resources 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 dependence on fossil fuels and thereby minimize the country's exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of economy."⁵ It is in support of this policy that GSEI was established to develop the Solar Power Plant to generate power. A copy of the Affidavit executed by Mr. Dominic Xavier R. Lampa in support of the prayer for issuance of provisional authority is hereto attached and made an integral part hereof as Annex "Y."

21. Considering the foregoing, there is clear and sufficient basis for the issuance of provisional authority pending the issuance of a final decision of this application.

**ALLEGATIONS IN SUPPORT OF PRAYER FOR
TREATMENT OF CONFIDENTIAL INFORMATION**

22. GSEI respectfully requests that the information contained in the following documents be treated as confidential information pursuant to Rule 4 of the Honorable Commission's Revised Rules of Practice and Procedure:

ANNEXES	CONFIDENTIAL DOCUMENTS
I	System Impact Study
I-1	Demand-Supply Data found on page 5 of the System Impact Study
J	Facilities Study
J-1	NGCP's Interconnection Facilities Study Report
O	Conceptual Engineering Design and Drawings
P	Project Estimated Costs

23. These documents pertain to sensitive information regarding GSEI's pricing strategies and project cost breakdown, which, if disclosed to the public, might adversely affect GSEI's competitiveness. Thus, the information contained in those documents fall within the bounds of proprietary "trade secrets" which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.
24. The Honorable Supreme Court, in the case of *Air Philippines Corporation vs. Pennswell, Inc.*⁶ had the opportunity to discuss the definition of "trade secrets" and the great extent to which the same are protected under our laws. In other instances, the Supreme Court has held that the confidential nature of trade secrets protects such from

⁵ Section 2(a) Republic Act No. 9513.

⁶ GR No. 172835, 13 December 2007

disclosure even in the face of the right of inspection given to stockholders⁷ or the constitutional right to information.⁸ Information which falls within the definition of a trade secret as defined by jurisprudence is clearly information which merits the confidential treatment provided for under Rule 4 of the ERC Revised Rules of Practice and Procedure.

25. Thus, in an Order dated 18 February 2021 in ERC Case No. 2020-004MC,⁹ the Honorable Commission ruled that the contents of the Distribution Impact Study, Distribution Asset Study, and Cost Analysis have proprietary value and contain valuable and sensitive commercial matters regarding the business operations of the generating company, and thus should be treated confidential.
26. In view thereof, GSEI respectfully requests that the documents marked as Annexes "I," "I-1," "J," "J-1," "O," and "P" be treated as confidential during the pendency of this Application and any time thereafter, and that these be used solely for the purpose of evaluating this Application. GSEI also respectfully moves for the issuance of a protective order pursuant to Rule 4 of the ERC Revised Rules of Practice and Procedure.

PRAYER

WHEREFORE, premises considered, GSEI respectfully prays for the Honorable Commission to:

1. Declare the information contained in Annexes "I," "I-1," "J," "J-1," "O," and "P" as CONFIDENTIAL INFORMATION and issue a PROTECTIVE ORDER pursuant to Rule 4 of the ERC Revised Rules of Practice and Procedure;
2. Immediately issue an Order granting PROVISIONAL AUTHORITY for the implementation of the development, ownership, and operation of the Dedicated Transmission Facilities by GSEI to connect the Bongabon Solar Power Plant to the Luzon Grid;
3. After hearing, a Decision be issued approving the Application.

GSEI prays for other just and equitable relief under the premises.

Finding the said *Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the instant

⁷ Philpotts vs. Philippine Manufacturing Company, 40 Phil. 471 (1919).

⁸ Garcia vs. Board of Investments, G.R. 88637 (1989).

⁹ Entitled "In the Matter of the Application for Authority to Develop, Own, and Operate Dedicated Point to Point Limited Distribution Facilities, to Connect the 50MW San Miguel Solar Project to the Distribution System of the Manila Electric Company"

Application for hearing for determination of compliance with the jurisdictional requirements, expository presentation, and Pre-trial Conference¹⁰ **on 22 November 2023 (Wednesday) 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 2020¹¹ and Resolution No. 01, Series of 2021 (ERC Revised Rules of Practice and Procedure).¹²

RELATIVE THERETO, GSEI 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; and
- 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;

¹⁰ 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.

¹¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

¹² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 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.

Within five (5) calendar days prior to the date of the virtual hearing, GSEI must submit to the Commission via electronic mail (e-mail) at doCKET@erc.ph, and 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; and
- 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 GSEI 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, GSEI 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 Governor, Mayor, and Local Legislative Bodies, and to submit proof of posting thereof.

Applicant GSEI 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 GSEI 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 GSEI 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 GSEI 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 GSEI 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. GSEI 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 GSEI 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 GSEI, 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, 25 October 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO


LS: AVL/LSP/MCCG

ERC
Office of the Chairperson and CEO



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COPY FURNISHED:

1. Greentech Solar Energy Inc. (GSEI)
Applicant
Tower 1, Rockwell Business Center, Ortigas Avenue, Pasig City
2. Atty. Irving N. Chua; Jacqueline Kate Saliente-Tamayo; Maybelle Ramos-Tolentino; Mark Francis R. Recierdo
Counsel for Applicant
8th Floor, Tower 1, Rockwell Business Center, Ortigas Avenue, Pasig City
MGPRRegulatory@globalpower.com.ph;
Irving.Chua@globalpower.com.ph;
JacquelineKate.Tamayo@globalpower.com.ph;
Maybelle.Ramos-Tolentino@globalpower.com.ph;
MarkFrancis.Recierdo@globalpower.com.ph
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
Pasig City
8. Office of the LGU legislative body
Pasig City
9. Office of the Governor
Province of Nueva Ecija
10. Office of the Local Government Unit (LGU) Legislative Body
Province of Nueva Ecija
11. Office of the Mayor
Municipality of Bongabon, Nueva Ecija
12. Office of the LGU legislative body
Municipality of Bongabon, Nueva Ecija
13. Regulatory Operations Service (ROS)
14th Floor, Exquadra Tower, 1 Jade Drive
Ortigas Center, Pasig City
ros@erc.ph