

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
Pasig City

**IN THE MATTER OF THE  
APPLICATION FOR THE  
ISSUANCE OF A CERTIFICATE  
OF PUBLIC CONVENIENCE  
AND NECESSITY (CPCN),  
WITH PRAYER FOR A  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2022-015 MC**

**SHIN CLARK POWER  
CORPORATION (SCPC),**  
*Applicant.*

**Promulgated:**  
July 20, 2022

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**NOTICE OF VIRTUAL HEARING**

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 30 June 2022, Shin Clark Power Corporation (SCPC) filed an *Application* dated 02 June 2022, seeking the Commission's approval of its application for the issuance of a Certificate of Public Convenience and Necessity (CPCN), with prayer for a provisional authority.

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

1. SCPC is a joint venture corporation between the Bases Conversion and Development Authority ("BCDA") and Shin Clark Power Holdings, Inc. ("SCPHI") with principal office address at NCC Substation, Botolan-Clark Airport Road, New Clark City, Aranguren, Capas, Tarlac. It may be served with notices and other processes of this Honorable Commission through its undersigned counsel at the address indicated herein.
  - 1.1. BCDA is a government instrumentality vested with corporate powers and created by virtue of Republic Act No. 7227, as amended, with principal office address at the 2nd Floor, Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig, Metro Manila.

- 1.2. SCPHI is a consortium established by and between Manila Electric Company, Marubeni Corporation, The Kansai Electric Power Co., Inc. and Chubu Electric Power Co., Inc., with principal office address at 3F Technical Services Building, Ortigas Avenue, Barangay Ugong, Pasig City.
  - 1.3. SCPHI holds 90% of the shares in SCPC while BCDA holds 10% thereof.
2. On 16 May 2018, the BCDA released an Invitation to Bid for the Selection of the Joint Venture Partner for the development of electric power distribution system in New Clark City. After the conduct of a competitive selection process, on 18 January 2019, the BCDA Joint Venture Selection Committee (JVSC) issued the Notice of Award to the Meralco Marubeni Consortium as the winning Private Sector Participant (PSP).
3. On 3 April 2019, the BCDA and the MERALCO Marubeni consortium entered into a Joint Venture Agreement (JVA) for the financing, design and engineering, construction, development and operation and maintenance of the electric power distribution system in New Clark City. The MERALCO Marubeni consortium was then incorporated into SCPHI.
4. On 22 August 2019, President Rodrigo R. Duterte signed Republic Act No. 11420 (RA 11420), which granted onto the BCDA and its assignees the franchise to construct, install, establish, operate, lease, own, manage and maintain for commercial purposes and in the public interest, distribution systems for the conveyance of electric power in selected areas covered under Republic Act No. 7227, as amended. The franchise covered New Clark City.<sup>1</sup>
5. Section 14 of RA 11420 expressly recognizes the JVA as follows:

“SEC. 14. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.— The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation, or other commercial or legal entity, nor merge with any other corporation or entity, nor shall transfer the controlling interest of the grantee, whether as a whole or in part, and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. For purposes of this Act, the rights and privileges hereby

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<sup>1</sup> Sec. 1 of Republic Act No. 11420 enumerates the areas covered under BCDA’s franchise, to wit: (a) John Hay (Baguio City); (b) Wallace Air Station (Poro Point La Union); (c) O’Donnel Transmitter Station (Capas, Tarlac); and (d) portion of the Clark Special Economic Zone (CSEZ) covering the New Clark City (Tarlac),

granted to the grantee shall be enjoyed by the joint venture corporation to be established by the grantee and the consortium of Manila Electric Company, Marubeni Corporation, Kansai Electric Power Co., Inc., and Chubu Electric Power Co., Inc., pursuant to the Joint Venture Agreement dated 3 April 2019 which was awarded after the conduct of a competitive selection process. Said joint venture corporation established by the grantee shall be subject to the same conditions, terms, restrictions, and limitations of this Act.” (Emphasis and underscoring supplied).

6. Under the JVA, subject to the issuance of the Governance Commission for Government-Owned or Controlled Corporation (GCG) endorsement and approval of the Philippine Competition Commission (PCC), BCDA and SCHI shall establish and incorporate a Joint Venture Corporation (JVC) with the primary purpose of developing, constructing, owning, operating and maintaining the distribution system within New Clark City. As such, Applicant SCPC was incorporated on 10 May 2022.
7. In view of the foregoing, this application is being filed before this Honorable Commission for the issuance of a Certificate of Public Convenience and Necessity (CPCN) as provided under Section 3 of RA 11420<sup>2</sup> and Section 43(q) of Republic Act No. 9136 (“RA 9136”).<sup>3</sup>
8. During the term of this CPCN and the franchise, Applicant shall ensure that it shall meet all the technical and financial standards provided in the Philippine Grid Code (“PGC”) and Philippine Distribution Code (“PDC”) and it will comply with all conditions the Honorable Commission may impose.
9. SCPC is financially and technically capable of operating and maintaining the existing distribution system for the conveyance of electric power exclusively within BCDA’s franchise area, promoting economic growth of New Clark City in the process. In addition thereto, New Clark City is being developed to serve investors and locators, which are mainly multinational companies whose products and services cater to the requirements of the local and foreign market.
10. In support of its Application and in compliance with ERC Resolution No. 05, Series of 2008, SCPC hereby submit the following documents:

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<sup>2</sup> Section 3 of RA 11420 – The grantee shall secure from the ERC the necessary certificate of public convenience and necessity and other appropriate permits and licenses for the construction and operation of its electrical distribution system.

<sup>3</sup> Section 43 (q) of RA 9136 – Act on applications for or modifications of certificates of public convenience and/or necessity, licenses or permits of franchised electric utilities in accordance with law and revoke, review and modify such certificates, licenses or permits in appropriate cases, such as in cases of violations of the Grid Code, Distribution Code and other rules and regulations issued by the ERC in accordance with law;

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ANNEX	DOCUMENT
General Documents	
“A”	Copy of Legislative Franchise under Republic Act No. 11420
“B”	List of Key Management Officials
“C”	Certificate of Incorporation of SCPC Articles of Incorporation of SCPC By-Laws of SCPC
“D”	Franchise Area Coverage Map
“E”	Proposed Utility Practices and Procedures
“F”	Proposed Interim Tariff Showing all Rates, Deposits and Charges
Technical Documents/Information	
“G”	List of the names of personnel responsible for the design, installation, maintenance, and repair of the SCPC distribution system
“H”	Information regarding the proposed power supply for the franchise service area
“I”	Single Line Diagram of SCPC Distribution System
“J”	Discussion on compliance with the technical requirements of the Philippine Grid Code (PGC) and Philippine Distribution Code (PDC)
“K”	Discussion on negotiations with telephone and/or cable telephone utilities on the joint use of pole lines
“L”	Electric Distribution System Business Plan for the next five (5) years
“M”	Indicative Organizational structure of SCPC
Financial Information	
“N”	Copies of the latest available balance sheet and income statement of the principal stockholder of SCPC
“O”	Discussion on Financial Status and Calculated five (5) years forecasted financial indicators/ratios, together with explanation, as provided in the PDC

11. In order to further substantiate its financial and technical capacity and in support of its prayer for provisional authority, Applicant offers the Judicial Affidavit of Mr. Rolando M. Cagampan, General Manager, attached as Annex “P” hereof, to prove SCPC’s (a) financial capacity to operate and maintain the proposed distribution system; (b) proposed practices and procedures; and (c) technical expertise, capability and resources to distribute electric power within New Clark City.
  
12. Considering the existing and potential investments and projects in New Clark City, there is an unquestionable need for the issuance of a Provisional Authority or Interim Relief to the applicants, in order to enable it to operate and maintain the distribution system in the franchise area without delay or interruption for the benefit of the locators in the area.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Commission order the issuance of a Certificate of Public Convenience and Necessity to the applicant to operate and maintain the distribution system for the conveyance of electric power to its end-users within New Clark City.

Pending final approval, it is respectfully prayed that a provisional authority or interim relief be granted.

Other reliefs, just and equitable under the premises, are likewise prayed for.

The Commission hereby sets the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020<sup>4</sup> dated 24 September 2020 and Resolution No. 01, Series of 2021 dated 17 December 2020 (ERC Revised Rules of Practice and Procedure):<sup>5</sup>

<b>Date</b>	<b>Platform</b>	<b>Activity</b>
<b>25 August 2022</b> (Thursday) at nine o'clock in the morning (9:00 A.M.)	<b>Microsoft Teams</b>	Determination of compliance with the jurisdictional requirements and expository presentation
<b>01 September 2022</b> (Thursday) at nine o'clock in the morning (9:00 A.M.)	<b>Microsoft Teams</b>	Pre-trial Conference and presentation of evidence

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](mailto:docket@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto: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 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

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

<sup>5</sup> A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

via e-mail at [doCKET@erc.ph](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating 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](mailto:doCKET@erc.ph), copy furnish the Legal Service through [legal@erc.ph](mailto:legal@erc.ph), their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. 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.

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](http://www.erc.gov.ph).


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Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru [legal.virtualhearings@erc.ph](mailto: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 **FLORESINDA G. BALDO-DIGAL**, **CATHERINE P. MACEDA**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 20<sup>th</sup> day of July 2022 in Pasig City.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**ALEXIS M. LUMBATAN**  
*Commissioner*

  
LS;CNR/LSP/MCCG