

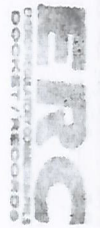
Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

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

RECEIVED BY:



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ERC Case No. 2022-015 MC

SHIN CLARK POWER
CORPORATION (SCPC),
Applicant.

June 30, 2022

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APPLICATION

Applicant SHIN CLARK POWER CORPORATION (SCPC),
by counsel, respectfully states:

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.¹

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

¹ 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' Donnell Transmitter Station (Capas, Tarlac); and (d) portion of the Clark Special Economic Zone (CSEZ) covering the New Clark City (Tarlac)

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 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 11420² and Section 43(q) of Republic Act No. 9136 ("RA 9136").³

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

² 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.

³ 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;

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:

ANNEX	DOCUMENT
<i>General Documents</i>	
"A"	Copy of Legislative Franchise under Republic Act No. 11420
"B"	List of Key Management Officials
"C", "C-1" and "C-2"	Certificate of Incorporation of SCPC Articles of Incorporation of SCPC By-Laws of SCPC
"D"	Franchise Area Coverage Map
"E" and "E-1"	Statement of Utility Practices and Procedures with proposed practices and procedures
"F"	Statement on Proposed Interim Tariff Showing all Rates, Deposits and Charges
<i>Technical Documents/Information</i>	
"G"	List of the names and addresses of additional personnel responsible for the design, installation, maintenance, and repair of the SCPC distribution system
"H"	Information regarding the power supply for the proposed service area indicating the contracted demand and energy;
"I"	Single Line Diagram of CEDC Distribution System
"J"	Statement on undertaking to comply with the technical requirements of the Philippine Grid Code (PGC) and Philippine Distribution Code (PDC)
"K"	Statement 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

<i>Financial Information</i>	
“N”	Copies of the latest available balance sheet and income statement of the principal stockholder of SCPC
“O”	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, 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 to the applicants, in order to enable it to continue 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 existing 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.

Makati City for Pasig City, 2 June 2022.

SHIN CLARK POWER CORPORATION
Applicant

By:

QUIAL GINEZ BELTRAN & YU
10L, Burgundy Corporate Tower
252 Sen. Gil Puyat Avenue, 1200 Makati City
Tel. No. 7500-2071 /Cellphone No.: 0917-528-8773; 0920-948-5579
Email: gqrblawoffices@gmail.com

By:



WINSTON M. GINEZ

Roll No. 41114

PTR No. 8853936/01-05-22/Makati City
IBP No. 199139/01-14-22/Zambales
MCLE No. VII-0005414/10-26-21 /Pasig City



AILENE B. BARBARA-CAYACO

Roll No. 64298

PTR No. 8853937/01-05-22/Makati City
IBP No. 197861/01-10-22/Quezon City
MCLE No. VII-0009101/02-11-22/Pasig City



MA. AGATHA GRACE U. CORPUS

Roll No. 73898

PTR No. 8853938/01-05-22/Makati City
IBP No. 198022/01-10-22/Manila
MCLE No. VII-0014345/04-01-22/Pasig City

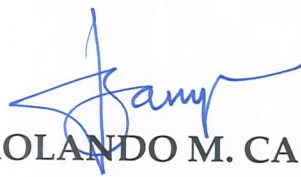
VERIFICATION
with
CERTIFICATION AGAINST NON-FORUM SHOPPING

I, **ROLANDO M. CAGAMPAN**, Filipino citizen, of legal age, and with business address at NCC Substation, Botolan-Clark Airport Road, New Clark City, Aranguren, Capas, Tarlac, hereby state under oath that:

1. I am the General Manager of the **SHIN CLARK POWER CORPORATION** ("SCPC") and its duly authorized representative in the captioned case, as evidenced by the attached Secretary's Certificate;⁴
2. As the duly authorized representative of SCPC, I am duly authorized to cause, as I hereby caused, the preparation of the foregoing Application;
3. I have read and understood the foregoing Application, the allegations of which are true and correct based on my own personal knowledge and/or on authentic records;
4. The Application is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
5. The factual allegations in the Application have evidentiary support, or if specifically so identified, will likewise have evidentiary support;
6. I certify that I have not commenced any other action involving the same issues in this Application with this Honorable Commission, or any tribunal or quasi-judicial agency and to the best of my knowledge, no such action or proceeding is pending in this Honorable Commission or any tribunal or quasi-judicial agency.
7. Should I hereafter learn that a similar action or proceeding has been filed or is pending before this Honorable Court or any tribunal or quasi-judicial agency, I undertake to promptly inform this Honorable Commission and other tribunal or agency thereof within five (5) calendar days therefrom.

⁴ A copy of the Secretary's Certificate is attached herein as *Annex "1-Verification"*.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 2nd day of June 2022 at Pasig City.



ROLANDO M. CAGAMPAN

Affiant

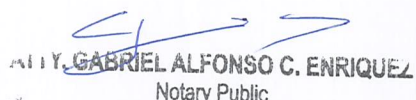
SUBSCRIBED AND SWORN to before me this 2nd day of June 2022 at Pasig City, Philippines, affiant exhibiting to me the following competent evidence of his identity: Driver's License No. N15-77-012188, bearing his signature and photograph.

Doc. No. 300 ;

Page No. 61 ;

Book No. viii ;

Series of 2022.



ATTY. GABRIEL ALFONSO C. ENRIQUEZ

Notary Public

Pasig, San Juan and Pateros

Issued On December 20, 2019 at Pasig City

Appointment No. 54 (2020-2021)

Roll No. 64589/IBP No. 179317/1-21-2022 RSM Chapter

PTR No. 8136044/1-22-2022 Pasig city

MCLE VII-0001099—10/17/2019

4th floor Lopez Bldg. Ortigas Avenue, Pasig City

SECRETARY'S CERTIFICATE

I, **AISON BENEDICT C. VELASCO**, of legal age, Filipino, with office address at the 22nd Floor, ACCRALAW Tower, Second Avenue corner 30th Street, Crescent Park West, Bonifacio Global City, Taguig City, Metro Manila, after having been sworn to in accordance with law, do hereby depose and say that:

1. I am the Corporate Secretary of **SHIN CLARK POWER CORPORATION** (the "Corporation"), a corporation duly organized and registered in accordance with the laws of the Republic of the Philippines, with principal office at the NCC Substation, Botolan-Clark Airport Road, New Clark City, Aranguren, Capas, Tarlac;
2. On 30 May 2022, the Board of Directors approved the following resolution:

"RESOLVED, that the Board of Directors of Shin Clark Power Corporation (the "Corporation") authorize, as it hereby authorizes Messrs. FRANCISCO L. VIRAY, Director, ARISTOTLE B. BATUHAN, Director, FERDINAND O. GELUZ, Director, ROLANDO M. CAGAMPAN, General Manager or his alternates, CHERLENE L. VILLACRUCIS or KENNETH CLARK O. JAVIER, and any lawyer or employee of the Corporation and/or other external counsels and law firms that any of them may designate, name or appoint:

- (1) To file the necessary applications with the Bureau of Internal Revenue ("BIR"), Bases Conversion and Development Authority ("BCDA"), Clark Development Corporation ("CDC") Energy Regulatory Commission ("ERC"), and other government agencies which are required, proper or necessary for the operation of the electric power distribution system of the New Clark City in accordance with the terms and conditions of the Joint Venture Agreement dated 3 April 2019 executed by BCDA and the Meralco Marubeni Consortium/Shin Clark Power Holdings, Inc.;
- (2) to represent the Corporation, in the institution, prosecution, and defense of any claim, complaint, action, proceeding, petition, application, protest, suit, or case, for or against the Corporation, before any court, prosecutor's office, regulatory, quasi-judicial, or administrative body, agency, or office of the national or any local government;
- (3) to sign, execute, and deliver in connection therewith the necessary or appropriate complaint, petition, application, position paper, memorandum, all types of pleadings and motions, verifications, affidavit-complaint, counter-affidavit, affidavit of merit, affidavit of desistance, affidavit of witness, and all other affidavits of whatever nature, certificate of non-forum shopping, powers of attorney, certifications, and all other instruments as may be necessary or proper; and
- (4) to represent the Corporation or to designate, name, and appoint a representative or an attorney-in-fact in behalf of the Corporation during the investigation, inquest, preliminary investigation, preliminary conference, pre-trial, mediation, conciliation, arbitration, trial, execution, and all other stages of or incidents related to the case, proceeding or action; to negotiate, enter into, and agree to an amicable settlement, compromise agreement, plea bargaining, admissions or stipulations of fact or documents, simplification of

issues, limitation on the number of witnesses, alternative modes of dispute resolution, withdrawal, dismissal or waiver of claim or action; and to perform and execute any and all actions or deeds as may aid in the prompt disposition of such cases, proceedings, or actions filed in behalf of or against the Corporation.”

Pursuant to the above resolution, it is hereby certified that Shin Clark Power Corporation is authorized to file the Application with the Energy Regulatory Commission (ERC) entitled: **“IN THE MATTER OF THE APPLICATION FOR THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN), WITH PRAYER FOR PROVISIONAL AUTHORITY”** and that Mr. Rolando M. Cagampan is an authorized representative and signatory of the company with respect to the application. Further to said resolution, the law firm of **QUIAL GINEZ BELTRAN & YU**, with office address at 10L, Burgundy Corporate Tower, 252 Sen. Gil Puyat Avenue, 1200 Makati City, and its lawyers, Attys. Winston M. Ginez, Ma. Agatha Grace U. Corpus and Ailene B. Barbara-Cayaco, have been designated and appointed as the counsel to represent the company in this application.

JUN 23 2022

IN WITNESS WHEREOF, I have hereunto affixed my signature this ___ June 2022 at Taguig City.



AISON BENEDICT C. VELASCO
Corporate Secretary

JUN 23 2022

SUBSCRIBED AND SWORN to before me this ___ June 2022 at Taguig City, affiant who is personally known to me exhibiting to me his Community Tax Certificate No. 08788644 issued on 24 January 2022 at Makati City, IBP Roll No. 49233 and TIN 228-914-720.

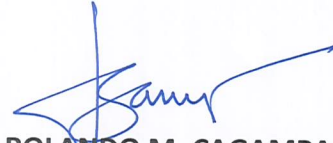
Doc. No. 254 ;
Page No. 52 ;
Book No. 1 ;
Series of 2022.




ATTY. CHRISTIANNE GRACE F. SALONGA
Notary Public for Taguig City
Until December 31, 2021
(Valid until 30 June 2022 under S.C. B.M. No. 3795)
PTR No. A-5401429; January 10, 2022 - Taguig City
IBP No. 174351; January 03, 2022 - Quezon City
Appointment / Commission No. 81 (2020-2021)
Roll No. 57234
Angara Abello Concepcion Regala & Cruz Law Offices
22/F ACCARA LAW Tower
2nd Avenue corner 30th St., Crescent Park West,
Bonifacio Global City, 1835 Taguig, Metro Manila
MCLE Compliance No. VII-0014977; 6 April 2022

DECLARATION


I, **ROLANDO M. CAGAMPAN**, General Manager of **Shin Clark Power Corporation (SCPC)**, hereby declare that all the documents hereto submitted electronically in accordance with Resolution No. 9, Series of 2020, are complete and true copies of the original documents and annexes.


ROLANDO M. CAGAMPAN
General Manager

JUN 0 2 2022

SUBSCRIBED AND SWORN to before me this _____ day of June 2022, affiant exhibited to me his Driver's License No. N15-77-012188, bearing his signature and photograph, as his competent evidence of identity.

Doc. No. 482;
Page No. 92;
Book No. VII;
Series of 2022.


EDGAR MICHAEL C. ROBLES
NOTARY PUBLIC
Appointment No. 142 (2021-2022)
Pasig, San Juan and Pateros
Issued on 05 July 2021 at Pasig City
Roll of Attorneys No. 62413
IBP Lifetime No. 011798
PTR No. 8131475; 01/06/2022; Pasig City
7th Floor, Lopez Bldg., Ortigas Ave., Pasig City