

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF
APPLICANT'S (1) BUSINESS
SEPARATION AND
UNBUNDLING PLAN (BSUP)
AND (2) ACCOUNTING COST
ALLOCATION MANUAL
(ACAM) IN COMPLIANCE
WITH REPUBLIC ACT NO.
9136 AND ITS
IMPLEMENTING RULES
AND REGULATIONS**

ERC CASE NO. 2017-010 MC

**BAC-MAN GEOTHERMAL
INC. (BGI),**

Applicant.

X-----X

D O C K E T E D
Date: APR 24 2018
By: [Signature]

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 22 June 2017, an *Application* dated 21 June 2017 was filed by applicant Bac-Man Geothermal Inc. (BGI) seeking the Commission's approval of its Business Separation and Unbundling Plan (BSUP) and Accounting Cost Allocation Manual (ACAM) in compliance with Republic Act No. 9136 and its implementing rules and regulations.

BGI alleged the following in its Application:

1. The Applicant is a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at One Corporate Centre, Julia Vargas Avenue corner Meralco Avenue, Ortigas Center, Pasig City 1605, where it may be served with summons and other legal processes.

2. BGI is a wholly-owned subsidiary of EDC Geothermal Corporation, which is in turn wholly-owned by Energy Development Corporation ("EDC"). BGI is in the business of power

generation, owning and operating the 140-MW Bacon-Manito Geothermal Power Plant located in the Provinces of Albay and Sorsogon.

3. On February 14, 2017, the Honorable Commission issued to BGI a Retail Electricity Supplier's ("RES") License, with RES License No. RES-02-2017-004 authorizing the corporation to engage in the retail electricity supply business.

4. Section 36 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (the "EPIRA", for brevity), and Rule 10 of the Implementing Rules and Regulations ("IRR") of the EPIRA, require Electric Power Industry Participants to structurally and functionally unbundle their business activities.

Accordingly, Rule 10, Section 3(b) of the IRR requires the submission of a Business Separation and Unbundling Plan ("BSUP") for approval by the Honorable Commission. Accordingly, the Honorable Commission issued ERC Resolution No. 49, Series of 2006 which promulgated the guidelines for business separation and structural and functional unbundling of the business activities of Electric Power Industry Participants, otherwise known as the ERC Business Separation Guidelines ("BSG"), as amended.

5. In compliance with the aforesaid provisions of the EPIRA and the IRR, as well as the ERC Business Separation Guidelines, as amended, Applicant proposes to adopt, and hereby applies for approval, of its BSUP, which is attached hereto as Annex "A", and its Accounting and Cost Allocation Manual ("ACAM"), which is attached hereto as Annex "B".

6. BGI's proposed BSUP is composed of the following sections:

- I. Introduction
- II. Details of Current Structure
- III. Details of Business Segments
- IV. Description of Separation
- V. Milestones and Highlights
- VI. Programs for Code of Conduct
- VII. Other Information

Salient Features of the BSUP

Current Structure

BGI is a wholly-owned subsidiary of EDC Geothermal Corporation which, in turn, is wholly-owned by EDC. The Company is registered with the Securities and Exchange Commission ("SEC") since 07April 2010 with Company Registration No. CS201005556. Its principal office is located at One Corporate Centre, Ortigas Center, Pasig City.

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The Company is mainly in the business of generating electric power from geothermal energy resources. It is now also venturing into retail electricity supply after obtaining a RES License from the ERC on 14 February 2017.

Business Segments

Generation Business Segment

BGI operates the 140-MW Bac-Man Geothermal Power Plants located in Manito, Albay and Sorsogon City, Sorsogon on the strength of a 25-year Geothermal Operating Contract with the Department of Energy ("DOE", under GOC No. 2012-04-027, issued on 8 May 2012) and a Certificate of Compliance from the ERC (with COC No. 16-03-M-00286jL, issued on 1 March 2016 and valid until October 20, 2020).

Supply Services Business Segment

With the advent of the Retail Competition and Open Access ("RCOA") which aims to empower customers in choosing their source of electricity, BGI is participating in the retail electricity supply business to directly provide clean and renewable energy and offer innovative solutions beyond traditional power supply contracts to contestable customers. The Company secured its RES License (License No. RES-02-2017-004) from the ERC on 14 February 2017.

Description of Separation

As of the filing of this application, BGI remains a single entity and shall be unbundled mainly through the separation of power plant operations and retail electricity services business segments. Separation shall be undertaken through evaluation of functions, job descriptions, qualifications, workloads, and usage in the case of fixed assets. Operating units shall be allocated to the appropriate business segment. However, for units with unattributable costs, allocation factors shall be utilized as prescribed in the ACAM.

Milestone and Highlights

BGI shall prioritize the following activities within one (1) year from the approval of the BSUP:

| Activity | Time Frame | Highlights/Target Output |
|--|-------------------|--|
| Finalize RES business organization | 6-12 months | Management approval of: <ul style="list-style-type: none">• Table of Organization• Staffing |
| Set up accounting and business-to-business communications and transactions systems | 6-12 months | Fully operational accounting and B2B systems |

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| | | |
|---|------------|---|
| Register as a Direct WESM Member (RES Category) | 3 months | Direct WESM Membership |
| Secure Distribution Wheeling Services Agreements with target distribution utilities | 3-6 months | Negotiations for DWSAs with at least three (3) distribution utilities |
| Develop programs for Code of Conduct | 1-3 months | <ul style="list-style-type: none"> • Drafting of Corporate Compliance Policy and Internal Guidelines & Procedures • Management approval |
| Develop and execute Power Procurement and Marketing Plans | 2-3 months | <ul style="list-style-type: none"> • Retail Supply Contracts • Bilateral Contracts (for power to be sourced from non-affiliate GenCos) |

Programs for Code of Conduct

It is a business principle of BGI to conduct its activities with the highest standard of ethical conduct and in compliance with all applicable laws and regulations, notably the Code of Conduct for Competitive Retail Market Participants and Competition Rules and Complaint Procedure as promulgated by the ERC.

The Company is cognizant of the objectives of the Code, particularly in: 1) protecting consumers and promoting consumer confidence in retail electricity through the establishment of standards of behavior for marketing electricity; and 2) promoting honesty, fairness, and transparency in the disclosure of information to customers. Toward these ends, BGI shall undertake these initiatives within one (1) year from the approval of the Plan:

- a) Promulgate a Corporate Compliance Policy;
- b) Develop internal guidelines and procedures to operationalize the provisions of Article II (Responsibilities and Conduct of Competitive Retail Market Participants) of the Code; and
- c) Orient and capacitate BGI officers and staff on the Corporate Compliance Policy and on the ensuing internal guidelines and processes.

7. BGI's proposed ACAM compiles the guidelines, policies, and procedures of BGI with the intent of ensuring uniformity and consistency in the implementation and/or preparation of such guidelines, policies and procedures for Accounting Separation Statements in accordance with the BSG.

The Manual includes the following:

- a) Allocation methodologies used to allocate expenses to and between Business Segments; and
- b) Allocation methodologies used to allocate assets, liabilities and capital to and between Business Segments.

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8. In support of the instant application, Applicant most respectfully submits to the Honorable Commission, the following documents:

| ANNEX | NATURE OF DOCUMENTS |
|-------|--|
| A | Business Separation and Unbundling Plan (BSUP) |
| B | Accounting and Cost Allocation Manual (ACAM) |
| | OTHER DOCUMENTS |
| C | SEC Certificate of Incorporation and Amended Articles of Incorporation |
| D | Latest General Information Sheet |
| E | 2016 Audited Financial Statements |
| F | Retail Electricity Supplier's License (RES-02-2017-004) |
| G | RES Information Sheet (RES Form 2) |
| H | 2017 Business Permit - Pasig City |
| I | 2017 Mayor's Permit - Municipality of Manito, Albay |
| J | 2017 Mayor's Permit - Sorsogon City, Sorsogon |
| K | BGI-RES Technical and Managerial Requirements |
| L | BGI-RES Five-Year Business Plan |
| M | Affidavit - Compliance with Articles II, III, IV of the ERC Business Separation Guidelines |
| N | Affidavit - Compliance with Article V of the ERC Business Separation Guidelines and Section 5, Article II of the Revised RES License Rules |
| O | Undertaking - Compliance with Code of Conduct for Competitive Retail Market Participants |
| P | Secretary's Certificate - Board Resolution No. 7, S. 2015 |

PRAYER

WHEREFORE, Applicant respectfully prays that after due notice and hearing, BGI's Business Separation and Unbundling Plan ("BSUP") and Accounting and Cost Allocation Manual ("ACAM") be approved accordingly.

Applicant likewise prays for such other and further relief as may be deemed just and equitable under the premises.

The Commission has set the Application for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **16 May 2018 at two o'clock in the afternoon (2:00 P.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

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- 1) The petitioner's name and 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.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Applicant rests its case, subject to the requirements under Rule 9 of the 2006 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 and address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All such persons who wish to have a copy of the Application may request from Applicant that it be furnished with the same, prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the Application and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the Application and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairperson and CEO **AGNES VST DEVANADERA**, and the Honorable Commissioners **GLORIA VICTORIA C. YAP-TARUC**, **ALFREDO J. NON** and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 21st day of March 2018 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal


LS:SLAN/KTB/APV