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DOCUMENT OF THE INDEPENDENT CONSULTATION AND INVESTIGATION MECHANISM

ECUADOR

MICI-BID-EC-2018-0131

CASE CLOSURE

**PROGRAM FOR THE RECONSTRUCTION OF ELECTRICITY INFRASTRUCTURE
IN AREAS AFFECTED BY THE EARTHQUAKE IN ECUADOR**

(EC-L1219)

(3906/OC-EC)

This document was prepared by Martín Packmann, Consultation Phase Specialist, and Gastón Aín, Consultation Phase Coordinator, under the supervision of Andrea Repetto Vargas, MICI Director.

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ABBREVIATIONS

CELEC-EP	Empresa Pública Corporación Eléctrica del Ecuador [State-owned electricity utility]
CNEL-EP	Empresa Eléctrica Pública Corporación Nacional de Electricidad Empresa [State-owned electricity utility]
IDB Management, IDB, or Bank	The Inter-American Development Bank manager or managers in charge of the relevant IDB Group-financed operation or any delegate thereof
MERNNR	Ministry of Energy and Nonrenewable Natural Resources
MICI or the Mechanism	Independent Consultation and Investigation Mechanism
MICI Policy	Policy approved by the Board of Executive Directors of the IDB on 16 December 2014 and updated on 14 April 2021, governing the work of the MICI regarding Requests related to operations financed by the IDB or the MIF (document MI-47-6).
Parties	The Requesters, Management, the borrower, the client, and/or the executing agency, if applicable
PRIZA	Proyecto de Reconstrucción Integral de las Zonas Afectadas [Comprehensive Reconstruction Project for Affected Zones]

I. BACKGROUND

- 1.1 The “Program for the Reconstruction of Electricity Infrastructure in Areas Affected by the Earthquake in Ecuador” (operation EC-L1219) is being financed by the IDB through a sovereign guaranteed multiple-works investment loan in the amount of US\$60,000,000 with a local counterpart of US\$9,234,000. The operation was approved by the Bank’s Board of Executive Directors on 25 January 2017. The borrower is the Republic of Ecuador, and the executing agency is the Ministry of Energy and Nonrenewable Natural Resources (MERNNR), with technical assistance provided by the State-owned electricity utility, Corporación Nacional de Electricidad (CNEL-EP).
- 1.2 The program objective is to improve electricity service by rebuilding electricity infrastructure affected by the 16 April 2016 earthquake in the provinces of Esmeraldas, Manabí, and Santo Domingo. Specifically, it seeks to reestablish the supply of electricity in the subtransmission systems of electricity distribution companies affected by the earthquake and generate distribution projects. The program has two components: (a) comprehensive reconstruction plan for the electrical power subtransmission system, which will finance the relocation and/or reconstruction of 27 subtransmission projects with earthquake-resistant structures; and (b) comprehensive reconstruction plan for the electrical power distribution system, which includes the reconstruction of 26 electricity distribution system projects. The Request before the MICI concerns a subproject under program Component I, consisting of the relocation of nine kilometers of subtransmission line between San Vicente and Jama.
- 1.3 The operation was classified as category “B” under the Environment and Safeguards Compliance Policy (Operational Policy OP-703) and based on the environmental and social analysis of the sample of projects under the program, because the social and environmental impacts were expected to be localized, temporary, and short-term in nature, and adverse impacts would occur mainly during reconstruction of the subtransmission lines and substations. According to Bank information systems, the proceeds of the loan had been fully disbursed as of May 2020.
- 1.4 On 20 April 2018, the MICI received a Request regarding this program from 547 residents of eight communities (Briceño Alto, Briceño Bajo, La Fortuna, Nuevo Briceño, Comunidad Extranjera, El Recreo, Urbanización de Canoa, and Canoa) in the Ecuadorian province of Manabí. The Requesters claimed that the proposed relocation of the subtransmission line along the “Spondylus route” between San Vicente and Canoa through a populated area reliant on tourism could cause the following harm: (a) obstruction of evacuation routes, given that the area is highly prone to earthquakes and landslides; (b) negative impact on tourist activity in the area; (c) adverse effects on the health of people living near the subtransmission line; and (d) impact on the flora and fauna, particularly on protected species. Upon submitting the Request, the Requesters asked to remain confidential owing to fear of reprisals.

- 1.5 The Request was registered on 27 April and declared eligible on 17 October 2018. Following an assessment to determine the viability of initiating a dispute resolution process, the MICI Consultation Phase process was initiated in December 2018.

II. CONSULTATION PHASE REPORT AND AGREEMENTS

- 2.1 During the Consultation Phase process, the MICI hosted and facilitated three dialogue sessions attended by CNEL-EP, the Comprehensive Reconstruction Project for Affected Zones (PRIZA), the IDB, MERNNR, and the Requesters. These encounters, together with bilateral meetings held by the Mechanism, culminated in the Agreement reached on 17 April 2019. Its main features are to: (a) ensure that the subtransmission line repowering and maintenance works are carried out along the existing route as far as the Canoa bypass; (b) ensure that these works are performed with the line disconnected from power, meaning that they would be delayed until CELEC-EP Transelectric has completed construction of the line connecting the Pedernales and La Concordia substations; (c) address the situation of a family whose dwellings in the La Fortuna community lie under the current route of the line, which involve relocating one of the line's pylons; (d) publish the environmental impact studies, the geological and geotechnical study, and the electromechanical design study used during the Consultation Phase process; and (e) carry out outreach/informational activities with the owners of the land over which the existing San Vicente–Jama subtransmission line was routed. The Parties have also agreed that the agreement and the identities of its signatories would be made public. For this reason, in view of the Requesters' preferences as communicated to the MICI team, the initial request for confidentiality has been withdrawn.
- 2.2 As a result of the Agreement reached, and at the request of the Parties, the MICI submitted to the Board of Executive Directors a plan to monitor fulfillment of the agreements reached. This monitoring plan was approved by the IDB Board of Executive Directors via short procedure on 26 June 2019.
- 2.3 The background information on case MICI-BID-EC-2018-0131 and the public documentation prepared during the process can be consulted in the [case file](#) of the MICI Public Registry.¹

III. MONITORING OF AGREEMENTS

- 3.1 The monitoring phase lasted for three years: from June 2019 through June 2022. During that phase, all activities were carried out by virtual means. The delay in implementation of the key element of the Agreement during the first year of monitoring led the Mechanism to conclude that field missions were not the best alternative for performing monitoring activities. Importantly, working virtually became mandatory with the onset of COVID-19 and the restrictions on movement and face-to-face interaction that were implemented to contain the spread of the virus during the pandemic. Consequently, for this case, the MICI did not conduct

¹ The relevant public documents can be accessed in the links section hereof.

a monitoring mission on the ground, nor a closing mission. The main actions and issues addressed in the framework established for monitoring of the Agreement are described below.

- 3.2 **Meetings with the Parties.** The Mechanism held 24 bilateral meetings with the Parties to assess the progress made on the commitments, identify risks and potential actions to address them, and learn the perceptions of each stakeholder with respect to the monitoring of the Agreement. These meetings were either held online or by telephone.
- 3.3 **Work on repowering and maintaining the subtransmission line.** During the monitoring phase, a considerable delay was observed in the implementation of the key element of the Agreement: work on repowering and maintaining the subtransmission line, which was to be performed with the line disconnected from power. As noted in the first and second monitoring reports, the delay in the implementation of the Agreement was due to: (a) the delay in the delivery of the works on the line connecting the Pedernales and La Concordia substations, which was key to the provision of energy when the power was cut off to the San Vicente-Jama subtransmission line to perform the agreed-upon works; (b) the lengthy process of terminating the contractual relationship with the contractor [company contracted] which, as of the signature date of the MICI Agreement, was responsible for construction activities; (c) the effects of the COVID-19 pandemic; and (d) the impact of numerous changes in CNEL-EP and PRIZA authorities.
- 3.4 With respect to timeframes, according to the MICI Agreement, the repowering and maintenance work on the San Vicente-Jama subtransmission line was to be carried out between November 2019 and February 2020. However, the rescission of the contract with the contractor had only occurred on 22 October 2020. On 23 April 2021, CNEL-EP published a new call for bids for the rebuilding/relocation of 9 kilometers of the San Vicente-Jama subtransmission line. On 4 August 2021, the contract was awarded to Consorcio San Vicente-HPVENTELFON, and the contract term entered into force on 20 September 2021. According to information provided by the IDB on 5 May 2022, CNEL-EP reported that it had completed the repowering and maintenance works on 6 and 14 April, respectively, along the agreed upon 7-kilometer segment, and that the 9-kilometer segment of the San Vicente-Jama subtransmission line had been powered up and was operational. According to CNEL-EP, construction of the remaining two kilometers (i.e. the Canoa bypass) of the subtransmission line was under way, awaiting the environmental permits to be issued by the Ministry of Environment, Water, and Ecological Transition.
- 3.5 **Status of a family whose dwellings lie under the route of the line.** The Agreement provided for the relocation of a subtransmission line pylon that had been placed on the property of a family in close proximity to its housing units. According to clause 6 of the Agreement, the new pylon would be placed “approximately six meters to the right/northeast of the current structure and will raise the height of the line to approximately 30 meters.” This will address the harm alleged by the family regarding the proximity of the subtransmission line.
- 3.6 Like the execution of the project, fulfillment of this commitment was delayed due to the lack of progress made on the repowering and maintenance of the line.

However, once the new contract was awarded and the contractual term took effect, MICI called meetings with representatives of CNEL-EP and MERNNR to ensure that the new contractor was in compliance with the new parameters established in the Agreement. Accordingly, on 16 May IDB Management shared with the MICI a report prepared by CNEL-EP, which provided an account of the work carried out in compliance with clause 6 of the Agreement. Specifically, CNEL-EP reports that that outreach and informational activities had been carried out with the Ayong family, and that the new pylon included in the repowering and maintenance works had been moved 9.98 meters from its original location and off the Ayong family's property. The following two photos show that the Agreement has been fulfilled:

Image 1. Satellite view of the relocated pylon



This image shows the relocated pylon. The Ayong family property is outlined in yellow. The turquoise line shows the original location of the pylon, whereas the purple line shows the pylon following its relocation. Source: IDB report, 16 May 2022

Image 2. New pylon relocated off the Ayong family property



Source: IDB report, 16 May 2022

- 3.7 **Publication of studies.** As noted in the First Monitoring Report, IDB Management and CNEL-EP provided the Requesters and the general public with the studies used in the Consultation Phase process, i.e. the environmental impact studies, the geological and geotechnical study, and, lastly, the electromechanical design study. Additionally, CNEL-EP addressed MICI requirements regarding the elimination of information considered confidential in the published materials. Accordingly, the commitments associated with the disclosure of information had been verified as of September 2019.
- 3.8 **Outreach/informational activities.** In accordance with the Agreement, CNEL-EP carried out a variety of outreach/informational activities to raise awareness about the San Vicente-Jama subtransmission line works. These activities included meetings with landowners along the established route of the subtransmission line and noted where changes would be made to existing structures, among other tasks.

Image 3. Representatives of the Requesters, IDB Management, CNEL-EP, PRIZA, and the MICI team following the signing of the Agreement.



Source: MICI

IV. CLOSURE OF CASE PROCESSING BY THE MICI

- 4.1 The Guidelines for the Consultation Phase (MI-74) aim to facilitate application of Section H of the MICI-IDB Policy by providing a roadmap for managing cases during this phase. Section VII of the Guidelines establishes the reasons for ending the Consultation Phase, which include: (a) obligations for which the Parties have reached an agreement and prepared a monitoring plan, and that compliance with those obligations has been verified with the agreement of the Parties (paragraph 7.3).
- 4.2 In view of the foregoing and having verified the fulfillment of the commitments assumed by the Parties under the MICI Consultation Phase, the Mechanism hereby informs the IDB Board of Executive Directors and the interested parties that it has finalized the processing of case MICI-BID-EC-2018-0131, having addressed the concerns raised by the Requesters associated with the Program for the Reconstruction of Electricity Infrastructure in Areas Affected by the Earthquake in Ecuador.
- 4.3 The MICI takes this opportunity to thank the Parties for their collaboration and constructive participation during the process, and hereby notifies them and the general public of the closure of case processing.

Consultation Phase, MICI-BID-EC-2018-0131. Program for the Reconstruction of Electricity Infrastructure in Areas Affected by the Earthquake in Ecuador

Agreement on the Route of the San Vicente-Jama Subtransmission Line

Background

On 20 April 2018, the Independent Consultation and Investigation Mechanism (MICI) of the Inter-American Development Bank (IDB) received a Request from 547 residents of eight communities (Briceño Alto, Briceño Bajo, La Fortuna, Nuevo Briceño, Comunidad Extranjera, El Recreo, Urbanización de Canoa, and Canoa) in the province of Manabí, Ecuador (hereinafter, the Requesters). This Request refers to the execution of the work, BID-PRIZA-CNELMAN-ST-OB-004 “Reconstruction and Relocation of 9 kilometers of the San Vicente–Jama Subtransmission Line to Property Boundary,” particularly the proposed routing or rerouting of the subtransmission line. The Requesters claimed that the proposed relocation of the subtransmission line along the “Spondylus route” between San Vicente and Canoa through a populated area reliant on tourism could cause the following harm: (a) obstruction of evacuation routes, given that the area is highly prone to earthquakes and landslides; (b) negative impact on tourist activity in the area; (c) adverse effects on the health of people living near the subtransmission line; (d) impact on the flora and fauna, particularly on protected species.

During the eligibility phase, IDB Management asked the MICI for two temporary suspensions of the process (from 30 May to 17 October 2018) to implement a series of activities as part of the corrective action plan, including an environmental impact study and a geological risk study. By joint decision of IDB Management and the client, the works were suspended during implementation of the measures in the corrective action plan. At the end of the extension period, it had not been possible to complete the disaster risk assessment report or the information and engagement activities regarding the aforementioned documents. On 17 October 2018, the MICI issued the memorandum declaring the request eligible and launching the Consultation Phase.

As part of the MICI Consultation Phase, a series of preparatory meetings were held with the Requesters, the State-owned electricity utility (CNEL-EP), the Comprehensive Reconstruction Project for Affected Zones (PRIZA), the Ministry of Energy and Nonrenewable Natural Resources (MERNNR), the Ministry of Finance, and the IDB. These meetings made it possible to determine the Parties’ willingness to begin a dispute resolution process and their preferred methodology, as well as work with them on the design of the Consultation Phase process. The MICI also held bilateral meetings with the Parties prior to each of the dialogue sessions.

During the Consultation Phase, two dialogue sessions were hosted and facilitated by the MICI. At the first session, on 3-4 December 2018, CNEL-EP presented a proposed solution to the issues raised by the Requesters. This proposal was based on the findings of the geological risk study conducted as part of the corrective action plan, which indicated the risks of rerouting the subtransmission line along the highway between San Vicente and Canoa due to the instability of the roadside embankment. The Parties reviewed the CNEL-EP proposal, which combined a new route and part of the original route. The new route would follow the highway along the coast from San Vicente, then turn right along the San Isidro Road and connect with the previous route through the mountains to the Canoa

bypass. Issues associated with the preventive maintenance work required by the subtransmission line were also examined at the first session, along with the situation of the dwellings of the Ayong family and others in the La Fortuna community that lie under the current route of the line. As a result of the first meeting the Parties agreed that the route of the subtransmission line would follow the existing route as far as the Canoa bypass and that repowering and maintenance work would proceed. On 13 March 2019, at the second dialogue session, CNEL-EP presented the progress of the electromechanical study for the design of the repowering and maintenance of the subtransmission line. CNEL-EP presented two options that were being studied for the execution of the work, both following the existing route as far as the Canoa bypass: (a) perform the work with the line electrified, which would, in principle, allow it to be completed sooner but at a higher cost, given the greater technical complexity of the task; (b) perform the work with the line disconnected from power, which would not entail additional costs but would delay the start of work until after December 2019, when CELEC-EP Transelectric is scheduled to complete construction of the line between the Pedernales and La Concordia substations, so as not to affect the electricity supply to population currently receiving power via the San Vicente–Jama subtransmission line from the San Vicente substation. On 11 April 2019, CNEL-EP, the IDB, MERNNR, and PRIZA met with the senior authorities of CELEC-EP Transelectric, who confirmed that the line would be completed in October 2019.

Agreement

In view of the foregoing, and in the presence of representatives of the Requesters, CNEL-EP, PRIZA, MERNNR, the IDB, and the MICI, the Parties have agreed as follows:

1. CNEL-EP, acting through PRIZA, will perform the subtransmission line repowering and maintenance work on the San Vicente–Jama subtransmission line, following the existing route as far as the Canoa bypass, as shown in the diagram included as Attachment 1.
2. Based on the conclusions of the study for the electromechanical design, CNEL-EP, acting through PRIZA, has opted to work without the line connected to power, as the best technical and economic alternative for implementation of the work.
3. CNEL-EP, acting through PRIZA, with the support of MERNNR, will enter into a supplemental contract with the contractor responsible for execution of the work, based on the changes in project time frames and costs. The IDB's no objection must be obtained before signing this contract.
4. Supported by the steps taken by the CNEL-EP Manabí business unit, MERNNR notes for the record that, from the environmental standpoint, no additional formalities should be required, as all environmental permits for the existing San Vicente–Jama subtransmission line are in force.
5. Once construction of the line between the Pedernales and La Concordia substations has been completed, CNEL-EP, acting through PRIZA, will begin the repowering and maintenance work on the San Vicente–Jama subtransmission line. The work is expected to start in November 2019 and last four months. When work starts, CNEL-EP, acting through PRIZA, will post an updated work execution timetable on its institutional website, where it will be accessible to the Parties.

6. CNEL-EP, acting through PRIZA, undertakes to relocate the structure now on the Ayong family's property. The new pylon will be approximately six meters to the right/northeast of the current structure and will raise the height of the line to approximately 30 meters. The foregoing will mean that, as a result of the San Vicente-Jama repowering and maintenance work, the Ayong family will not be affected by the line.
7. The Requesters expressed their willingness to work with CNEL-EP insofar as possible, to facilitate access to the area during the construction process.
8. Personnel of CNEL-EP, PRIZA, and the contractor responsible for execution of the repowering and maintenance work on the San Vicente-Jama subtransmission line must be properly identified while in the working areas.
9. The subtransmission line will require preventive maintenance approximately every six months. The Requesters express their willingness to work with the CNEL-EP Santo Domingo business unit insofar as possible, to ensure that the respective maintenance work can be performed.
10. In compliance with the IDB's Access to Information Policy (Operational Policy OP-102), the environmental impact assessment (EIA), the geological and geotechnical study, and the electromechanical design study must be public. The EIA is currently publicly available. The geological and geotechnical study and the electromechanical design study will be posted on both the IDB and CNEL-EP websites within 30 business days after signature of this agreement. The studies mentioned in this clause must remain accessible on the IDB and CNEL-EP websites.
11. CNEL-EP, acting through PRIZA, has committed to conduct information and engagement activities with the owners of land crossed by the existing San Vicente–Jama subtransmission line. These activities will not alter the decisions made in this agreement and must include presentation of the technical study for the electromechanical design and explanation of the selected alternative for implementation of the work.
12. If there is no objection from the IDB Board of Executive Directors, the MICI will collaborate with the Parties to monitor this agreement. To do so, the MICI Consultation Phase personnel may interview the Parties by telephone, call specific meetings in the event of disagreements, disputes, or growing dissatisfaction with the degree of compliance with the agreements, conduct field missions, and/or collaborate to build communication platforms using new information technologies, to facilitate monitoring of the commitments.
13. The MICI plans to conduct a monitoring mission when the works are complete, in accordance with the following work execution timetable:

Milestone	Date of fulfillment
Completion of electromechanical design study	May 2019
Information and engagement with the owners of the land to be crossed by the subtransmission line	May 2019
Posting of: (a) geological and geotechnical study; and (b) electromechanical design study on the CNEL-EP and IDB websites.	May 2019
Signature of supplemental contract by CNEL-EP, acting through PRIZA, after obtaining the IDB's no objection	June 2019
Presentation of the updated work execution timetable for the San Vicente-Jama subtransmission line	October 2019
Start of the San Vicente-Jama subtransmission line repowering work	November 2019
Relocation of the structure on the Ayong family's property	February 2020
Completion of the San Vicente-Jama subtransmission line repowering work	February 2020

In witness of their acceptance of, and agreement with, the foregoing, six identical counterparts hereof have been signed on 17 April 2019, in the city of Bahía de Caráquez, Sucre Canton, Province of Manabí.

[Signatures]

Summary Monitoring Plan Table

Commitment to be monitored	State of fulfillment	
	Fulfilled	Pending
San Vicente-Jama subtransmission line repowering and maintenance work performed following the existing route of the line as far as the Canoa bypass	X	
Information and engagement activity with the owners of the land to be crossed by the subtransmission line	X	
Posting of the geological and geotechnical study and electromechanical design study on the CNEL-EP and IDB websites within 30 business days after signature of the agreement	X	
Signature of supplemental contract by CNEL-EP, acting through PRIZA, after obtaining the IDB's no objection	X	
Publication of updated work execution timetable for the San Vicente-Jama subtransmission line at the start of work	X	
Start of the San Vicente-Jama subtransmission line repowering work.	X	
Proper identification, in the work areas, of the personnel of CNEL-EP, PRIZA, and the contractor responsible for execution of the work, who are performing the repowering and maintenance work on the subtransmission line	X	
Relocation of the structure on the Ayong family's property	X	
Completion of the San Vicente-Jama subtransmission line repowering work	X	