

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



**IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF THE SALE OF THE MACTAN LOAD-END SUBSTATION OF THE NATIONAL TRANSMISSION CORPORATION (TransCo) TO MACTAN ELECTRIC COMPANY, INC. (MECO), AS COVERED BY A CONTRACT TO SELL DATED 23 DECEMBER 2015,**

**ERC Case No. 2016-206 RC**

**NATIONAL TRANSMISSION CORPORATION (TransCo) AND MACTAN ELECTRIC COMPANY, INC. (MECO),  
Applicants.**

**DOCKETED**  
Date: AUG 18 2017  
By: [Signature]

X-----X

**ORDER**

Before the Commission for resolution is the Petition for Intervention (*Petition*) dated 04 April 2017 filed by National Grid Corporation of the Philippines (NGCP) on 05 April 2017.

In its *Petition*, NGCP alleged, among others, that it incurred an expense for the replacement of a battery charger in the Mactan Load-end Substation, to wit:

xxx

4. In compliance with its mandate, NGCP incurred PhP1,026,785.71 for the replacement of the 150 A 480 VAC Input Battery Charger in the Mactan Load End Substation. To protect its interest in recovering the afore-mentioned cost, NGCP moves that it be allowed to participate and intervene in the instant Joint Application. Its participation would not delay the proceeding nor broaden the issues involved therein.

xxx

On 26 April 2017, the Commission issued an Order directing applicants National Transmission Corporation (TransCo) and Mactan Electric Company, Inc. (MECO) to file their comment on NGCP's Petition.

On 04 May 2017, MECO filed an *Ex Abundanti Ad Cautelam Comment with Motion to Expunge NGCP's Petition for Intervention dated April 4, 2017*, and argued that the petition for intervention should be barred because of the following:

1. Pursuant to Section 2, Rule 9 of the ERC Rules of Practice and Procedure, petitions for intervention should be filed not less than five (5) days prior to the time the proceeding is called for hearing;
2. An Order of General Default has already been issued by the Commission during the 30 March 2017;
3. Applicants' formal offer of exhibits have been duly filed;
4. The subject matter of the Application is the sale of the Mactan Load-end Substation owned by TransCo in which NGCP does not have any interest; and
5. NGCP's claim for refund is a matter that should be addressed outside these proceedings.

On 16 May 2017, NGCP filed a *Motion* dated 15 May 2017 praying for the setting of its Petition for hearing on 20 June 2017 to give NGCP due process in proving its ownership of the 150 A 480 VAC Input Battery Charger.

On 25 May 2017, Applicant TransCo filed its *Formal Offer of Evidence*.

On 26 May 2017, MECO filed its *Manifestation Re: Order dated April 26, 2017* dated 18 May 2017 informing the Commission that MECO had already filed its comment on NGCP's Petition on 04 May 2017 through its *Ex Abundanti Ad Cautelam Comment with Motion to Expunge NGCP's Petition for Intervention dated April 4, 2017*. In the said *Manifestation*, MECO also reiterated its opposition to NGCP's intervention.

### **ISSUE**

The issue to be resolved by the Commission is whether the Petition for Intervention of NGCP should be allowed.

### **RULING**

The Petition for Intervention of NGCP is hereby denied.

### **DISCUSSION**

Section 2, Rule 9 of the Commission's Rules of Practice and Procedure (RPP) provides:

Section 2. Filing of Petitions to Intervene – Petitions under this rule shall be served on the original parties and filed with the Commission not less than five (5) days prior to the time the proceeding is called for hearing, unless the notice of hearing fixes the time for filing such petitions, in which case such notice shall govern. A petition, which for good cause shown was not filed within the time herein limited, may be presented to and allowed or denied by the Commission or the presiding officer at the time the proceeding is called for hearing.

The records of the case show that the hearing for the instant case was held on 30 March 2017. In the said hearing, no intervenors or oppositors appeared nor was there any petition to intervene or opposition filed in time for the hearing. In view of such fact, the counsel for Applicants moved that an order of general default be issued. The Commission granted such motion, and issued an order of general default. Moreover, a representative of NGCP was present during the hearing, but only as an observer in the instant case.

On 05 April 2017, NGCP filed its Petition. Thus, the Petition was filed after the proceeding was called for hearing.

Therefore, pursuant to the above-quoted provision, the Petition filed by NGCP was filed beyond the time prescribed by the Commission's RPP. Consequently, NGCP cannot be considered as an intervenor in the instant case.

However, the Commission takes note of the issues and arguments raised by NGCP in its Petition for Intervention.

In the interest of substantial justice, the Commission hereby treats the Petition for Intervention filed by NGCP as an Opposition, pursuant to Sections 5 and 6, Rule 9 of the RPP, which provide:

**Section 5. Opposition and Comment.** - Any person other than a party of record who objects to the approval of an application, petition, or other matter which is, or will be, under consideration by the Commission, or otherwise may have some comments thereon, may file an opposition thereto or comment thereon at any stage of the proceedings before the applicant or petitioner rests its case. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon. If possible, three (3) legible copies of the opposition or comment including the original shall be filed with the Commission and the assigned docket number of such proceeding shall be clearly indicated therein. The parties affected by the opposition or comment filed shall be served with a copy thereof and shall be given the opportunity to respond to the same within ten (10) days from receipt thereof.

**Section 6. Effect of Filing of Opposition or Comment.** - An opposition or comment is intended solely to alert the Commission and the parties to a proceeding of the fact and nature of the objections to or comments on an application, petition, or any other proposed Commission action and does not become evidence in the proceeding. The filing of an opposition or comment does not make the filer a party to the proceedings unless it is permitted by the Commission to intervene therein on petition to intervene.

**IN VIEW OF THE FOREGOING**, the Petition for Intervention dated 04 April 2017 filed by National Grid Corporation of the Philippines (NGCP) is hereby **DENIED**. In the interest of substantial justice, the Commission hereby treats the Petition for Intervention as an Opposition pursuant to Sections 5 and 6, Rule 9 of the Commission's Rules of Practice and Procedure.

**ACCORDINGLY**, NGCP may submit supporting documents to substantiate its claim on the 150 A 480 VAC Input Battery Charger.

**FURTHERMORE**, Applicants National Transmission Corporation (TransCo) and Mactan Electric Company, Inc. (MECO) may file their comments on the additional documents filed by NGCP, if they so desire.

**MOREOVER**, NGCP is reminded to be more circumspect in protecting its rights and be mindful of the Commission's Rules of Practice and Procedure.

**SO ORDERED.**

Pasig City, 27 June 2017.

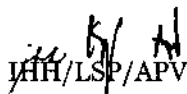
**JOSE VICENTE B. SALAZAR\***  
*Chairman and CEO*

  
**ALFREDO J. NON**  
*Commissioner*

  
**GLORIA VICTORIA C. YAP-TARUC**  
*Commissioner*

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Commissioner*

  
**GERONIMO D. STA. ANA**  
*Commissioner*

  
JHH/LSP/APV

---

\* The Chairman was placed on preventive suspension as per Order of the Office of the President (OP-DC Case No. 17-D-094) dated 02 May 2017 and received on 04 May 2017.

**Copy Furnished:**

- 1. Attys. Noel Z. De Leon, Leon T. Tapel, Jr., Nyerson Dexter Tito Q. Tualla, Soledad T. De La Vega-Cabangis**  
*Counsel for Applicant TransCo*  
TransCo Main Building, Quezon Avenue corner BIR Road, Diliman, Quezon City
- 2. Ancheta & Associates**  
*Counsel for Applicant MECO*  
Suite 2404 Entrata Urban Complex  
2609 Civic Drive, Filinvest City  
Alabang, Muntinlupa City
- 3. Mactan Electric Company, Inc. (MECO)**  
*Applicant*  
Sangi Rd., Pajo, Lapu-lapu, Cebu City, Cebu
- 4. Attys. Mark Anthony S. Actub and Raycell D. Baldovino**  
*Counsel for Oppositor National Grid Corporation of the Philippines (NGCP)*  
NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City
- 5. Regulatory Operations Service**  
17<sup>th</sup> Floor Pacific Center, San Miguel Avenue, Pasig City