

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



**IN THE MATTER OF THE  
APPLICATION FOR  
AUTHORITY TO DEVELOP,  
OWN AND OPERATE ASSETS  
INCLUDING THE DEDICATED  
POINT-TO-POINT LIMITED  
TRANSMISSION FACILITIES  
TO CONNECT THE 50MWp  
POWER PLANT TO THE  
TRANSMISSION LINE OF THE  
NATIONAL GRID CORP. OF  
THE PHILIPPINES (NGCP),  
WITH PRAYER FOR  
PROVISIONAL AUTHORITY,**

**ERC Case No. 2015-109 MC**

**SULU ELECTRIC POWER AND  
LIGHT (PHIL.), INC.,  
(SEPALCO),**

**Applicant.**

X -----X

**D O C K E T E D**  
Date: SEP 29 2017  
By: [Signature]

**DECISION**

Before the Commission for resolution is the *Application* dated 11 December 2015 (Application) filed by Sulu Electric Power and Light (Phils.), Inc., (SEPALCO) on 23 December 2015 for authority to develop and own or operate a dedicated point to point limited transmission facilities to connect the 50MWp DC Solar Power Plant to the transmission line of the National Grid Corporation of the Philippines (NGCP).

In its *Application*, SEPALCO alleged the following:

1. Applicant is a generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Eastwood New National Highway, Barangay Salvacion, Palo, Leyte. It may be served with orders, notices and other processes through its undersigned counsel.
2. The instant Application is filed pursuant to Section 9 of Republic Act No. 9136, otherwise known as the Electric Power

Industry Reform Act of 2001, or the EPIRA, the last paragraph of which provides:

"Section 9. xxx

A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TOP: Provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: xxx."

Section 5, Rule 5 of the Implementing Rules and Regulations of the EPIRA, likewise provides:

"Section 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company.

- (a) Subject to prior authorization from ERG, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: Provided, That:
- (i.) Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;
  - (ii.) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire, and
  - (iii.) Any other documents that may be required by the ERC."

xxx

3. Applicant is currently in the process of developing a 50 MWp Solar Power Plant ("the Plant") located in Barangay Castilla, Municipality of Palo, Leyte and which is intended to be commissioned on or before March 10, 2016.
4. The Plant will be connected to the grid by a 69kV transmission line. The point of interconnection is 4.2 km from the 69 KV Switchyard from the Solar Power Plant to the Tapping Substation at Pole 361 of NGCP 69KV Transmission line.
5. The connection will require the construction of about 4.2 km line utilizing 336.4 ACSR 69 kV Line and about 65 pole structures and associated protection and communication equipment ("the Connection Assets").
6. The connection of the Plant to the grid was subjected to a System Impact Study (SIS), which is currently being reviewed by

the National Grid Corporation of the Philippines (NGCP). Based on NGCP's initial review of the SIS, the connection of the Solar Power Plant to the Tapping Substation at Pole 361 of NGCP 69KV Transmission line, is technically feasible.

7. The total cost for the development and construction of the Project is estimated at PhP 4,260,712,925, broken down as follows:

Project Component	Estimated Cost (PhP)
PV Modules	1,782,523,820.-
Inverters	271,513,550.-
EPC	1,860,739,650.-
Others	345,935,905.-
<b>TOTAL</b>	<b>4,260,712,925.-</b>

8. Applicant will apply for a Certificate of Compliance prior to the commissioning of the Plant in compliance with and in accordance with the requirements of the Honorable Commission.
9. The following documents are herewith submitted in support of the instant Application:

Annex	Document
"A"	SEC Certificate of Incorporation and Articles of Incorporation
"B"	General Information Sheet
"C"	Environmental Compliance Certificate
"D"	DOE Certificate of Registration
"E"	Single Line Diagram
"F"	System Impact Study
"G"	Secretary's Certificate Board Approval for the Connection Assets
"H"	Project Connection Options
"I"	Project Cost Estimate
"J"	Workplan
"K"	Balance Sheet and Income Statement
"L"	Curriculum Vitae of the Key Officer in charge of the operation and maintenance of the point-to-point assets

**ALLEGATIONS IN SUPPORT OF  
PRAYER FOR PROVISIONAL AUTHORITY**

10. Applicant is constructing the Plant in furtherance of, and in support of, the Renewable Energy initiative and the declared State Policies enshrined in Republic Act No. 9513, or the Renewable Energy Act of 2008, which states:

"Section 2. Declaration of Policies - It is hereby declared the policy of the State to:

- (a) Accelerate the exploration and development of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country's dependence on fossil fuels and thereby minimize the country's exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy;
- (b) Increase the utilization of renewable energy by institutionalizing the development of national and local capabilities in the use of renewable energy systems, and promoting its efficient and cost-effective commercial application by providing fiscal and nonfiscal incentives;
- (c) Encourage the development and utilization of renewable energy resources as tools to effectively prevent or reduce harmful emissions and thereby balance the goals of economic growth and development with the protection of health and the environment."

xxx

as well as in the EPIRA, to wit:

"Section 2. Declaration of Policy - It is hereby declared the policy of the State:

xxx

(h) to promote the utilization of indigenous and new and renewable energy resources in power generation in order to reduce dependence on imported energy."

11. Moreover, the grant of the Provisional Approval will allow Applicant to immediately start with the construction of the Connection Assets to enable the Plant to be commissioned on or before March 10, 2016. As can be seen in the Workplan, it will require Applicant SEPALCO to construct the Connection Assets. The timely commissioning of the Plant will allow it to immediately add to the nation's supply portfolio, thus contributing to the objective.
12. Attached as Annex "M" of this Application is the Judicial Affidavit of Atty. Ben-Hur Benigno F. Castillo, President and CEO of SEPALCO, in support of the request for Provisional Authority.

PRAYER

WHEREFORE, it is respectfully prayed that after due learning:

1. The Application of Sulu Electric Power and Light (Phils.), Inc. (SEPALCO) to develop, own and operate the Connection Assets to connect the Plant to the Grid . subject of the instant Application be APPROVED;
2. Pending hearing, a Provisional Authority be issued forthwith authorizing Sulu Electric Power and Light (Phils.), Inc. (SEPALCO) to commence implementing the Project for the Connection Assets subject of the instant Application.

Other reliefs just and equitable are likewise prayed for.

Finding the said *Application* sufficient in form and substance, the Commission issued an Order and a Notice of Public Hearing, both dated 26 April 2016, setting the case for initial hearing on 26 May 2016.

On 19 May 2016, SEPALCO filed its *Pre-Trial Brief* dated 03 May 2016.

During the 26 May 2016 initial hearing, only SEPALCO appeared. There was no intervenor or oppositor who appeared nor was there any intervention or opposition that was filed.

At the said hearing, SEPALCO presented its proofs of compliance with the Commission's posting and publication of notice requirements, which were duly marked as Exhibits "W" to "AA".

Finding the said submissions substantially compliant with the Order dated 26 April 2016, the Commission declared that it acquired jurisdiction over the instant case. Thereafter, SEPALCO conducted its Expository Presentation.

At the termination of the Expository Presentation, the Commission conducted a Pre-Trial Conference. In the absence of any adverse party, intervenor, or oppositor, the Commission adopted the issues and stipulation of facts as stated in SEPALCO's Pre-trial Brief.

During the presentation of evidence, SEPALCO presented its witnesses, Atty. Benhur Benigno F. Castillo (Atty. Castillo) and Engr. Sesinando M. Pascual (Engr. Pascual), who testified in support of the instant *Application*. In the course of their respective testimony, Atty.

Castillo and Engr. Pascual were made to identify several documents, which were duly marked as exhibits.

After the direct examination, the Commission propounded questions to the said witnesses. By the end of the hearing, the Commission directed SEPALCO to submit its Formal Offer of Evidence and additional documents to aid the Commission's evaluation of the instant *Application*.

On 30 May 2016, SEPALCO filed its *Formal Offer of Evidence* dated 28 May 2016. Subsequently, on 22 June 2017, the Commission issued an Order admitting SEPALCO's marked exhibits contained in the *Formal Offer of Evidence* and submitting the instant case for resolution.

## **ISSUE**

The issue to be resolved by the Commission is whether to approve SEPALCO's *Application* and grant it the authority to develop and own or operate a dedicated point-to-point limited transmission facilities to connect the 50 MWp Power Plant to the transmission line of NGCP.

## **DISCUSSION**

The Commission approves the instant *Application* and grants authority to SEPALCO to develop its point to point limited transmission facilities.

### **I. Project Description**

SEPALCO developed a 50 MWp Solar Power Plant located in Barangay Castilla, Municipality of Palo, Leyte.

In order to dispatch the capacity to be generated by the SPP, SEPALCO shall connect the said plant to the Visayas Grid via tap connection along the the 69kV Leyte Super Loop of NGCP through a dedicated point-to-point limited facility. The dedicated point-to-point limited facility consists of the following:

- a. Substation;
- b. 69 kV line;
- c. Switchyard;

- d. Metering Facilities;
- e. Protection and Grounding System; and
- f. Telecommunication Facilities.

## **II. Project Rationale**

The dedicated point-to-point limited facility is necessary for the power plant to deliver its generated power to the grid through the transmission system of NGCP.

## **III. Project Cost**

Based on the documents submitted by SEPALCO, the cost of the dedicated point-to-point limited facility including all the facilities to be constructed is One Hundred Fourteen Million One Hundred Seventy Five Thousand Pesos (PhP114,175,000.00).

It is worthy to note that the estimated cost is only for the purpose of computing the applicable permit fee (based on the total project cost evaluated disregarding the functions and classification of each facility) and not for rate making purposes considering that this is not the actual cost or the Optimized Depreciated Replacement Cost (ODRC).

It should also be emphasized that the aforementioned amounts are not necessarily the fair market value that should be used when the subject assets are actually transferred to the National Transmission Company (TRANSCO)/NGCP.

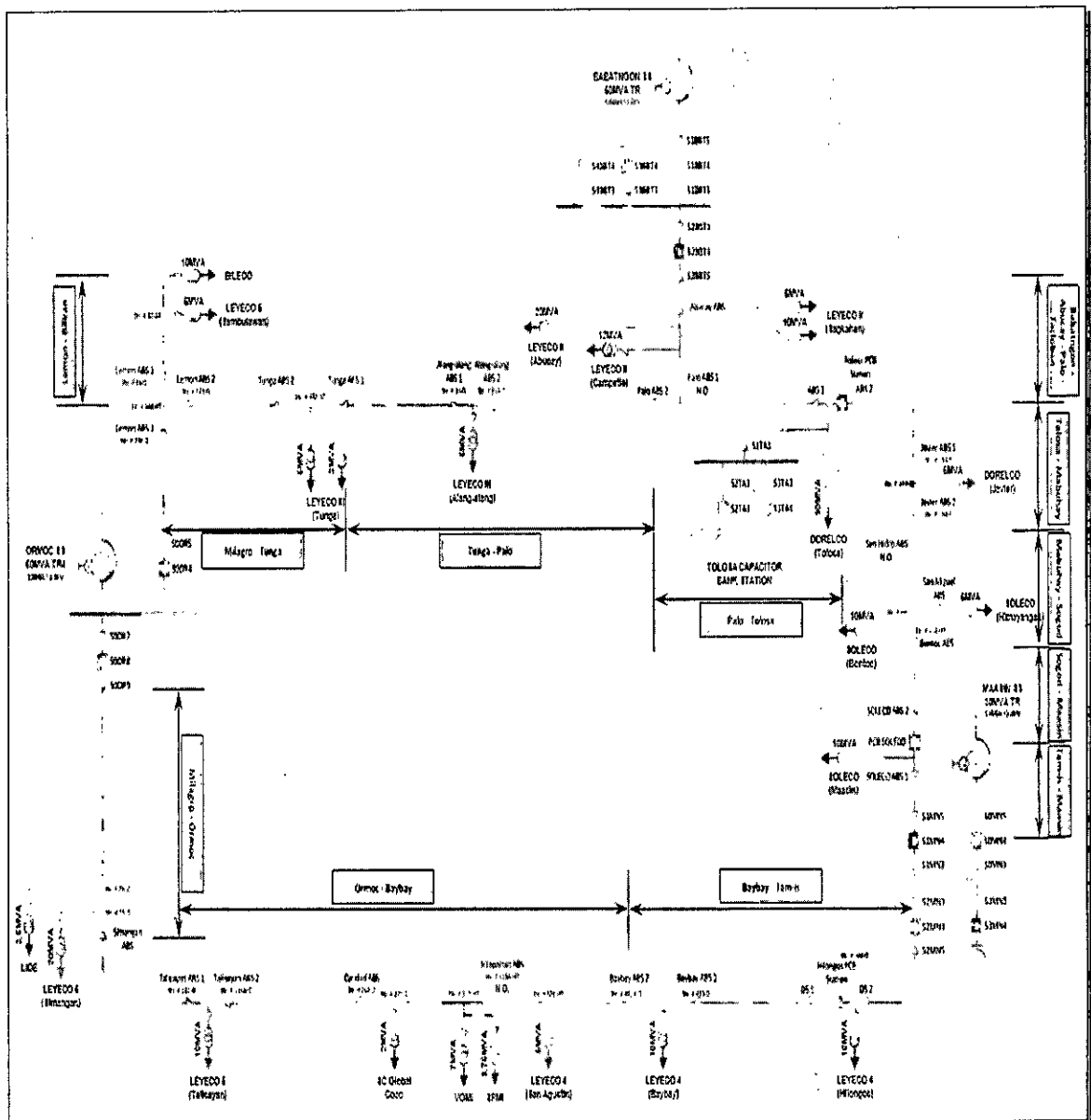
Although SEPALCO filed for Feed-in Tariff (FIT) eligibility to the Department of Energy (DOE), the Application is yet to be approved. Thus, in the event that the same becomes FIT eligible, the cost of the dedicated point-to-point limited facilities that is included in the approved FIT Rate shall be considered once the asset is transferred to TRANSCO/NGCP in the following manner:

- a. If the fair market value (subject to optimization) is higher than the facilities' cost incorporated in the determination of the FIT, TRANSCO/NGCP shall pay the difference between the said cost and the fair market value.

- b. If the fair market value (subject to optimization) is lower than the facilities' cost incorporated in the determination of the FIT, the asset shall be treated as Contribution in Aid of Construction (CIAC). NGCP shall maintain a separate account of these amounts and the assets should not appear in rate base or in its asset appraisal.

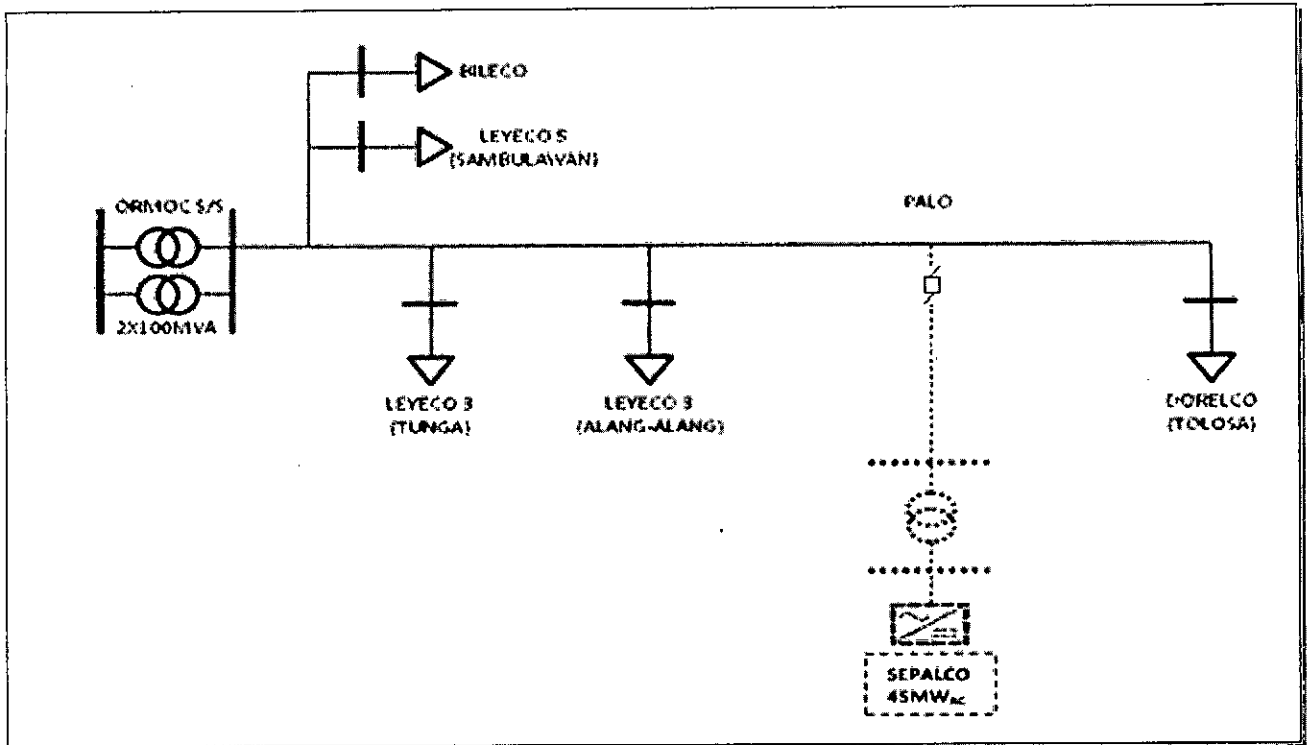
**IV. Single Line Diagram**

Shown below is the single line diagram of the whole Leyte Super Loop of NGCP:





The figure below shows the portion of the Leyte Super Loop and the connection of the dedicated point-to-point limited transmission facility of SEPALCO:



## V. Commission's Evaluation

The Commission evaluated the *Application* of SEPALCO and adopted the following considerations:

### a. Result of the System Impact Study (SIS) conducted by NGCP

NGCP reviewed the SIS conducted by SEPALCO's consultant Almario's Computer Civil Electrical and Safety Technology, Bulacan and released its Final Review Report on the said SIS on 12 January 2017.

The Final Review Report proves that the proposed connection scheme is acceptable but overloading may be experienced at the Leyte-Cebu 230 kV submarine cable. This is due to the proposed 50MW Biliran Geothermal Power Plant which will connect along the Lemon- Biliran 69 kV line as considered in the study.

Based on the latest data from DOE, the Biliran Geothermal Plant will only have 10MW rated capacity. Therefore, no overloading along the Ormoc-Lemon 69 kV line will be experienced. However, if the proposed 25MW Biliran Solar Power Plant which will connect on the same line will materialize by 2016, the Leyte-Cebu 230 kV submarine cable will be overloaded. To prevent the overloading of the submarine cable, power plants in Leyte may need to be curtailed depending on the Leyte-Luzon power flow. If Leyte is importing power from Luzon, curtailment will be likely. On the other hand, if Leyte is exporting power to Luzon, curtailment may no longer be necessary.

NGCP also noted in the same report that the results of the thermal loading, voltage, fault level, frequency and stability assessments are all acceptable.

On 11 September 2015, SEPALCO submitted its Facility Study and was approved by NGCP on 15 December 2015.

#### **b. Options/Alternatives Considered**

To connect the SPP to the Visayas Grid, SEPALCO had considered other alternative routes or options. However, the results indicate that the proposed interconnection scheme is the most cost effective and technically feasible. The following are the other options considered:

1. NGCP to provide the interconnection facility subject to connection charges but the completion of the facility will not meet the target commissioning date of SEPALCO.
2. Connecting directly to Ormoc Substation through construction of a 88-km line from SEPALCO's SPP. The option is more expensive compared to the proposed project.

#### **c. Technical Configuration**

In order for SEPALCO to dispatch its generated power to the grid, it should connect its SPP to the Transmission System of NGCP through its 69 kV Leyte Super Loop. By default, the connection of the generator is the obligation of the NGCP,

which was granted the exclusive franchise to build, operate and maintain the Transmission system.

However, Section 9(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), gives the generation company the option to develop, own and operate their dedicated point-to-point limited facilities, to wit:

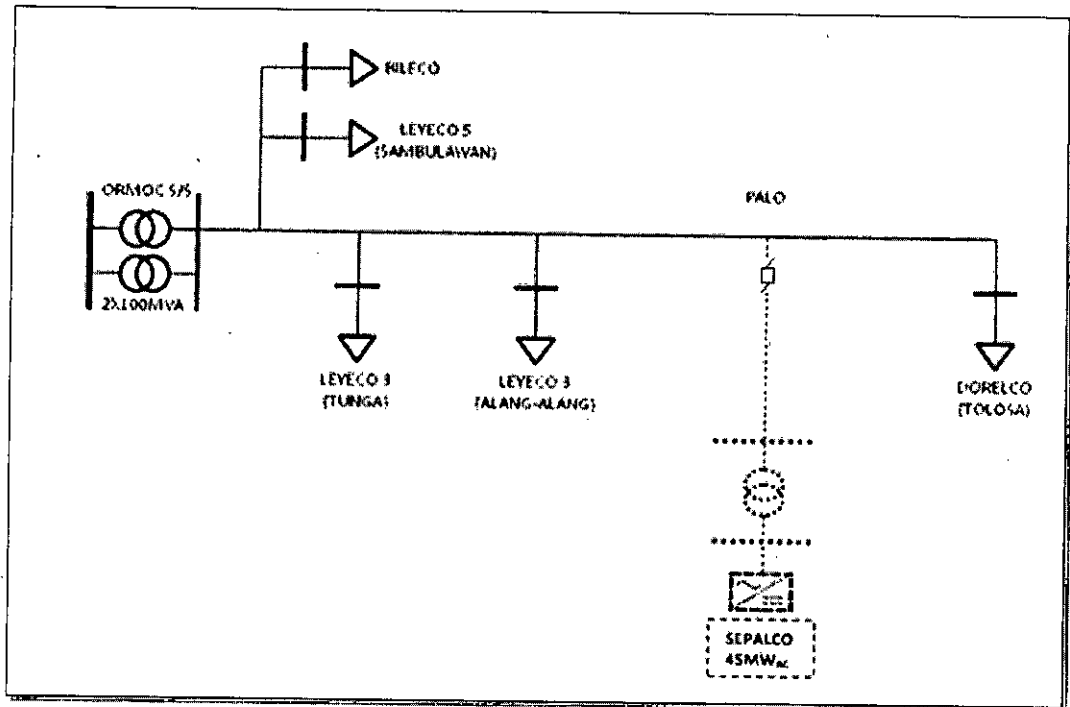
“x x x. A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: Provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC:  
x x x.

The Solar Power Plant of SEPALCO with a capacity of 50 MWp, shall be classified as large generator consistent with the provisions of the Philippine Grid Code (PGC). Accordingly, the same should comply with the provisions of the PGC, to wit:

**4.4.1.1 Requirements Relating to the Connection Point**

- 4.4.1.1.1 The Large Generating Plant's Equipment shall be directly connected to the Grid.
- 4.4.1.1.2 The Voltage level(s) shall be agreed by the Transmission Network Provider or the Distribution Utility and the Generation Company based on System Impact Studies of the Large Generating Plant's Equipment to be connected to the Grid.
- 4.4.1.1.3 The Connection Point shall be controlled by a Circuit Breaker that is capable of interrupting the maximum short circuit current at the point of connection.
- 4.4.1.1.4 Disconnect switches shall also be provided and arranged to isolate the Circuit Breaker for maintenance purposes.

The single line diagram shown below illustrates SEPALCO's compliance with the provisions of the Philippine Grid Code (PGC) and the technical requirements of NGCP.



The dedicated point-to-point limited facility consists of the main substation, the 69 kV line and the switchyard.

The main substation covers the 36 MVA power transformer which shall step-up the power from 34.5 kV to 69 kV. It shall be protected by circuit breakers, disconnect switches and other protective relays.

SEPALCO constructed the 4.2 km line utilizing 336.4 MCM ACSR, which connects the main substation to the switchyard, with an ampacity that is capable of handling the proposed capacity of the plant.

The switchyard is equipped with a circuit breaker that will control the connection point, which is consistent with the above-mentioned standards. In addition, the switchyard is equipped with disconnect switches, surge arresters, instrument transformers, protective relays and its accessories, which are all compliant with the requirements of PGC and NGCP.

SEPALCO's metering facility is installed near the connection point in compliance with the provisions of the PGC, to wit:

Section 9.2.1.1 The metering point between the Grid and User System shall be at the Connection Point

Lastly, the single line diagram submitted by SEPALCO shows that the proposed project is to be used solely by SEPALCO and no other user is connected in compliance with Rule 5 Section 5a(i) of the Implementing Rules and Regulations of the EPIRA, to wit:

xxx. Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly.

#### **d. Technical and Financial Capability**

The operations and maintenance of SEPALCO's Solar Energy Project is under the direct supervision and control of Engr. Sesinando M. Pascual (Engr. Pascual), a licensed Mechanical Engineer and Technical Director of SEPALCO. To note, Engr. Pascual is an organic official of SEPALCO.

Previous to his employment with SEPALCO, Engr. Pacual had been the Project Director or Consultant of several Rice Husk Fired Boiler Power Plants, Assistant Vice President of EEI Power Corporation, Plant Director for the 15MW HFO Peaking Plant in Tagum City, Power Plant Manager of Cemex Inc., Technical Consultant for Power and Utility in the Ministry of Interior in the Kingdom of Saudi Arabia and Engcon Energy Pte. Ltd. in Singapore.

Relative thereto, SEPALCO claimed that it has competent manpower to perform the tasks needed to operate and maintain the said dedicated transmission facility in accordance with the pertinent rules and regulations.

In the absence of an assurance that the subject facility will be operated without any adverse effect to the reliability of the grid, it is hereby recommended that the operation and maintenance of said facility be through NGCP which was granted the exclusive franchise to operate and maintain the transmission system. TRANSCO, now NGCP, is mandated in Section 9 of the EPIRA, to wit:

c) Ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid xxx”

Section 8 also provides that:

x x x no person, company or entity other than TransCo (now NGCP) shall own any transmission facilities.

The only exception is when it recognizes that a generation company may construct, own and operate a dedicated point-to-point limited transmission facilities. This exemption, however, is bounded by numerous strict limitations. This is similar to the dedicated point-to-point limited transmission facility of GNPower Mariveles Coal Plant Ltd. Co (GMCP) in ERC Case No. 2010-009 RC<sup>1</sup> wherein GMCP financed the project while NGCP operated the subject asset. This is also consistent with the Open Access Transmission Service (OATS) rules for end-users.

Although a generator is not an end-user, and there is no such provision for generators in the OATS, the Commission believes that the same principles shall apply.

SEPALCO claims that it has the financial capability to undertake the development and construction of the dedicated point-to-point limited line. Its financial capability will be assessed in the application of SEPALCO for Certificate of Compliance (COC) ensuring that the applicant is compliant with the financial qualifications set forth in the Financial Guidelines for Generation Companies.

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<sup>1</sup> In the Matter of the Application for Approval of the Implementation of the Construction of the Connection Assets Associated with the 2 X 300 MW Coal Fired Power Plant of GNPOWER Mariveles Coal Plant Ltd. Co., with Prayer for Provisional Authority.

## VI. Permit Fee

Under Commonwealth Act No. 146, as amended, a permit fee for the authority to construct the project subject of the *Application* is prescribed for the reimbursement of the expenses of the Commission in evaluating the *Application* based on the total project cost. The permit fee is computed as follows:

$$\begin{aligned} \text{Permit Fee} &= \frac{\text{Total Project Cost} \times 0.75}{100} \\ &= \frac{114,175,000.00 \times 0.75}{100} \\ \text{Permit Fee} &= \text{PhP}856,312.50 \end{aligned}$$

A perusal of the evidence presented herein showed that the approval of SEPALCO's Application for authority to develop and own or operate a dedicated point to point limited transmission facilities to connect the 50MWp power plant to the transmission line of NGCP is in accordance with the provisions of Section 9 paragraph 3 of the EPIRA and other issuances of the Commission and will redound to the benefit of the power consumers in terms of continuous, quality, reliable and efficient power supply.

**WHEREFORE**, the foregoing premises considered, the *Application* filed by Sulu Electric Power and Light (Phils.), Inc., (SEPALCO) for authority to develop and own or operate a dedicated point to point limited transmission facilities to connect the 50MWp power plant to the transmission line of the National Grid Corporation of the Philippines (NGCP) is hereby **APPROVED**, subject to the following conditions:

- a) NGCP shall operate and maintain the subject dedicated point-to-point limited facilities subject to applicable charges;
- b) The subject facility shall be developed and constructed in accordance with the System Impact Study (SIS) and Facility Study (FS) requirements so as not to result in the degradation of NGCP's transmission system;
- c) The dedicated point-to-point limited facilities shall be used solely by the generating facility;

- d) Any portion of the dedicated point-to-point limited facility required for competitive purposes or to connect any other user, the ownership of the same shall be transferred to TRANSCO/NGCP at a fair market price but subject to optimization. In determining the fair market price, the cost of the facility as incorporated in the determination of Feed-in-Tariff (FIT), in the event that the generation company be FIT eligible, shall also be considered.

Relative thereto, SEPALCO is hereby directed to remit to the Commission, within fifteen (15) days from receipt hereof, the total Permit Fee in the amount of **Eight Hundred Fifty Six Thousand Three Hundred Twelve and 50/100 Pesos (PhP856,312.50)**.

**SO ORDERED.**

Pasig City, 06 July 2017.

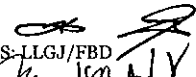
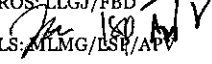
**JOSE VICENTE B. SALAZAR\***  
*Chairman & CEO*

  
**ALFREDO J. NON**  
*Commissioner*

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

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

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

  
ROS-LLGJ/FBD  
  
LS:MLMG/LSR/APP

Decision-2015-109 MC SEPALCO\_1

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\* 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. Atty. Norberto R. Capistrano  
Counsel for SEPALCO  
c/o Gabriel and Mendoza Law Offices  
Rm 402, Tempus Place, Matalino St.  
Diliman, Quezon City
2. The Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village, Makati City  
Metro Manila
3. The Commission on Audit  
Don Mariano Marcos Avenue  
Diliman, Quezon City, Metro Manila
4. The Senate Committee on Energy  
Senate of the Philippines  
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
5. The House Committee on Energy  
House of Representatives  
Batasan Hills, Quezon City, Metro Manila
6. Office of the Mayor  
Municipality of Palo  
Province of Leyte
7. Office of the Governor  
Province of Leyte
8. Standards, Compliance and Monitoring Division  
Energy Regulatory Commission  
17th Floor, Pacific Center, San Miguel Avenue, Pasig City