

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



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP,
OWN, AND/OR OPERATE
DEDICATED POINT-TO-
POINT FACILITIES TO
CONNECT THE BUNKER-
FIRED POWER PLANT IN
ABORLAN, PALAWAN TO
THE PALAWAN MAIN GRID
OF THE NATIONAL POWER
CORPORATION (NPC),
WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2016-041 MC

**DMCI POWER CORP. (DPC),
Applicant.**
X-----X

D O C K E T E D
Date: SEP 29 2017
By: W

ORDER

On 19 December 2016, DMCI Power Corporation (DPC) filed an Application for authority to develop, own, and/or operate dedicated point-to-point facilities to connect its bunker-fired power plant in Aborlan, Palawan to the Palawan main grid of the National Power Corporation (NPC), with prayer for the issuance of a provisional authority.

In its Application, DPC alleged the following:

1. DPC is a corporation duly organized and existing by virtue of the laws of the Republic of the Philippines with office address at 3/F DMCI Plaza Building, Pasong Tamo Extension 2281, Makati City.

A copy of the General Information Sheet is attached hereto and made an integral part hereof as **Annex "A."**

2. DPC may be served with orders and other processes of this Honorable Commission through the undersigned counsel.

3. This Application is submitted to this Honorable Commission pursuant to Section 9 (f) of Republic Act No. 9136, or the Electric Power Industry Reform Act ("EPIRA"),¹ Rule 5, Section 5 (a) (i)² of the EPIRA Implementing Rules and Regulations ("EPIRA IRR"), and Section 4.2 of Resolution No. 16, Series of 2011, or the Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider for its consideration and approval of DPC's connection facility which is a direct connection to NPC's 69kV transmission line, including one switch yard and substation near the connection point (the "Connection Facility") which shall connect DPC's 2 x 4.95 MW Bunker-Fired Power Plant (the "Power Plant") to the 69kV switchyard of the Narra/Irawan substation of NPC.
4. Further, Section 2.2 (g) of the Power Supply Agreement between DPC and Palawan Electric Cooperative dated 25 July 2012 obligates DPC to undertake the "(p)rocurement, construction, installation, control, and possession, operation and maintenance of the Connection Facilities." The foregoing provision is conferment by PALECO—both in its capacity as offtaker and as system operator of the Palawan grid— of DPC's authority to install and own the connection facilities necessary for DPC to dispatch the contracted capacity to the grid.

STATEMENT OF FACTS

5. DPC was incorporated on 16 October 2006. Under its Articles of Incorporation, as amended, DPC's primary purposes is to "acquire, design, develop, construct, invest in, and operate electric power plants, and engage in the business of a Generation Company in accordance with Republic Act No.

¹ EPIRA, Section 9(f)

"... 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: *Provided, further*, That in the event that such assets are required for competitive purposes, ownership of the same shall be transferred to the TRANSCO at a fair market price: *Provided, finally*, That in the case of disagreement on the fair market price, the ERC shall determine the fair market value of the asset."

² EPIRA IRR, Rule 5, Section 5 (i)

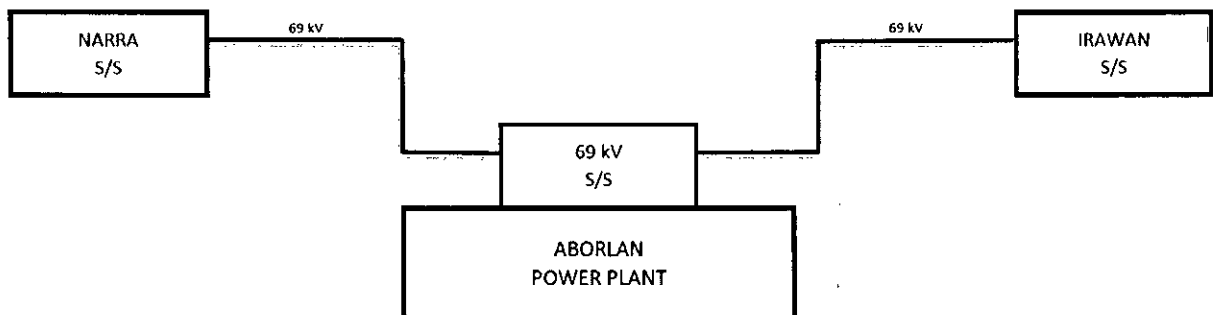
"Subject to prior authorization from ERC, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: *Provided*, That: (i) Such dedicated point-to-point limited transmission facilities are required only 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..."

9136 otherwise known as the Electric Power Industry Reform Act of 2001 (the "EPIRA"); to invest in, operate and engage in missionary electrification as a Qualified Third Party under the EPIRA and its implementing rules and regulations; **and to design, develop, assemble and operate other power related facilities, appliances and devices.**"

6. In consonance with the foregoing purpose, DPC entered into the development, construction, operation, and maintenance of a 2x4.95 MW Bunker-Fired Power Plant located in Barangay Iraan, Aborlan, Palawan. The project entailed the construction of two (2) Bunker-Fired generating sets completed in November of 2016.
7. As agreed with NPC, the Power Plant will be connected to the Palawan Grid as connected to the Narra/Irawan substation of NPC. This project, subject of the instant Application, involves the construction of direct connection facility to the 69kV transmission line of NPC.

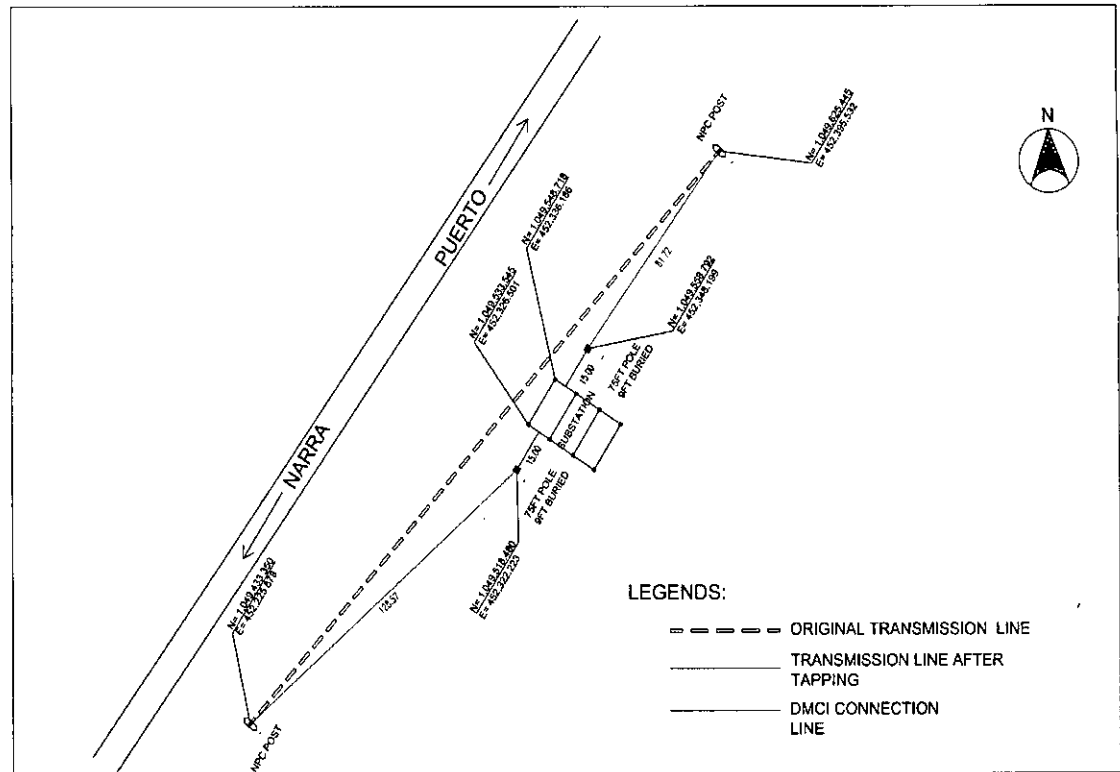
The Project Description, with the Project Rationale and a summary of the result of the System Impact Study conducted for the project is attached hereto and made an integral part hereof as **Annex "B."**

8. The connection point of the Connection Facility can be illustrated as follows:



(this space is intentionally left blank)

9. Below is the actual configuration of the connection point:



As shown above, a segment of the original 69kV transmission line of NPC (in red) was modified so that the Power Plant could directly connect to the connection point. The modification was done by installing a new segment of the 69kV line as shown in the illustration (in green), and deactivating the original segment (in red).

The Single Line Diagram of the Connection Facility is attached and made an integral part hereof as **Annex "C."**

10. Based on the Asset Boundary annexed in the Connection Agreement, the new segment of the 69kV transmission line falls within DPC boundary. Necessarily, DPC will own and operate the said segment of the 69kV.

As proof of DPC's technical capability to operate the Connection Facility, attached and made an integral part hereof as our **Annex "D"** is a certification of DPC's technical capability to operate a limited point-to-point transmission facility, and the curriculum vitae of DPC's key technical personnel.

11. The Department of Energy issued a Certificate of Endorsement dated 11 August 2016, certifying to the fact that the Power Plant, which includes in principle the related connection facilities, "is consistent with the Missionary Electrification Development Plan (MEDP) of the government pursuant to the provisions of the Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (EPIRA)."

A copy of the DOE Endorsement ("DOE") dated 11 August 2016 is attached and made an integral part hereof as **Annex "E."**³

12. Accordingly, the Board of Investments approved DPC's application of the Power Plant as a project with pioneer status. A copy of the BOI ("BOI") approval is submitted as part of Annex "C" above.
13. The Connection Facility is required only for the purpose of connecting the Power Plant to the Narra/Irawan Substation of NPC and will be used solely by DPC.
14. In June 2016, DPC through Power System Research and Consultancy Group conducted a Grid Impact Study to determine the impact of connecting the Power Plant to NPC's transmission system. Further, during a meeting between NPC on the one hand, and various New Power Producers held on 12 August 2016, on the other hand, a bus-in or radial type of interconnection was recommended by NPC.
15. That the said Grid Impact Study was accepted by NPC is evidenced by the fact that NPC and DPC entered into a Connection Agreement dated 09 September 2016, which adopts the connection scheme agreed upon by the parties.

The Connection Agreement is attached and made an integral part hereof as **Annex "F."**

16. Further, the design and configuration of the Connection Facility was accepted by NPC as evidenced by the document entitled, "Test and Commissioning Procedure for the Connection Point, DMCI Power to NPC 69kV Grid in Aborlan, Palawan" duly signed by NPC's representative.

The said document is attached and made an integral part hereof as **Annex "G."**⁴

17. The Grid Impact Study is attached and made an integral part hereof as **Annex "H."**
18. The total cost of the Connection Facility is equivalent to Twenty Million Nine Hundred Twenty-Eight Thousand Four Hundred Fifty-Six and 60/100 Pesos (P20,928,456.60). It should be emphasized that the switchyard on the high side portion of the Connection Facility is owned by DPC.

A copy of the Project Cost is hereto attached and made an

³ The DOE Endorsement certifying to the project's consistency with the Missionary Electrification Development Plan is hereby submitted in place of the proof of the project's consistency with the Distribution Development Plan.

⁴ The Grid Impact Study, Connection Agreement.

integral part hereof as **Annex “I.”**

Further, the Gantt Chart showing the timeline of activities is attached and made an integral part hereof as **Annex “J.”**

19. DPC hereby undertakes to comply with the provisions of the Philippine Grid Code, where applicable in relation to the Dedicated Transmission Facility, and the Philippine Small Grid Guidelines.
20. In summary, DPC hereby submits a copy of the following documents which are either identified as Annexes above or are additional documents in support of this Application:

ANNEX REFERENCE	DOCUMENT
“A”	General Information Sheet
“B”	Project Description
“C”	Single Line Diagram
“D”	Certification of Technical Capacity
“E”	DOE Endorsement dated 11 August 2016
“F”	Connection Agreement with NPC
“G”	Testing and Commissioning Procedure (as signed by NPC)
“H”	Grid Impact Study
“I”	Project Cost
“J”	Gantt Chart
“K”	Affidavit in support of Provisional Authority

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

21. Under Rule 14 of the ERC Rules of Practice and Procedures, the Honorable Commission is authorized to use a provisional authority or interim relief prior to a final decision in the instant Application, provided that the facts and circumstances alleged warrant such remedy.
22. Applicant DPC respectfully submits that the following facts and circumstances clearly warrant the issuance by the Honorable Commission of a provisional authority or interim relief in the instant Application.
 - a. The need for the electric power generated by the Power Plant is beyond question and a matter that this Honorable Commission may take judicial notice of. Thus, it is in the interest of the government to help DPC to achieve commerciality and commence operations at the soonest possible time.
 - b. A copy of the Affidavit executed by Engr. Henry V. Alcalde in support of the prayer for issuance of a provisional authority is hereto attached and made an integral part hereof as **Annex “K.”**

23. In view of the foregoing, the Applicant respectfully submits the instant application for this Honorable Commission's urgent and utmost consideration.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Commission:

- (a) Issue an order granting provisional authority for the implementation of the development, ownership and operation of the dedicated point-to-point facility by DPC to connect to the transmission system of NPC;
- (b) After determination/hearing on the merits, a Decision be issued approving the instant Application.

Other reliefs just and equitable are likewise prayed for.

Finding the said Application to be sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **20 November 2017 (Monday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Bldg., San Miguel Ave., Ortigas Center, Pasig City.**

Accordingly, DPC is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing at its own expense, once (1x) in a newspaper of general circulation in the Philippines, at least ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor and City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;

- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, the National Power Corporation (NPC), the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, applicant must submit to the Commission its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published, and the complete issue of the said newspaper;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by applicant to inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the NPC, the OSG, the COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicant and all other interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of applicant to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

DPC must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and to explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 19 September 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:



ALFREDO J. NON
OIC Chairman and CEO

Copy Furnished:

1. Attys. Francis Allan Rubio & John Philip Baltazar
Counsel for DPC
3/F DMCI Plaza Bldg.,
2281 Don Chino Roces Ave., Makati City
2. National Power Corp.
Quezon Ave., cor. BIR Rd.
Quezon City
3. Palawan Electric Coop.
Brgy. Tiniguiban, Puerto Princesa City
4. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village , Makati City
5. Commission on Audit
Commonwealth Ave., Quezon City
6. The Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
7. The House Committee on Energy
Batasan Hills, Quezon City
6. The Municipal Mayor
Aborlan, Palawan
7. Office of the Sangguniang Bayan
Aborlan, Palawan
8. The Municipal Mayor
Narra, Palawan
9. Office of the Sangguniang Bayan
Narra, Palawan
10. The Local Chief Executive
Irawan, Palawan
11. Office of the Local Legislative Unit
Irawan, Palawan
12. Office of the City Mayor
Puerto Princesa City, Palawan
13. Office of the Sangguniang Panlungsod
Puerto Princesa City, Palawan
14. Office of the Provincial Governor
Province of Palawan
15. Office of the Sangguniang Panlalawigan
Province of Palawan
16. National Grid Corporation of the Philippines (NGCP)
Quezon Avenue corner BIR Road, Diliman, Quezon City
17. ROS-SCMD
17/F, Pacific Center Bldg., San Miguel Ave.,
Ortigas, Pasig City