

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



**IN THE MATTER OF THE APPLICATION TO DEVELOP, OWN AND OPERATE A DEDICATED POINT-TO-POINT TRANSMISSION FACILITIES TO CONNECT HAWAIIAN PHILIPPINE COMPANY'S (HPCo) BAGASSE-FIRED BIOMASS POWER PLANT TO NGCP 69Kv SILAY - VMC TRANSMISSION LINE, WITH PRAYER FOR PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2015-101 MC**

**HAWAIIAN - PHILIPPINE COMPANY (HPCo),**

**Applicant.**

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DOCKETED  
Date: FEB 22 2016  
By: [Signature]

**DECISION**

Before the Commission for resolution is the *Application* filed on 07 December 2015 by Hawaiian - Philippine Company (HPCo) for authority to develop, own and operate a dedicated point-to-point transmission facility to connect the HPCo Bagasse-Fired Biomass Power Plant to Silay-VMC 69kV transmission lines of the National Grid Corporation of the Philippines (NGCP).

In its *Application*, HPCo alleged the following:

1. It is a sugar milling company duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Brgy. Hawaiian, Silay City, Philippines;
2. It was organized and registered with the Securities and Exchange Commission (SEC) to manufacture, refine, own, hold, buy, sell, import and export, and in any manner acquire and dispose of, sugar, sugar-cane, molasses and

other sugar-by-products. Consequently, as a sugar mill company, HPCo also owns a bagasse-fired power plant utilized for self-generation during sugarcane milling season when bagasse is readily available as fuel for its plant;

3. Based on the 2012 Power Development Plan of the Department of Energy (DOE), the energy demand in Visayas is expected to grow from 1,643 MW in 2013 to 2,331 MW by 2021. The demand in Negros, in particular, will grow from 273 MW by year 2013 to 387 MW by year 2021. For the year 2014 (year of entry) and 2019 (5 year look-ahead), the demand for Visayas is forecasted to be 1,723 MW and 2,147 MW respectively. Negros is expected to have a demand of 286 MW by 2014 and 356 MW by 2019. Out of the forecasted demand of 2,147MW for Visayas, the total generation capacity additions in Visayas is only 803MW, with 340MW as committed power plants. Notably, most of the committed power plants are located outside Negros Island;
4. In the Power Development Plan (2009-2030), it was mentioned therein that one of the problems experienced in northern Negros, particularly in Bacolod which is the load center of Negros, is low voltage. This is due to lack of inland generating plants since generators are located in southern part far from the load center. Thus, with the increasing energy demand, tapping or maximizing every available source of energy or power plant especially here near the load center, will be most helpful as it will definitely alleviate the energy's situation in Negros;
5. Since the enactment of the Republic Act 9513, otherwise known as the "Renewable Act of 2008," HPCo has been carefully studying how to be able to respond to the government's call for clean energy considering its available resources, particularly the bagasse during milling season that could be used as fuel for its biomass power plant. When the Energy Regulatory Commission (ERC) issued the pertinent rules on Feed-In-Tariff ("FIT Rules"), HPCo finally decided to embark on a Co-gen project to expand the potential of its Bagasse-Fired Biomass Power Generation Plant to be able to export excess power to the grid under the FIT program of the government, aside from supplying its internal requirements;
6. In June 2010, when the need to change its aging turbo generators arose, HPCo saw an opportunity to finally materialize its Co-gen project for power export. Thus, HPCo spent a substantial amount on the installation of a new and more efficient 8MW Shinn Nippon pass-out type turbine, not only to replace the aging generators of the company for a more reliable and efficient operation, but also to generate excess power to be transported to the grid. With the new 8MW installed capacity, 5MW will be available for its internal load requirements, 3MW (more or less) as excess power to be transported to the grid, and with 4MW as spare;

7. Thereafter, the company spent a considerable amount of time and effort to secure all permits and licenses from different government agencies involved to materialize its co-gen power export project as well as its eventual participation in the FIT program.
  - a. On 12 March 2013, HPCo was granted Certificate of Registration by the Department of Energy (DOE) as a Renewable Energy (“RE”) Developer under Registration No. RE-B2013-02-060. Thereafter, HPCo was likewise awarded a Biomass Renewable Energy Operating Contract (BREOC No. 2013-02-029), to generate electrical power from Biomass Cogeneration System using Sugarcane Bagasse as feedstock in Barangay Hawaiian, Silay City, Negros Occidental. Moreover, on 22 January 2014, HPCo was issued a Confirmation of Commerciality by the DOE which affirms HPCo to develop and operate its Bagasse-Fired Biomass Power Generation project.
  - b. HPCo likewise requested National Grid Corporation of the Philippines (“NGCP”) to conduct a grid impact study to assess the impact of the biomass power generation project on the Visayas grid. On 18 June 2014, the System Impact Study (“SIS”) was officially released by NGCP. Moreover, upon compliance with the inter-connection requirements, NGCP and HPCo executed its Connection Agreement (CA), Transmission Service Agreement (TSA) and Metering Agreement (MA).
  - c. On 20 October 2015, HPCo was able to secure its Environmental Compliance Certificate (ECC-R6-1510-0370-4220) for the inclusion of the Biomass Cogeneration Power Plant Project to the existing Sugar Mill plant project located at Barangay Hawaiian, Silay City.
  - d. HPCo has been issued by the Energy Regulatory Commission (ERC) its original Certificate of Compliance (COC) for its self-generating facility last April 2006. On 23 February 2012, upon application of HPCo for renewal of its COC, the ERC issued a new COC under COC no. 12-02-GXT-19266-19266M to be valid for a period of five (5) years or until 23 February 2017.

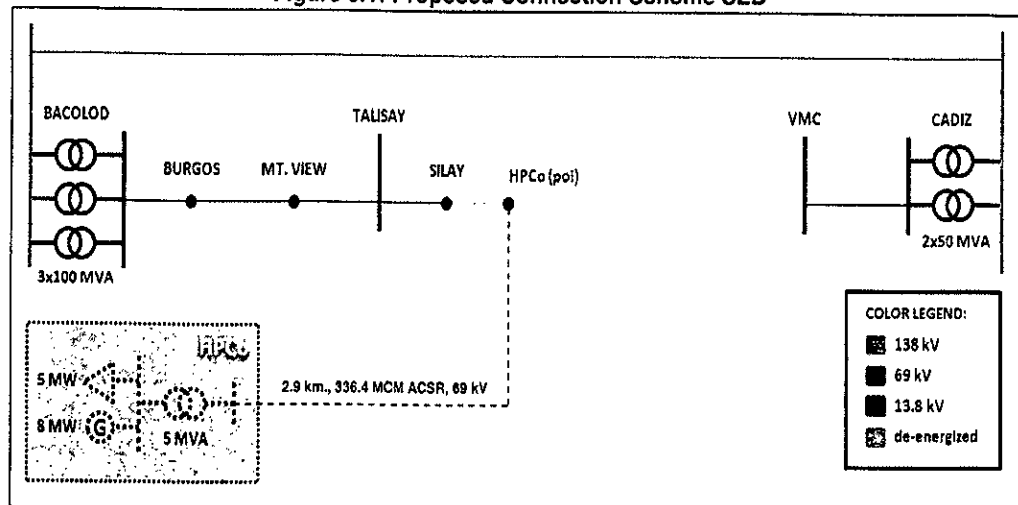
8. In order to export the excess energy generated by HPCo's biomass plant, HPCo proposed to connect their existing 1x8 MW biomass generating plant to the grid by tapping along the Silay - VMC 69 kV transmission lines owned by the National Grid of the Corporation of the Philippines ("NGCP"). This connection scheme will require construction of an approximately 2.9 km single circuit dedicated point-to-point transmission facilities that will connect the power plant to NGCP's line.
9. Considering the need to develop and operate a dedicated point-to-point transmission facilities, this application is being filed pursuant to Section 9 of the EPIRA which expressly provides that:

*"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 purpose, 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."*

**Allegation in Support of the Application**

10. As stated earlier, the excess energy generated by HPCo's biomass plant will be exported to the grid by tapping along NGCP's Silay - VMC 69 kV transmission lines. This connection scheme will require construction of an approximately 2.9 km single circuit, 69 kV transmission line that will connect the power plant to the point of interconnection using the 336.4 MCM ACSR cables. The dedicated point-to-point transmission facilities extends from HPCo's switchgear located in Barangay Hawaiian, Silay City to NGCP's existing 69kV Silay-VMC transmission line and will be dedicated or exclusively used by HPCo to transport its 3MW excess power to the grid. Below is a diagram showing the proposed connection scheme.

**Figure 3.1: Proposed Connection Scheme SLD**



11. Basically, the dedicated point-to-point transmission facilities has the following components, among other things:

<b>Components</b>	
1.	Construction of Three Kilometers 69kV transmission line, which includes:
a.	5MVA, 13.8 – 69kV substation (complete with remote telecommunication System)
b.	69kV Connection Asset or Disconnect Switch Yard
2.	Power Transformers GSH (5MVA,69/13.8KV, Phase 3,60HZ)
3.	Inspection and Servicing of GSH 5MVA Transformer
4.	Transportation Cost
5.	3 sets Current Transformer for Metering
6.	AVIAT Microwave Radio 7GHZ, MHSB Configuration 16E1 Capacity Split Type
7.	Right of Way

12. On June 13, 2013, HPCo entered into an Engineering, Procurement and Construction Contract (EPCC) with Bussbarr Corporation (“Bussbarr”) to undertake the Co-gen project. Bussbarr Corporation is an electrical engineering firm specializing in industrial facility electrical/control design, with major focus on the power distribution substation, food and beverage, pharmaceutical, malls and a bulk manufacturing environments. Bussbarr is a system integrator with diverse capabilities in Power, Control and Automation Systems and consistently deliver services of high quality and value such as power distribution substation design and installation, low and medium voltage switchgear fabrication and installation, synchronizing panels fabrication and installation, SCADA system/process automation/substation automation design and implementation, variable speed drives and soft starter supplies and installation, equipment supply, maintenance

and repairs and capacitor bank supply and installation. Thus, with excellent track record of completed projects from Nueva Viscaya to Agusan, HPCo has awarded the Co-gen project to Bussbarr Corporation.

13. On the other hand, since HPCo is an existing company with stable investors engaged in sugar milling, it is not amiss to state that it has the financial capacity to undertake the construction, development, operation and maintenance of the Co-gen project, including the construction of the dedicated point-to-point limited transmission facilities. As a matter of fact, the shareholders of HPCo invested Seventy Million Pesos (Php 70,000,000.00) for the construction of point-to-point dedicated facilities which was funded through internally generated funds. After looking into the projected economic and financial cost benefits of the Co-gen project, the shareholders willingly agreed to implement the Co-gen project given its attractive returns upon its participation in the FIT, which might likewise support HPCo in their sugar milling business considering the competitive environment in the sugar industry.
14. As regards to the operation and maintenance, HPCo has an Electrical Department, who may be able to operate and maintain the said facilities in close coordination with NGCP District 3-VSO. Admittedly, however, HPCo expertise maybe limited only with the operation of small distribution system within its area and not properly equipped with the expertise needed in operating a transmission facilities, not to mention the regulatory standards and compliance that needs to be met at all times. With this, HPCo is willing to enter into agreement with NGCP for the operation and maintenance of said line for reliability and safety purposes. As a matter of fact, HPCo already wrote a letter to NGCP regarding this matter, and the latter already replied. In its reply dated 4 November 2015, NGCP express willingness to extend their service in the operation and maintenance of the facilities.

**Allegations in Support of Prayer for Provisional Authority**

15. Rule 14 of the Honorable Commission's Rules of Practice and Procedure authorizes the issuance of a provisional authority or an interim relief prior to a final decision, provided that the facts and circumstances warrant the issuance of the same.
16. Given the urgent need for additional capacity as demand for energy continue to rise, and considering the readily available excess clean energy coming from the Bagasse-Fired Power Plant of HPCo, it will be beneficial that the additional capacity coming from HPCo power plant will be transported and made available for the Visayas Grid immediately. Thus, HPCo respectfully prays that the Honorable Commission provisionally approve the instant Application to help alleviate the energy situation as projected by the DOE.

17. Also, as mentioned earlier, HPCO Co-gen Plant is already operational and is ready to wheel its excess power to the grid. All the necessary government permits and licenses are likewise complete. HPCo is likewise processing to obtain its Certificate of Compliance – FIT. In fact, all the required documents for the COC-FIT are already complete except for the approval of this Honorable Commission of this instant application. Thus, to be able to enjoy the benefits provided by FIT and any other benefits under the RA 9513 (Renewable Energy Act of 2008), HPCo respectfully prays for the provisional approval of this application.
18. In support of the instant Application and all computations contained, Applicant hereto attached the following annexes:

<b>Documents</b>	<b>Annexes</b>
Certificate of Incorporation	A
Articles of Incorporation	B
Latest General Information Sheet	C
DOE Certificate of Registration	D
Biomass Renewable Energy Operating Contract	E
DOE Confirmation of Commerciality	F
System Impact Study	G
Connection Agreement	H
Transmission Service Agreement	I
Metering Agreement	J
Environmental Compliance Certificate	K
ERC Certificate of Compliance	L
Technical Specification of the Project	M
Project Component and Cost	N
HPCo Audited Financial Statement	O
Economic and Financial Cost Analysis	P
NGCP's Letter dated 4 November 2015	Q
NGCP's Certificate dated 27 November 2015	R
Request for Certificate of Non-Coverage	S
Secretary's Certificate dated 20 November 2015	T
Judicial Affidavit of Rodeo P. Suating	U

**PRAYER**

19. Thus, HPCo prays, that the Commission:
  - 19.1 Approve the instant application filed by Hawaiian Philippine Company (HPCo) for authority to develop, own and operate dedicated point-to-point transmission facilities to connect HPCo Bagasse-Fired Biomass Power Plant to NGCP's 69 kV Silay-VMC Transmission Line;
  - 19.2 Pending hearing on the merits of this application, a provisional approval of the instant application be issued.

Finding the said *Application* sufficient in form and substance, the Commission issued an Order and a Notice of Public Hearing, both dated 10 December 2015, setting the case for initial hearing on 22 February 2016.

On 17 February 2016, HPCo filed its *Pre-Trial Brief* dated 12 February 2016.

During the 22 February 2016 initial hearing, HPCo appeared through its counsel, Atty. Irish Mae V. Rodriguez. On the other hand, NONECO appeared as intervenor through its representative Engr. Paulino Almedilla. Engr. Almedilla manifested that NONECO's counsel was not able to attend the hearing due to an emergency. Likewise, Engr. Almedilla manifested that NONECO had already furnished HPCo a copy of NONECO's petition for intervention. HPCo opposed the acceptance of the petition for intervention on the ground that under the Commission's Rules of Practice and Procedure, the intervention should have been filed five (5) days prior to date of hearing. Engr. Almedilla further explained the relevance of NONECO's intervention on the basis of the HPCo's traversal of power line to that of NONECO. In view of the relevance of NONECO's intervention, the Commission ruled to conditionally accept NONECO as intervenor, subject to its submission of the Petition for Intervention.

Thereafter, HPCo presented its proofs of compliance with the Commission's notice and posting requirements, which were duly marked as Exhibits "A" to "F-1".



Finding the said submissions substantially compliant with the Order dated 10 December 2015, the Commission declared that it acquired jurisdiction over the instant case. Thereafter, HPCo conducted its Expository Presentation thru its Engineering Supervisor, Engr. Rodeo P. Suating (Engr. Suating). At the termination of the Expository Presentation, several questions were propounded by the Commission.

Thereafter, NONECO moved that the pre-trial conference be conducted on the same date of the initial hearing. However, due to the pending submission of NONECO of its Petition for Intervention and its Pre-Trial Brief, the Commission resolved to set the pre-trial conference on 14 March 2016. NONECO likewise submitted its Petition for Intervention dated 15 February 2016 after the 22 February 2016 initial hearing.

On 14 March 2016, NONECO filed its *Pre-Hearing Brief* dated 4 March 2016.

During the 14 March 2016 hearing for Pre-Trial Conference, both counsels for HPCo and NONECO appeared. HPCo and NONECO made stipulations of facts and proposed issues to be resolved. Further, the counsel for NONECO manifested that NONECO would no longer cross-examine HPCo's witness. Thereafter, the Pre-trial Conference was terminated and the presentation of evidence commenced.

During the presentation of evidence, HPCo presented again its lone witness, Engr. Suating who testified on matters in support of the instant *Application*. In the course of his testimony, Engr. Suating was made to identify several documents, which were duly marked as exhibits.

After the direct examination and considering the waiver of the intervenor NONECO to cross-examine the witness, the Commission terminated the presentation of evidence. Thereafter, HPCo was directed to submit its Formal Offer of Evidence and additional documents to aid the Commission's evaluation of the instant *Application*.

On 30 March 2016, HPCo filed its *Formal Offer of Evidence* dated 28 March 2016.

On 19 June 2017, intervenor NONECO filed its *Comment/Opposition* on the *Application* dated 5 June 2017.

Subsequently, on 26 July 2017, the Commission issued an Order admitting HPCo'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 or not to approve HPCo's *Application* and grant it the authority to develop, own and operate a dedicated point-to-point transmission facility to connect the HPCo Bagasse-Fired Biomass Power Plant to Silay-VMC 69kV transmission lines of the National Grid Corporation of the Philippines (NGCP).

## **DISCUSSION**

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

### **I. Project Description**

HPCo has an excess energy generated by its biomass plant that needs to be exported to the grid by tapping along NGCP's Silay - VMC 69 kV transmission lines. This connection scheme requires the construction of an approximately 2.9 km single circuit, 69 kV line that would connect HPCo Bagasse-fired Biomass Power Plant (Biomass Power Plant) to the point of interconnection using the 336.4 MCM ACSR cables.

This dedicated point-to-point transmission facility extends from HPCo's substation located in Barangay Hawaiian, Silay City to NGCP's existing 69kV Silay-VMC transmission.

## **II. Project Rationale**

The dedicated point-to-point facility is necessary for the HPCo Biomass Power Plant to deliver its generated power to the Visayas Grid through the transmission system of NGCP.

## **III. Project Cost**

The total estimated cost of the proposed project is Forty Eight Million One Hundred Seventy Four Thousand Seventy Five and 59/100 Pesos (Php48,174,075.59) covering all the facilities constructed by HPCo.

It is worthy to note that the estimated project cost is only for the purpose of computing the applicable permit fee.

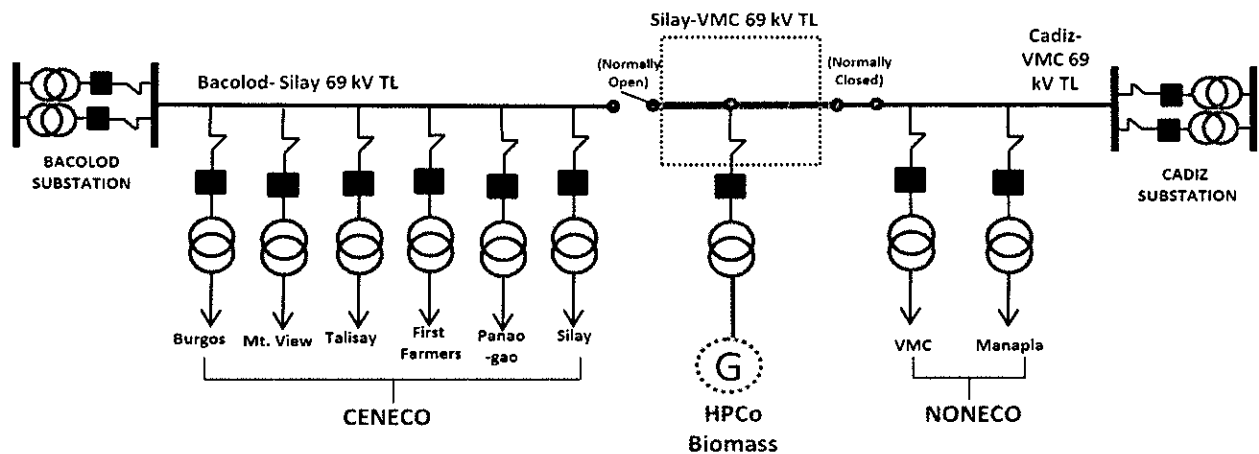
Likewise, it should also be emphasized that the aforementioned amounts are not necessarily the fair market value that should be used when the subject assets are actually transferred to National Transmission Company (TRANSCO)/ NGCP in the event that such assets are required for competitive purposes.

Since the approved Feed-in Tariff (FIT) Rate includes the cost of the dedicated point-to-point limited facility, the said amount shall be considered once the asset is transferred to NGCP/ TRANSCO, to wit:

- a) If the fair market value (subject to optimization) is higher than the facilities' cost incorporated in the determination of the FIT, NGCP/ TRANSCO 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 pertaining to the project:



#### V. Commission's Evaluation

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

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

HPCo requested NGCP to conduct a Grid Impact Study (GIS) to assess the impact of the entry of its Biomass Power Plant on the Visayas Grid. On 18 June 2014, the SIS was officially released by NGCP and the system simulation results are as follows:

- a) Load flow assessment showed that the connection of HPCo would decrease the thermal loading of the monitored transmission facilities and improved the voltage levels of the substation when HPCo operated its generating plant. On the contrary, the thermal loading of the transmission facilities would increase and voltage levels would decrease if HPCo would operate only as load;
- b) Fault level assessment results, dynamic stability assessment and frequency assessment are within the acceptable limits prior to and upon the connection of HPCo; and

- c) HPCo will have the flexibility to export power to the grid either to the Bacolod S/S or via Cadiz S/S. However, the change-over switching operation may interrupt HPCo's operation.

Overall, the system simulation result shows that the proposed connection scheme can be utilized to connect HPCo Biomass Power Plant to the Visayas Grid.

On 13 November 2014, NGCP approved the Interconnection Facilities Study submitted by HPCo. NGCP further finds that the facilities for the interconnection of the Biomass Power Plant is in accordance with the results of the SIS conducted.

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

To connect the HPCo Biomass Power Plant to the Visayas Grid, HPCo had considered alternative routes or options, as follows:

- First Option: The first route is 3.3 km away from the HPCo Substation which cost roughly around PhP60 Million that will traverse HPCo's existing railroad line going to the same connection point location.
  
- Second Option: The second route is a 3.7 km 69 kV line from HPCo's Substation that will traverse along existing hacienda road affecting one Barangay and six Sugar Planters that cost roughly around PhP62 Million.
  
- Third Option: The last option (proposed connection scheme) is a 2.9 km 69 kV line from HPCo's Substation which will traverse along the Haciendas of two major planters to the location of the connection point that cost roughly about PhP49M.

All of the options/alternative considered by HPCO were technically feasible, however, the third option yields the least cost among the options. Thus, HPCo proposed the same.

**c. Technical Configuration**

In order for HPCo to dispatch its generated power to the grid, HPCo should connect its Biomass Power Plant to the Visayas Grid. By default, NGCP is mandated by law to provide connection to generation companies (GenCo), distribution utilities and suppliers requiring transmission services.

However, Section 9(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), provides an option for a generation company to develop, own and operate its 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 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 Biomass Power Plant of HPCo with the capacity of 8.0 MW is classified as large generator as provided in the provisions of the Philippine Grid Code (PGC). As such, HPCo Biomass Power Plant should comply with the provisions of the PGC, to wit:

**4.4.1.1 Requirements Relating to the Connection Point**

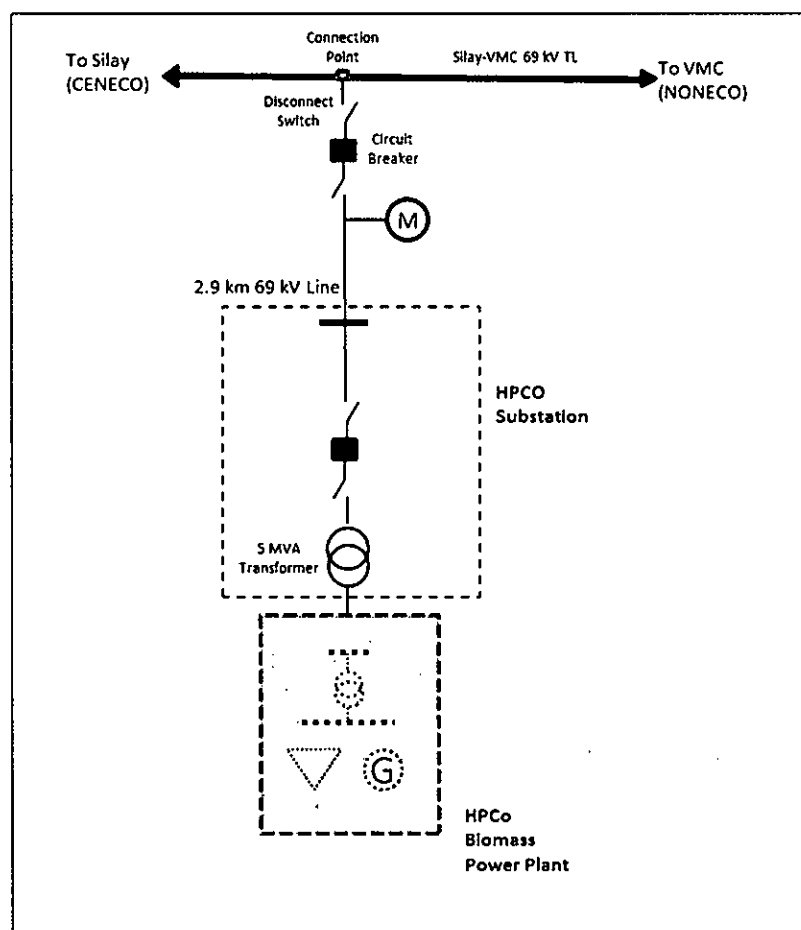
GCR 4.4.1.1.1 The Large Generating Plant's Equipment shall be directly connected to the Grid.

GCR 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.

GCR 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.

GCR 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 below shows HPCo's compliance with the provisions of PGC and requirements of NGCP in its Facility Study and SIS:



The substation of the Biomass Power Plant is equipped with a 5 MVA power transformer to step up the voltage from 13.8 kV to 69 kV.

The connection point is controlled by a circuit breaker, which is consistent with the above-mentioned standards. In addition, the substation 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.

It is worthy to note that HPCo's main substation is constructed near the connection point, hence the installation of a fault locator is no longer necessary.

The connection point (POI) will be at the proximity of structure no. 292AB where the 2.9 km 69 kV line, utilizing 336.4 MCM ACSR, is connected.

HPCo complied with the standards in equipment grounding and the requirements in communication and Supervisory Control and Data Acquisition (SCADA) for monitoring and control.

During the ocular inspection, the Commission confirms that the metering point of HPCo's Biomass Power Plant is located near the connection point in compliance with Section 9.2.1 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.

It is worthy to note that the configuration is a special or unique case. The line where HPCo will be connected is operated by NGCP. The said line is connected at one end to the VMC-Cadiz line owned and operated by NONECO; while the other end is connected to Silay-Bacolod line owned and operated by Central Negros Electric Cooperative (CENECO). Thus, the power generated by HPCo could be delivered through the line of either NONECO or CENECO.

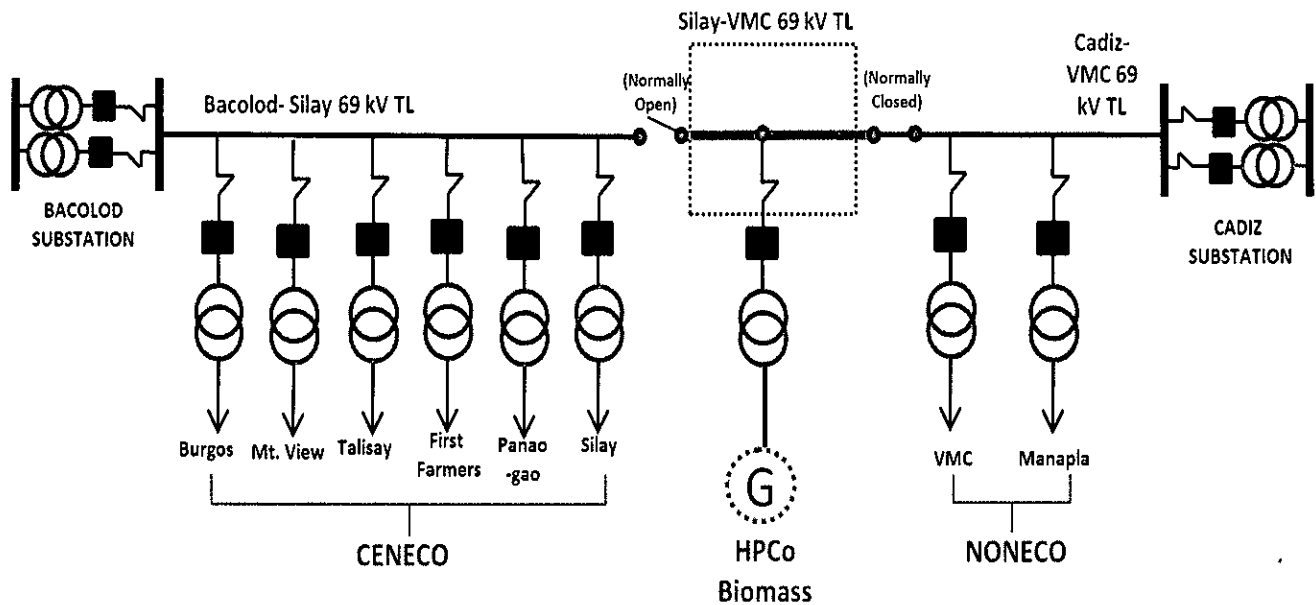
**d. NONECO's Petition for Intervention**

NONECO (formerly VMC Rural Electric Cooperative or VRESCO) is an electric cooperative duly organized under the laws of the Republic of the Philippines, and a Distribution Utility with franchise to operate within the northern part of the Province of Negros Occidental.

NONECO filed a Petition for Intervention contending that it is a party-of-interest and will be affected with the outcome of the instant case. According to NONECO, HPCo is presently connected to the Silay-VMC 69 kV line of NGCP that is then connected to NONECO-owned Cadiz-VMC sub-transmission line. In order for HPCo to deliver its generated energy to the grid and to the electricity market



under the Feed-in-Tariff (FIT), the same will pass along NONECO's line, as shown in the single line diagram below:



Moreover, NONECO stated that since it is the owner of the 69 kV Cadiz-VMC line, users of its distribution/ subtransmission system shall be imposed a corresponding distribution wheeling charge as provided under the EPIRA and its Implementing Rules and Regulations (IRR). The same is further reinforced by Section 4.9.2 of the Distribution Service and Open Access Rules (DSOAR) as amended. Therefore, NONECO is entitled to impose charges upon HPCo as user of the 69 kV Cadiz-VMC line.

Lastly, NONECO alleged that it was not furnished by HPCo with any information or data, including a copy of the SIS conducted by the NGCP. NONECO might have existing or future connection agreements with other generation plants, which would be connected to the 69 kV Cadiz-VMC line and would be directly affected by the generation of HPCo.

The Commission recognizes the concerns of NONECO considering that HPCo's generated power may pass through the lines of NONECO. However, under the Commission's Resolution 24, Series of 2013<sup>1</sup> it states that:

<sup>1</sup> Entitled "A Resolution Adopting the Guidelines on the Collection of the Feed-In-Tariff Allowance (FIT-ALL) and the Disbursement of the FIT-ALL Fund.s

2.2 Flow of Fit-All Funds

X X X.

For Eligible RE Plants-WESM that are connected to a DU system, any Actual RE generation, which cannot be absorbed by the DU where it is connected, shall be delivered to the Grid, subject to the payment of applicable wheeling fees by the Eligible RE Plant-WESM with the DU. For the avoidance of doubt, no wheeling charges shall be paid for actual renewable energy generation that is physically absorbed by a distribution utility, whether WESM or non-WESM.

Based on the foregoing, the distribution wheeling charge should not be automatically imposed against an eligible RE Plant by the DU, where it is connected, unless the actual generation not absorbed by the DU is determined and accounted for.

Therefore, granting that HPCo is an eligible RE plant, in case any of its actual generation cannot be absorbed by NONECO, the abovementioned provision shall apply. However, before NONECO could charge the necessary wheeling charges, the necessary Distribution Wheeling Services Agreement (DWSA) must be executed between HPCo and NONECO.

Moreover, the Commission anticipates the likelihood of HPCo's generated energy to pass through the CENECO-owned Bacolod\_Silay sub-transmission line, in the event that the normally open (NO) disconnect switch at the CENECO side is closed. Thus, it is also proper for HPCo to enter into a DWSA with CENECO in accordance with the same provision.

**e. Technical and Financial Capability**

HPCo has an Electrical Department, which may be able to operate and maintain the facilities in close coordination with NGCP District 3-VSO. However, HPCo admits that its expertise is limited only with the operation of small distribution system within its area and is not properly equipped with the expertise needed in operating a transmission facilities, not to mention the regulatory standards and compliance that needs to be met at all times. Hence, HPCo entered into an agreement with NGCP for the operation and maintenance of the facilities for reliability and safety purposes. In a Letter dated 4 November 2015, NGCP expressed its willingness to extend its service in the operation and maintenance of the subject facilities subject of the instant application.

2.2 Flow of Fit-All Funds

X X X.

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Moreover, the Commission anticipates the likelihood of HPCo's generated energy to pass through the CENECO-owned Bacolod\_Silay sub-transmission line, in the event that the normally open (NO) disconnect switch at the CENECO side is closed. Thus, it is also proper for HPCo to enter into a DWSA with CENECO in accordance with the same provision.

**e. Technical and Financial Capability**

HPCo has an Electrical Department, which may be able to operate and maintain the facilities in close coordination with NGCP District 3-VSO. However, HPCo admits that its expertise is limited only with the operation of small distribution system within its area and is not properly equipped with the expertise needed in operating a transmission facilities, not to mention the regulatory standards and compliance that needs to be met at all times. Hence, HPCo entered into an agreement with NGCP for the operation and maintenance of the facilities for reliability and safety purposes. In a Letter dated 4 November 2015, NGCP expressed its willingness to extend its service in the operation and maintenance of the subject facilities subject of the instant application.

HPCo claims that it has the financial capability to undertake the development and construction of the dedicated point-to-point limited facility. The financial capability of HPCo will be further assessed in its application for Certification of Compliance (COC), to ensure that the HPCo is compliant with the financial qualifications set forth in the Financial Guidelines for Generation Companies.

## 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:

$$\begin{aligned} \text{Permit Fee} &= \frac{\text{Total Project Cost} \times 0.75}{100} \\ &= \frac{48,174,075.59 \times 0.75}{100} \\ \text{Permit Fee} &= \text{PhP}361,305.57 \end{aligned}$$

A perusal of the evidence presented herein showed that the approval of HPCo's instant *Application* is in accordance with the provisions of Section 9 paragraph 3 of the EPIRA<sup>2</sup> and other issuances of the Commission. The same will also 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 Hawaiian - Philippine Company (HPCo) for authority to develop, own and operate a dedicated point-to-point transmission facility to connect the HPCo Bagasse-Fired Biomass Power Plant to Silay-VMC 69kV transmission lines of the National

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<sup>2</sup> Paragraph (c), Section 9 of the EPIRA provides that TRANSCO will ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for the operations and maintenance of the grid, as set forth in a Grid code to be adopted and promulgated by the ERC within six (6) months from the effectivity of this act;

Grid Corporation of the Philippines (NGCP) is hereby **APPROVED**, subject to the following conditions:

- 1) The National Grid Corporation of the Philippines (NGCP) shall operate and maintain the subject dedicated point-to-point limited facility subject to applicable charges;
- 2) 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;
- 3) The dedicated point-to-point limited facility shall be used solely by the generating facility;
- 4) 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 for optimization. In determining the fair market price, the cost of the facility as incorporated in the determination of the Feed-in-Tariff should be accounted for; and
- 5) HPCo shall enter into a Distribution Wheeling Service Agreement (DWSA) with Northern Negros Electric Cooperative (NONECO) and Central Negros Electric Cooperative (CENECO) on their Distribution Wheeling Service in accordance with Resolution 24, Series of 2013<sup>3</sup>.

*(This space is intentionally left blank.)*

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<sup>3</sup> See, *supra* Note 1.

Relative thereto, HPCo is hereby directed to remit to the Commission, within fifteen (15) days from receipt hereof, the Permit Fee in the total amount of **Three Hundred Sixty One Thousand Three Hundred Five and 57/100 Pesos (PhP361,305.57)**.

**SO ORDERED.**

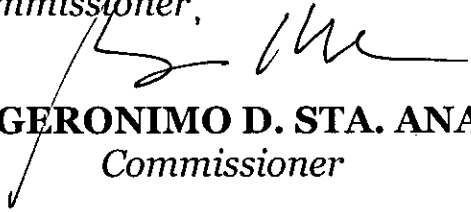
Pasig City, 9 August 2017.

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

  
**ALFREDO J. NON**  
*Commissioner*

  
**GLORIA VICTORIA GAYAP-TARUC**  
*Commissioner,*

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

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

ROS: LLGJ/FED 

LS: CRC/LSH/APV 

Decision-2015-101 MC HPCo

Copy Furnished:

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Barangay Hawaiian, Silay City  
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3. Office of the Solicitor General (OSG)  
134 Amorsolo Street, Legaspi Village, City of Makati 1229

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\* The Chairman was suspended as per Order of the Office of the President (OP-DC Case No. 17-D-094) dated 02 August 2017.

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4. Commission on Audit (COA)  
Commonwealth Avenue, Quezon City 1121
5. Senate Committee on Energy  
GSIS Building, Roxas Boulevard, Pasay City 1300
6. House of Representatives Committee on Energy  
Batasan Hills, Quezon City 1126
7. Office of the City Mayor  
Silay City, Negros Occidental
8. Office of the Governor  
Province of Negros Occidental
9. National Grid Corporation of the Philippines (NGCP)  
Quezon Avenue corner BIR Road, Diliman, Quezon City
10. Philippine Chamber of Commerce and Industry (PCCI)  
3<sup>rd</sup> Floor, Chamber and Industry Plaza (CIP),  
1030 Campus Avenue corner Park Avenue,  
McKinley Town Center, Fort Bonifacio, Taguig City