

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



**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF ELECTRIC
CAPITAL PROJECT FOR
THE RY 2014 WITH PRAYER
FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2014-062 RC

**CLARK ELECTRIC
DISTRIBUTION
CORPORATION (CEDC)
Applicant.**
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D O C K E T E D
Date: APR 12 2018
By: [Signature]

ORDER

Before this Commission for resolution are the following motions filed by the parties relative to the *Decision* dated 29 October 2015 issued by the Commission in the instant case:

1. *Motion for Partial Reconsideration* filed by the Applicant Clark Electric Distribution Corporation (CEDC); and
2. *Comment (to CEDC's Motion for Partial Reconsideration) with Motion for Clarification* filed by the Intervenor National Grid Corporation of the Philippines (NGCP).

FACTS

On 23 May 2014, Applicant CEDC filed an *Application* dated 19 May 2014 for the approval of its Capital Project for Regulatory Year (RY) 2014.

The Applicant alleged therein that it will need to construct and install a new 100 MVA 230kV/69kV Power Transformer at the Clark Development Corporation (CDC) Substation in order to provide adequate and reliable power supply to the additional load customers

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that will be coming into CEDC's franchise area by 2014¹. These additional loads were not considered in CEDC's Application for its Capital Expenditure Program for the entire Second Regulatory Period under ERC Case No. 2010-131 RC² since the additional customers only informed CEDC of their intention to set up or expand their facilities after the said case has been approved³.

Listed below are the new locators/customers and the existing businesses that seek expansion, with their corresponding estimated load requirements:

1. Taiyo Nippon Sanso Clark, Inc. (TNSCI-INGASCO) Air-Separation Plant, which requires 9MW;
2. Medical City Hospital, which requires 3.59MW;
3. Midori Hotel, which requires 1.40MW;
4. Widus Hotel Expansion, which requires 1.09 MW;
5. SM BPO multi-storey buildings (2 buildings), that require a total of 1.75MW;
6. MSK industrial development, which requires 3.51MW;
7. SIA Engineering expansion, which requires 1MW; and
8. Load growth of Yokohama Tire Philippines.⁴

The development and construction of the 100MVA Power Transformer would involve the installation of the following:

1. One (1) bay of 230kV switchyard bus consisting of two (2) 230kV breakers and five (5) 230kV disconnect switches;
2. One (1) 100MVA three-phase power transformer with OLTC;
3. One (1) 69kV breaker;
4. Two (2) 69kV disconnect switches;

¹ Paragraph 6, Application.

² *In the Matter of the Application for Approval of the Annual Revenue Requirement and Performance Incentive Scheme in Accordance with the Provisions of the Rules for Setting Distribution Wheeling Rates (RDWR)*, filed by Applicant Clark Electric Distribution Corporation.

³ Paragraph 5, Application.

⁴ Paragraph 5, Application.

5. Three (3) voltage transformers;
6. Three (3) control/ protection panel;
7. Power and control cables;
8. Grounding system;
9. Extension of the 69kV line from TNSCI-INGASCO substation to Load Break Switch (approximately 0.9km); and
10. Site development.⁵

The Commission issued a *Decision* dated 29 October 2015 with the following disposition:

WHEREFORE, the foregoing premises considered, the application filed by the Clark Electric Distribution Corporation (CEDC) for approval of its capital project for the Regulatory Year 2014 is hereby APPROVED, subject to the following conditions:

- a. The proposed 230 kV switchyard expansion shall be classified as transmission asset;
- b. The proposed one (1) unit 100 MVA 230/69 kV power transformer and associated equipment shall be classified as CEDC's distribution asset;
- c. The approved projects shall be subject to optimization based on its actual use and/or implementation during the reset process for the next Regulatory Period;
- d. The CDC 230 kV switchyard including the 6 kilometers 230 kV lines 1 and 2 connecting CDC 230 kV Switchyard and NGCP's 230 kV Concepcion Substation shall be classified as transmission asset; and
- e. CEDC is directed to remit to the Commission a total permit fee in the amount of One Million Three Hundred Sixty-Six Thousand Eight Hundred Seventy-Five Pesos (PhP1,366,875.00), within fifteen (15) days from receipt hereof.

SO ORDERED.

⁵ Paragraph 10, Application.

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On 11 February 2016, CEDC filed a *Motion for Partial Reconsideration*, praying that the Commission retain the classification of the following as sub-transmission assets:

1. The proposed 230kV switchyard expansion; and
2. The CDC 230kV switchyard, including the 230 kV lines 1 and 2 connecting the CDC 230kV Switchyard and NGCP's 230kV Concepcion Substation.

Furthermore, CEDC argued therein that it needs to have control over the 230kV switchyard expansion to ensure the quality, reliability, security, and affordability of the electricity being served to its consumers.

On 15 March 2016, Intervenor NGCP filed its *Comment (to CEDC's Motion for Partial Reconsideration) with Motion for Clarification*, praying that CEDC's Motion for Partial Reconsideration be denied, and requesting to clarify that the length of the CDC-Concepcion 230kV lines 1 and 2 is actually twenty (20) kilometers, instead of the length of six (6) kilometers approved in the *Decision*.

ISSUES

The issues for the Commission's resolution are:

1. Whether or not the 230kV switchyard expansion should be classified as a sub-transmission asset;
2. Whether or not the CDC 230kV switchyard, including the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation, should be classified as sub-transmission assets;
3. Whether or not CEDC should have control over the 230kV switchyard expansion; and
4. Whether or not the length of the CDC-Concepcion 230kV lines 1 and 2 should be modified to twenty (20) kilometers, instead of six (6) kilometers.

THE COMMISSION'S RULING

The Commission, on 26 July 2016, resolved to **DENY** the *Motion for Partial Reconsideration* filed by CEDC, while the *Motion for Clarification* filed by NGCP to modify the length of the CDC-Concepcion 230kV lines 1 and 2 to twenty (20) kilometers was **GRANTED**. However, due to supervening events⁶, the *Order* could no longer be promulgated without undergoing reconfirmation by the Commission *En Banc*. Thus, the Commission resolved to reconfirm the same on 20 March 2018.

DISCUSSION

On 06 July 2011, the Commission issued ERC Resolution No. 15, Series of 2011, entitled *A Resolution Adopting the Amended Rules for the Approval of the Sale and Transfer of TRANSCO's Subtransmission Assets and the Acquisition by Qualified Consortiums*. Section 2(t) and 2(v) thereof defined Subtransmission Assets and Transmission Assets as follows:

Section 2. Definition of Terms- As used in this Rules, the following terms shall have their respective meanings:

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t) "Subtransmission Assets" shall refer to facilities classified as subtransmission assets based on functional standards established in Article III hereof, including but not limited to step-down transformers used solely by load customers, associated switchyard/substation, control and protective equipment, reactive compensation equipment to improve customer power factor, overhead lines, and the land where such facilities/ equipment are located. These include NPC and/ or TRANSCO assets linking the transmission system and the distribution system, which are neither classified as generation nor transmission;

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v) "Transmission Assets" shall refer to the grid-wide electrical infrastructure through which electricity flows in large quantities between generators or generating plants consisting of several units or blocks of generators and the many more dispersed load centers. Transmission assets are typically characterized as long distance lines, high capacity switching and transformation stations, high degree of meshing of lines, stations that provide path diversity, and sophisticated protection schemes that ensure security against grid-wide disturbances.

⁶ The former Chairman was dismissed pursuant to the *Decision* dated 06 October 2017 issued by the Office of the President.

Relatively, Section 2, Article III of the same Resolution provides the criteria that distinguish transmission assets from subtransmission assets, thus:

Section 2. Technical and Functional Criteria- The assets shall be classified based on the technical and functional criteria enumerated in Sections 4 and 6, Rule 6, Part II of the IRR of the Act, including, but not necessarily limited to, the following:

a) Directly Connected Generators

Lines, power transformers and other assets held by TRANSCO or NGCP, which allow the transmission of electricity to a grid from one or more directly connected generators, shall be classified as transmission assets.

b) Directly Connected End-Users

Radial lines, power transformers, related protection equipment, control systems and other assets held by TRANSCO or NGCP which directly connect an end-user or group of end-users to a grid and are exclusively dedicated to the service of that end-user or group of end-users shall be classified as subtransmission assets.

c) Directly Connected Load- End Substation

Radial lines, power transformers, related protection equipment at the secondary of the power transformers and other assets held by TRANSCO or NGCP which directly connect a load-end substation of one or more distribution utilities to a grid but no directly connected generators shall be classified as subtransmission assets.

Dedicated point-to-point limited facilities of a generation company or connection assets for generators are not classified as subtransmission assets.

The Commission likewise issued ERC Resolution No. 16, Series of 2011, entitled *Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider*, wherein "Connection Assets" was defined as "those assets that are put in place primarily to connect a Customer/s to the Grid and used for purposes of Transmission Connection Services for the conveyance of electricity which if taken out of the System, will only affect the Customer connected to it and will have minimal effect on the Grid, or other connected Customers"⁷.

⁷ Section 2.0, Resolution No. 16, Series of 2011, entitled "A Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider".

In the instant case, CEDC posits that the Commission erred when it treated as transmission assets the 230kV switchyard expansion and the CDC 230kV switchyard, including the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation.

CEDC argues that although NGCP manifested in its *Petition for Intervention* its intention to acquire the CDC Substation (including the 230kV line connected to the Concepcion Substation), the latter did not file a separate application for the reclassification of the said assets. No opportunity was given to CEDC to prove that the said assets are subtransmission assets. CDC, the owner of the said assets, was likewise not given the same opportunity to present its case. As such, the reclassification of the assets violated the right to due process of CEDC and CDC.

In response, NGCP contends that while there is no separate petition filed for the reclassification of the subject assets, its intervention in the instant case already served as a notice to the Commission and to the public that the said assets perform transmission functions. Furthermore, the Mexico-Clark 69kV line of NGCP where CEDC is currently connected has already been reclassified as a transmission asset pursuant to the *Decision* dated 02 March 2015 issued by the Commission in ERC Case No. 2014-029 MC⁸. Consequently, being connected to NGCP's Concepcion 230kV substation and NGCP's Mexico-Clark 69kV Line 2, both transmission assets, the subject assets were properly reclassified as transmission assets in the *Decision* issued by the Commission in the instant case.

CEDC likewise argues that it needs to have control over the 230kV switchyard expansion to ensure the uninterrupted, reliable, secure, and affordable electric service to its customers. Having control would also allow CEDC, without need to coordinate with NGCP, to immediately restore power in case of any tripping or outage of the 100MVA power transformer considering that the said switchyard serves large load customers, including TNSCI-INGACO, Medical City Hospital, Midori Hotel, Widus Hotel expansion, SM BPO multi-storey buildings, MSK industrial development, SIA Engineering expansion, and Yokohama Tire Philippines, Inc. Any delay on the part of CEDC would be prejudicial to its large load customers.

⁸ *In the Matter of the Approval of the Reclassification of the Mexico-Clark 69kV Lines 1 and 2 into Transmission Asset*, filed by Applicant National Grid Corporation of the Philippines (NGCP).

NGCP responded thereto alleging that the switchyard expansion, including the 230kV bay circuit breakers, disconnect switches, instrument transformers, secondary devices, etc. that are connected to CEDC's 100MVA 230kV/ 69kV power transformer, serves not only CEDC but also all the other loads connected to Clark 230kV Substation and Concepcion-Clark 230kV lines 1 and 2. As such, these perform transmission functions. Thus, for the security of the Grid, NGCP should have control over the switchyard expansion.

The Commission finds no merit in the arguments advanced by CEDC to support its position that the subject assets, namely the 230kV switchyard expansion and the CDC 230kV switchyard, including the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation, should be classified as subtransmission assets.

Although NGCP did not file a separate application to reclassify the assets subject of the instant *Motion for Partial Reconsideration*, the Commission may *motu proprio* reclassify the said assets based on the technical and functional criteria set forth in Section 2, Article III of Resolution No. 15, Series of 2011 stated above.

In its *Decision* dated 23 March 2015 under ERC Case No. 2014-086 MC⁹, the Commission *motu proprio* resolved to classify the following subtransmission assets that are interconnected to the Gamu-Naguilian 69 kV line, the subject of the reclassification case:

1. The Santiago-Cauayan 69 kV line,
2. The Cauayan- Reina Mercedes 69 kV line, and
3. The Naguilian-Reina Mercedes 69 kV line.

⁹ In the Matter of the Petition for Approval of the Reclassification of the National Transmission Corporation (TRANSCO) 69 kV Gamu-Naguilian Sub-transmission Asset to Full Transmission Asset, filed by Petitioner Green Future Innovations, Inc.

Figure 1

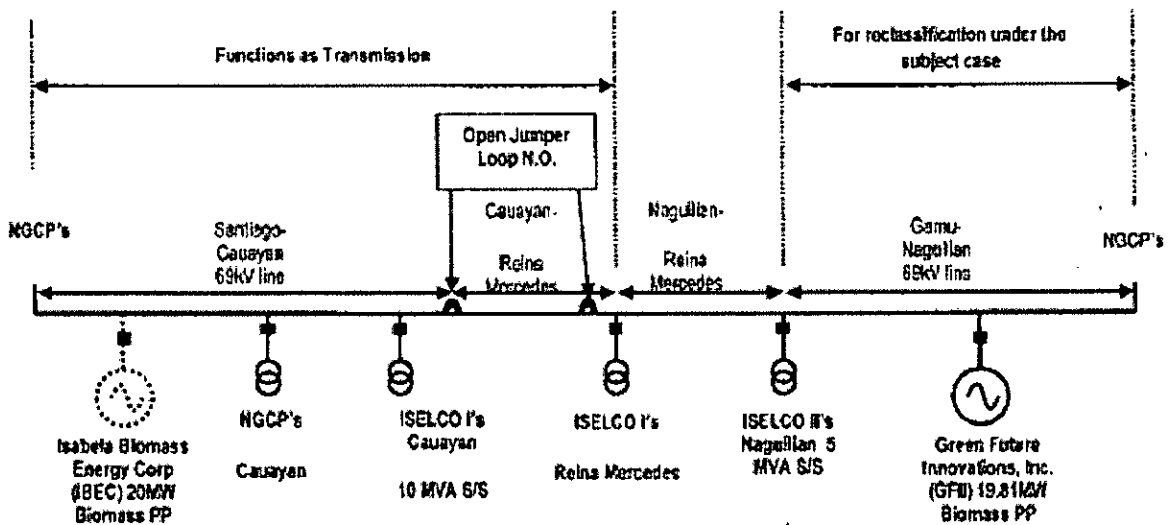


Figure 1 above shows the interconnection between the Gamu-Naguilian 69 kV line reclassified therein as a transmission asset, and the other subtransmission assets reclassified as transmission assets by the Commission *motu proprio*. It can be seen that all the interconnected lines are connected to NGCP's substations located on opposite ends. Thus, it was necessary to reclassify the above-enumerated sub-transmission assets as transmission assets along with the reclassification of the Gamu-Naguilian 69kV line.

Similarly, in the instant case, it was necessary for the Commission to *motu proprio* reclassify as transmission assets the 230kV switchyard expansion and the CDC 230kV switchyard, including the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation.

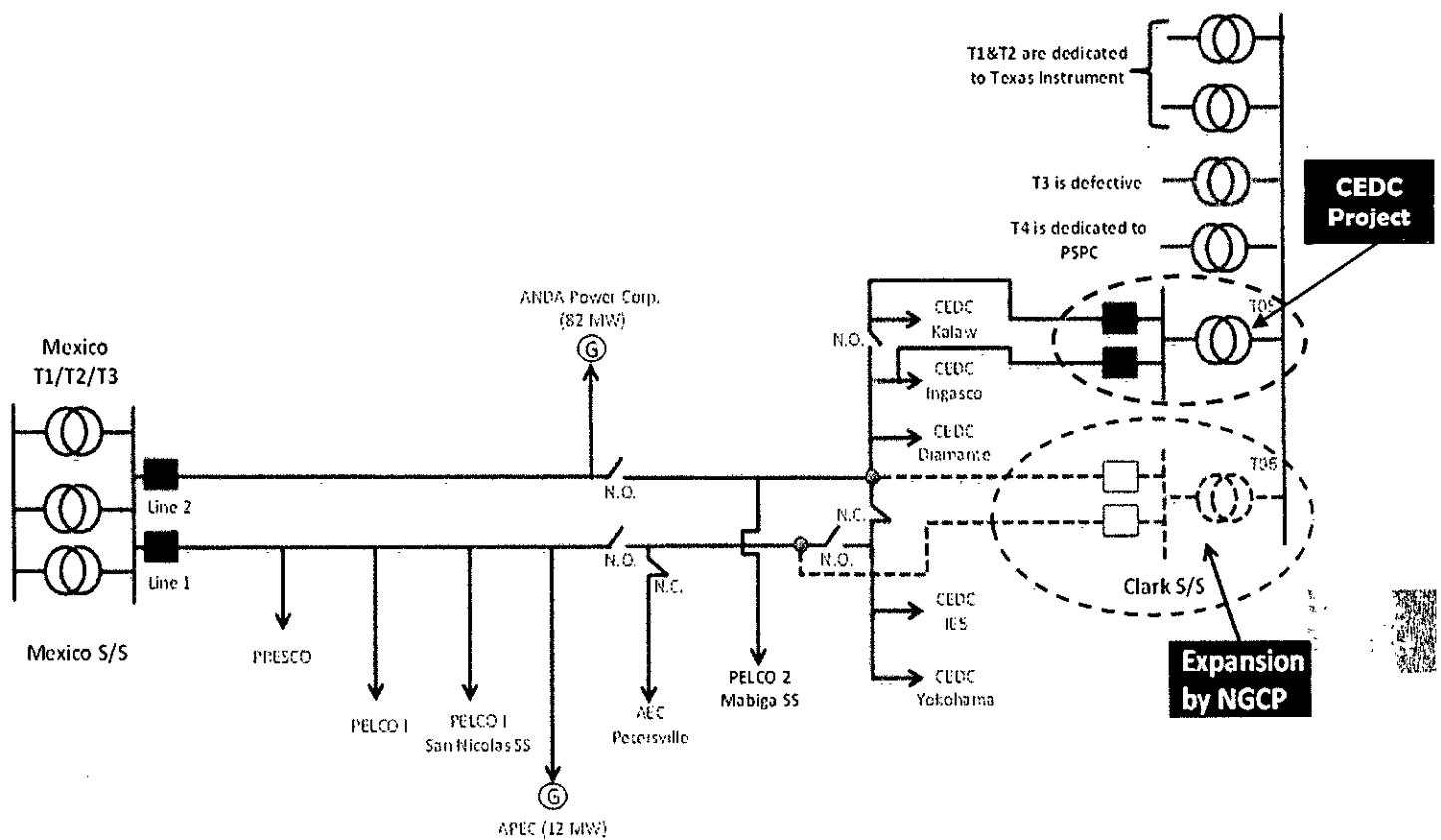
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The said provisional approval of the Clark-Mabiga 69kV Transmission Line Project reinforces the fact that the CDC 230kV switchyard will be performing transmission functions as the same forms a loop to connect NGCP's Mexico Substation and Concepcion Substation.

Figure 3 below shows the reconfiguration at the Mexico-Clark 69kV Lines 1 and 2 upon the completion of CEDC's proposed 100MVA transformer and of the Clark-Mabiga 69kV Transmission Line.

Figure 3



Meanwhile, the Commission resolves to hand over the control of the 230kV switchyard expansion to NGCP's System Operator (SO).

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As discussed above, the 230kV switchyard expansion performs transmission functions, and is classified as a transmission asset. It serves two (2) distribution utilities (DU), namely CDC and CEDC. Consistent with prevailing rules and jurisprudence, the control over the 230kV switchyard expansion could not be given to any one of the several DUs connected to the said asset, as in the instant case. Thus, the NGCP's SO, a neutral third party, is hereby granted the control over the 230kV switchyard expansion.

Finally, as regards the motion of NGCP alleging that the length of the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation should be twenty (20) kilometers, instead of the length of six (6) kilometers that has been approved by the Commission in its *Decision* dated 29 October 2015, it is now hereby clarified that based on the submitted documents, the length of the said lines is indeed 20 kilometers.

Thus, the Commission hereby grants the motion of NGCP to reflect the length of the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation to be 20 kilometers.

WHEREFORE, in view of the foregoing, the Commission hereby resolves to **DENY** the *Motion for Partial Reconsideration* filed by Applicant Clark Electric Distribution Corporation. Consequently,

- a) the 230kV switchyard expansion shall be classified as a transmission asset;
- b) the CDC 230kV switchyard, including the 230kV lines 1 and 2 connecting the CDC 230kV switchyard and NGCP's 230kV Concepcion Substation shall be classified as transmission assets by function; and
- c) the System Operator of NGCP shall have control over the 230kV switchyard expansion.

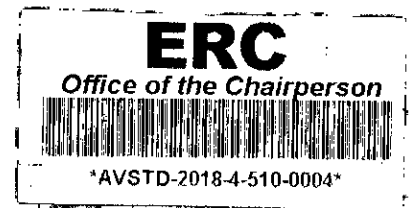
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Furthermore, the *Motion for Clarification* filed by Intervenor National Grid Corporation of the Philippines to modify the length of the CDC-Concepcion 230kV lines 1 and 2 to twenty (20) kilometers is hereby **GRANTED**.

SO ORDERED.

Pasig City, 20 March 2018.


AGNES VST DEVANADERA
Chairperson and CEO





ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
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