

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



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
AUTHORITY TO DEVELOP,
OWN AND OPERATE POINT
TO POINT FACILITIES, WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2017-011 MC

**LAMSAN POWER
CORPORATION (LPC),
Applicant.**

X -----X

D O C K E T E D
Date: APR 18 2018
By: [Signature]

DECISION

Before this Commission for resolution is the *Application* dated 15 June 2017 filed on 28 June 2017 by Applicant Lamsan Power Corporation (LPC) for the approval of its authority to develop, own, and operate point to point facilities, with prayer for provisional authority.

In its *Application*, LPC alleged the following:

Applicant **LAMSAN POWER CORPORATION (LPC)**, by and through the undersigned Firm, unto this Honorable Commission, most respectfully avers: That –

1. LPC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Lamsan Industrial Complex, Barangay Crossing Simuay, Sultan Kudarat 9605, Maguindanao, Philippines.
2. LPC is a corporation primarily engaged in the business of providing power generation and electric supply services to distribution utilities. Copies of relevant corporate documents of LPC are herewith attached to form integral parts hereof, as follows:

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| ANNEX | DOCUMENT |
|-------|--|
| "A" | Certificate of Incorporation |
| "A-1" | General Information Sheet for Year 2017 |
| "A-2" | Statement of Financial Position filed with the Bureau of Internal Revenue on 13 April 2016 |

3. LPC owns and shall operate the 15.0MW Lamsan Biomass Power Plant Project (the "Power Facility") located at Barangay Crossing Simuay, Sultan Kudarat, Maguindanao, in order to address the country's need for additional supply of electricity. LPC has been included in the NGCP Transmission Development Plan ("TDP") as of 16 May 2017. A copy of the NGCP Certification of Inclusion is herewith attached to form an integral part hereof as **Annex "B"**.
4. The 15MW generating unit is rated at 69kV output voltage with 18.75MVA 13.8/69kV step up transformer. The Power Facility is expected to deliver approximately 13.5MW at full dispatch to the Grid through direct connection to the 69kV feeder of NGCP Sultan Kudarat Substation.
5. To fully dispatch the power generated by the Power Facility, LPC shall be connected directly to the Grid through the point-to-point transmission facilities developed, owned and operated by LPC. The tapping points between the Power Facility and the NGCP Sultan Kudarat Substation is approximately One Thousand One Hundred Forty Five (1,145) meters.
6. The instant *Application* is hereby filed to seek the Honorable Commission's authorization to develop, own and operate the proposed dedicated point-to-point transmission facilities pursuant to Section 9(f) of the Republic Act No. 9136 otherwise known as "*Electric Power Industry Reform Act of 2001*", and Section 5, Rule 5 of its Implementing Rules and Regulations, which provides that:

Section 9 of the Republic Act No. 9136

“(f) xxx 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.”

Section 5, Rule 5 of the IRR of R.A. No. 9136

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

- (a) Subject to prior authorization from the 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;
 - (ii) The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and
 - (iii) Any other required documents that may be required by the ERC.

XXXXX

- 7. The foregoing proposed dedicated point-to-point transmission facilities are required only for the purpose of connecting the Power Facility to the Grid, and shall be used solely by LPC. They are not intended to serve end-users or suppliers directly;
- 8. A Third-Party System Impact Study (“SIS”) was conducted to determine the most feasible and viable means of dispatching energy from the Power Facility. The SIS was approved by the NGCP on 10 April 2015.¹
- 9. Considering that NGCP Sultan Kudarat Substation is adjacent to LPC’s property, requiring a transmission line that is approximately 1,145 meters, LPC determined that this proposed connection is the most viable connection point to the Grid. Moreover, no other substation is within the vicinity of the Project Facility. A copy of the *Options/Alternatives* is herewith attached to form an integral part hereof as **Annex “C”**.
- 10. LPC intends to apply for Feed-In Tariff (“FIT”). Hence, the full 15.0MW injection from the Power Facility does not have adverse impact to the Grid.
- 11. Further, the Third-Party SIS indicated the following favorable simulation results: (i) the entry of the Power Facility in Sultan Kudarat will approximately unload the existing Kibawe-Sultan

¹ Please see Annex “B”

2/18

Kudarat 138kV T/L by half; ii) the entry of the Plant Facility will increase the bus voltage magnitude in the area within acceptable limits; iii) the fault rating of the power circuit breakers in the area such as Sultan Kudarat, Kibawe and Tacurong Substations and nearby substations, are still sufficient for the resulting fault level upon entry of the Power Facility; iv) during maximum dispatch of the Power Facility, the simulation reveals that there will be no significant impact in the system frequency when the said unit is at its maximum capacity and then trips; and v) there will be no operational constraint for the direct connection of the Power Facility to NGCP's Sultan Kudarat Substation.

12. For the design, installation, testing, and commissioning of the proposed dedicated point-to-point limited transmission facilities, LPC engaged the services of Meter King Incorporated ("Meter King"), a corporation primarily involved in dealing, manufacturing, and importing of Transmission and Distribution Lines, Power Substations and other Electrical Works. A copy of Meter King's Company Profile is herewith attached to form an integral part hereof as **Annex "D"**;
13. Likewise, LPC engaged the services of Glemich Builders and Trading, Inc. ("Glemich Builders") for the operation and maintenance of the transmission facilities. Glemich Builders' Company Profile is herewith attached to form an integral part hereof as **Annex "E"**;
14. Meanwhile, when completed, LPC shall, at its own cost and expense, be responsible for the operation and maintenance of the transmission facilities in accordance with the Philippine Grid Code ("PGC") and/or other applicable laws or regulations and their interconnection agreements;
15. To fully support herein *Application* for the approval of the development and ownership or operation of the proposed dedicated point-to-point limited transmission facilities, LPC intends to submit the Judicial Affidavit of Engr. Emerald A. Gabatilla.
16. The following documents are hereby submitted for the Honorable Commission's consideration:

| ANNEX | DOCUMENT |
|--------------|---|
| "F" | Project Description of the proposed dedicated point-to-point limited transmission facility |
| "C" | Options or alternatives considered in lieu of the proposed dedicated point-to-point limited transmission facilities |
| "G" | Single Line Diagram |
| "H" | Connection Line Lay-out |
| "I" | Key Management Officials of LPC |
| "J" | Work Schedule for the proposed dedicated point-to-point limited transmission facilities ("Gantt Chart") |
| "K" | LPC's Projected Income Statement and Balance Sheet |

| | |
|-----|---|
| “L” | Secretary’s Certificate authorizing the filing of an application with the Honorable Commission for authority to undertake the same; designating a representative to said application; and engaging the services of MOSVELDTT Law Office thereof |
|-----|---|

ISSUANCE OF PROVISIONAL AUTHORITY

17. All the foregoing allegations are herein repleaded by reference in support of the instant *Prayer* for the issuance of a provisional authority;
18. A provisional authority to develop, own and operate the proposed dedicated point-to-point limited transmission facilities to connect the Power Facility to the Grid by direct connection to NGCP Sultan Kudarat Substation. The proposed dedicated point-to-point limited transmission facilities is indispensable for LPC to deliver temporary supply of power generated to South Cotabato II Electric Cooperative, Inc. (“SOCOTECO II), as committed under the provisions of the *Memorandum of Agreement* (“MOA”) between LPC and SOCOTECO II.
19. Meanwhile, to emphasize the necessity of a provisional approval of herein *Application*, LPC intends to submit a Judicial Affidavit of Engr. Emerald A. Gabatilla.
20. Rule 14, Section 3 of the *ERC Rules of Practice and Procedure*, provides for the issuance of a Provisional Authority pending approval of the *Application*, to wit:

“Section 3. Action on the Motion. – Motions for the provisional authority or interim relief may be acted upon with or without hearing. The Commission shall act on the motion on the bases of the allegations of the application or petitions and supporting documents and other evidences that applicant or petitioner has submitted and the comment or opposition filed by any interested person, if there be any.”
[Emphasis ours]

PRAYER

WHEREFORE, in view of all foregoing, it is most respectfully prayed for of this Honorable Commission that prior to and/or pending hearing on the merits, a **PROVISIONAL AUTHORITY** be issued to immediately allow the development or operation of the proposed dedicated point-to-point limited transmission facilities to connect the 15.0MW Lamsan Biomass Power Plant Project to the Grid by direct connection to the NGCP Sultan Kudarat Substation; and that after due notice and hearing, **FINAL AUTHORITY** be issued to permanently authorize the same

Other reliefs as may be just and equitable under the premises are, likewise, most respectfully prayed for.

Having found the said *Application* to be sufficient in substance with the required fees having been paid, the Commission issued an *Order* and a *Notice of Public Hearing*, both dated 30 August 2017, setting the case for jurisdictional hearing, expository presentation, pre-trial conference, and evidentiary hearing on 17 October 2017.

In the same *Order*, LPC was directed to 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 hearing. LPC was also directed to inform the consumers within the concerned area, by any other means available and appropriate, of the filing of the instant *Application*, its reasons therefor, and of the scheduled hearing thereon.

Likewise, LPC was directed to furnish the Offices of the Governor, the City and Municipal Mayors and the Local Government Unit (LGU) Legislative Bodies within the areas affected by LPC's proposed dedicated point-to-point transmission facilities for the appropriate posting thereof on their respective bulletin boards.

On 11 October 2017, LPC filed its *Pre-Trial Brief* dated 09 October 2017.

However, the hearing scheduled on 17 October 2017 was cancelled in view of the transport strike that resulted in the cancellation of work in the government pursuant to Memorandum Circular No. 29 issued by the Office of the President of the Philippines.

Thus, the Commission once again issued an *Order* and a *Notice of Public Hearing*, both dated 30 October 2017, resetting the hearing of the instant case to 07 December 2017.

During the hearing on 07 December 2017, only applicant LPC appeared.

The Commission looked into the documents presented by the Applicant to prove its compliance with the publication and posting requirements provided in the *Order* dated 30 October 2017, all of which were requested to be marked as Exhibits "M" to "W-1", inclusive. Thereafter, the Commission verified LPC's full compliance

6/3

with the said directives. Thus, the Commission acquired jurisdiction over the instant case.

The expository presentation of the Application was conducted by LPC's sole witness, Engr. Emerald A. Gabatilla (Engr. Gabatilla), an Electrical Engineer of LPC. He was placed under oath.

Upon motion of LPC, and considering that no one else manifested their intent to participate in the proceedings either as an intervenor or an oppositor, the Commission issued an order of general default against anyone else not present during the hearing.

Furthermore, considering that there are no other parties to the instant case, the Commission adopted the matters contained in LPC's *Pre-Trial Brief*.

Thereafter, Engr. Gabatilla was called to the witness stand who testified under the same oath. He identified his Judicial Affidavit (JA) and his signature thereon, which were marked as Exhibits "X" and "X-1", respectively. The JA of Engr. Gabatilla was likewise adopted as his direct testimony in the instant case.

The Commission propounded clarifying questions to Engr. Gabatilla that he was able to answer. Considering that there are no other parties in the instant case, no further cross-examination was conducted on Engr. Gabatilla. Thus, the examination of the said witness was declared terminated by the Commission.

Subsequently, on 12 December 2017, applicant LPC filed its *Formal Offer of Evidence* (FOE) dated 11 December 2017.

The Commission issued an *Order* dated 26 February 2018 admitting the exhibits contained in the FOE submitted by LPC, and submitting the case for resolution.

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ISSUE

The issues to be resolved in this case are the following:

1. Whether or not LPC should be granted the authority to develop, own, and operate the Connection Asset; and
2. Whether or not LPC is financially and technically capable to develop, own, and operate the Connection Asset.

THE COMMISSION'S RULING

The Commission hereby APPROVES the instant *Application* and GRANTS LPC the authority to develop and own a dedicated point-to-point limited facilities, subject to compliance with several conditions.

DISCUSSION

I. Project Description

LPC proposes to transmit the power generated by its 15MW Lamsan Biomass Power Plant to the Mindanao Grid of the National Grid Corporation of the Philippines (NGCP) through the construction of dedicated point-to-point limited transmission facilities that will be connected to NGCP's Sultan Kudarat Nuling Substation. The said transmission facility will have a length of about 1.145 kilometers from the plant, and will be made up of 336.4 MCM ACSR conductors with 13 steel poles.

II. Project Cost

The total estimated cost of the proposed project is Eight Million Seven Hundred Thirty-Five Thousand Five Hundred Forty-Eight and 8/100 Pesos (PhP8,735,548.08), the breakdown of which is shown in the table below, thus:

Table 1. Breakdown of the Proposed Project Cost.

| Description | Quantity | Unit Cost (PhP) | Total Cost (PhP) |
|--|----------|-----------------|---------------------|
| 1. LPC 69 kV Dedicated Transmission Line | 1 Lot | 3,764,684.45 | 3,764,684.45 |
| 2. Optical Ground Wire | 1 Lot | 3,164,400.00 | 3,164,400.00 |
| 3. H-Frame | 1 Lot | 1,285,910.83 | 1,285,910.83 |
| 4. Additional Materials | 1 Lot | 520,552.80 | 520,552.80 |
| Grand Total (PhP) | | | 8,735,548.08 |

It should be noted that the estimated cost is only for the purpose of computing the applicable permit fee, which is based on the total project cost evaluated and without regard to the functions and classifications of each facility.

It should also be emphasized that the amounts reflected in Table 1 are not necessarily the fair market values that should be used in the event that the subject assets are actually transferred to the National Transmission Corporation (TransCo)/NGCP for competitive purposes.

Furthermore, LPC is eligible to operate under the Feed-in-Tariff (FIT) System, and has a corresponding Certificate of Endorsement under the Feed-in-Tariff System (COE-FIT) issued by the Department of Energy (DOE). Since the FIT Rate includes the cost of the dedicated point-to-point limited facility, the said amount already incorporated shall be considered once the asset is transferred to NGCP/TransCo, thus:

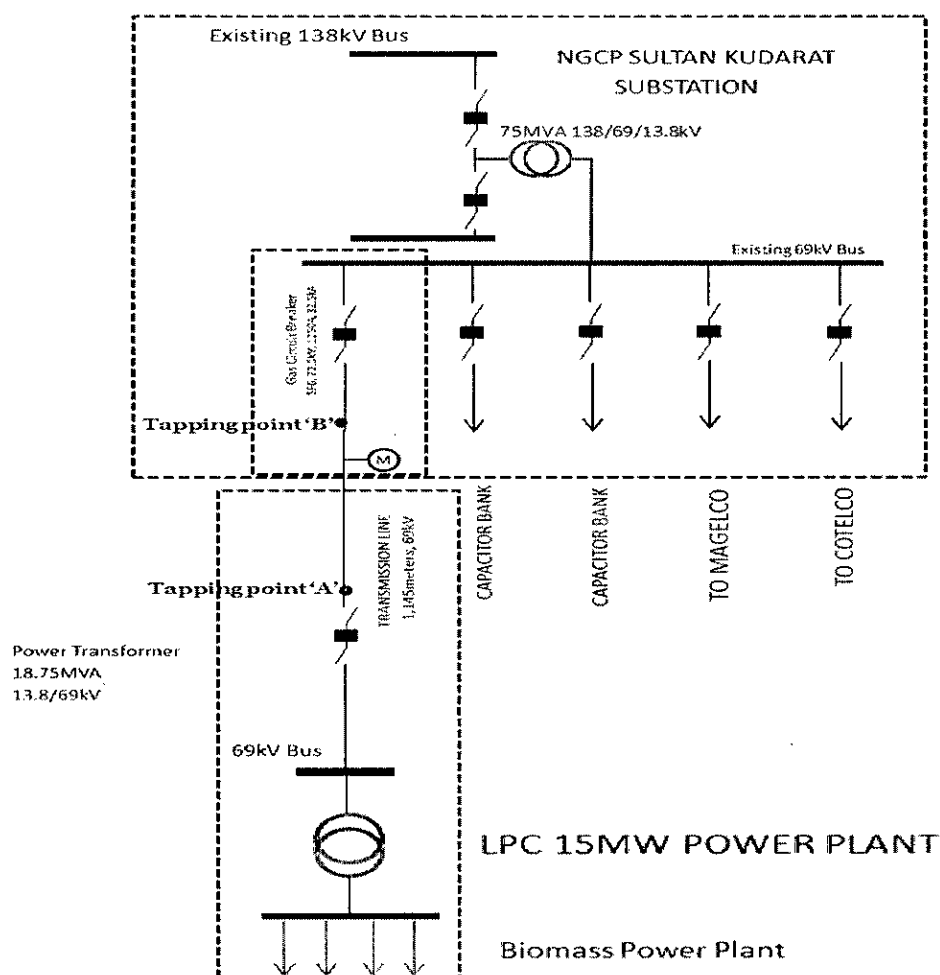
- If the fair market value of the asset (subject to optimization) is higher than the facilities' cost incorporated in the determination of the FIT Rate, NGCP/TransCo shall pay the difference between the said cost and the fair market value.
- On the other hand, if the fair market value of the asset (subject to optimization) is lower than the facilities' cost incorporated in the determination of the FIT Rate, the asset shall be treated as a Contribution in Aid of Construction (CIAC). NGCP must maintain a separate account for these amounts, and the assets should not appear in its rate base or in its asset appraisal.

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III. Single Line Diagram

Figure 1 below is the Single Line Diagram (SLD) pertaining to the proposed project subject of the instant *Application*.

Figure 1.



IV. The Commission's Evaluation

In evaluating the project proposed by LPC, the Commission considered the following:

- a) **Result of the Facility Study (FS) conducted by a Third Party and the System Impact Study (SIS) approved by NGCP**

LPC commissioned Almario's Computer, Civil, Electrical Protection and Safety Technology to conduct a System Impact Study (SIS) to determine the technical feasibility of connecting the 15 MW Lamsan Biomass Power Plant to the Mindanao Grid.

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Study (SIS) to determine the technical feasibility of connecting the 15 MW Lamsan Biomass Power Plant to the Mindanao Grid.

Overall, the third party consultant confirmed that the connection of the 15 MW Lamsan Biomass Power Plant to the Mindanao Grid is technically feasible.

The Final Review Report on the Third Party SIS released by NGCP in December 2014 likewise confirmed that the Lamsan Biomass Power Plant can be integrated into the Mindanao Grid via the 69 kV line that connects directly to NGCP's Sultan Kudarat Nuling Substation.

b) Options/Alternatives Considered by LPC

Based on the application, no other connection scheme was considered by the Applicant because of the short distance between NGCP's Sultan Kudarat Nuling Substation and the 15MW Lamsan Biomass Power Plant. No other substation is within the vicinity of the Power Plant. Thus, the proposed route proves to be the most practical option for LPC considering that NGCP's Sultan Kudarat Nuling Substation is adjacent to LPC's property. This allows for a clear and direct path from LPC's Switchyard to NGCP's Sultan Kudarat Nuling Substation.

c) Technical Configuration

To reiterate, for LPC to dispatch its generated power to the grid, it should connect its Biomass Power Plant to the Mindanao Grid. By default, NGCP is mandated by law to connect generation companies, distribution utilities, and other users requiring transmission services. However, Section 9 (f) of Republic Act No. 9136, or the *Electric Power Industry Reform Act of 2001* (EPIRA), gives generation companies an option to develop, own, and operate dedicated point-to-point limited facilities, *to wit*:

(f) 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.

Having a capacity of 15 MW, the biomass power plant of LPC shall be classified as large generator in the Mindanao Grid consistent with the provisions of the Philippine Grid Code (PGC) and should comply with the provisions of the same, to wit:

GCR4.4.1.1 Requirements Relating to the Connection Point

GCR4.4.1.1.1 The Large Generating Plant's Equipment shall be directly connected to the Grid.

GCR4.4.1.1.2 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.

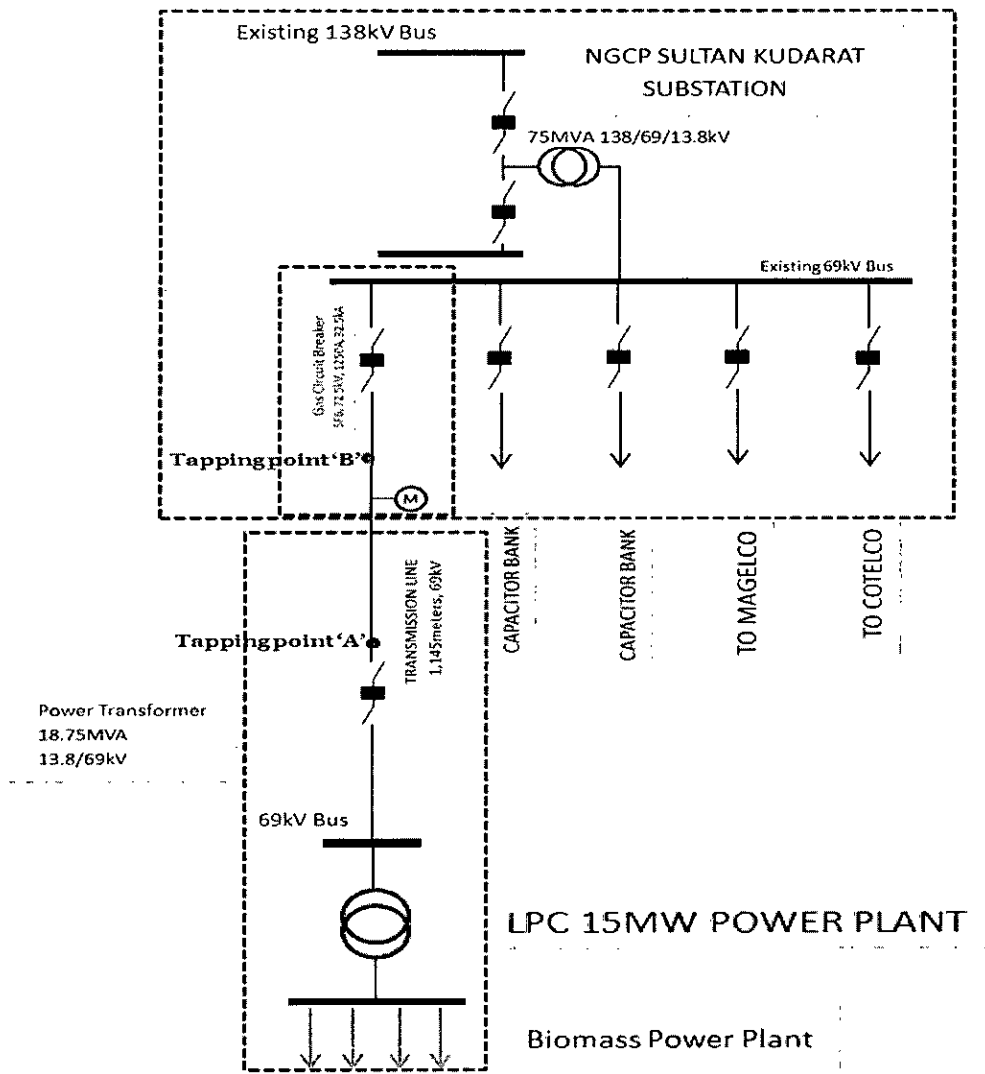
GCR4.4.1.1.3 The Connection Point shall be controlled by a Circuit Breaker that is capable of interrupting the maximum short circuit current at the point of connection.

GCR4.4.1.1.4 Disconnect switches shall also be provided and arranged to isolate the Circuit Breaker for maintenance purposes.

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The SLD below illustrates LPC's compliance with the provisions of the PGC and the requirements of NGCP in its Facility Study and SIS:

Figure 2.



The point of interconnection between NGCP and LPC, shown as tapping point "B" above, will be at the 69 kV bus of the NGCP Sultan Kudarat Nuling Substation through the 1.145 kilometers 69 kV line, and utilizing the connected 336.4MCM ACSR conductor.

The connection point is controlled by a circuit breaker that is capable of interrupting the maximum short circuit current at tapping point "B". In addition, the switchyard is equipped with disconnect switches, surge arresters, instrument transformers, protective relays and its accessories that are compliant with the requirements of NGCP.

13/8

The dedicated point-to-point limited transmission facility subject of the instant *Application* have complied with the standards in equipment grounding, the requirements in communication, and the Supervisory Control and Data Acquisition (SCADA) for monitoring and control.

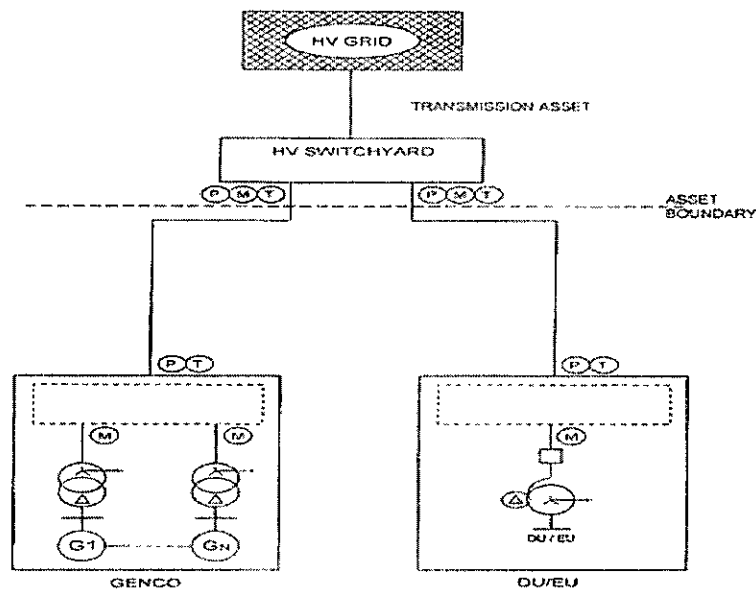
The Commission likewise confirms, as observed during the ocular inspection, that the metering point of LPC's Biomass Power Plant is located near the connection point, in compliance with Section 9.2.1 of the PGC, *to wit*:

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

GMR 9.2.1.2 The metering facility shall be located between the disconnect switch and Circuit Breaker.

However, the assets installed at NGCP's Sultan Kudarat Nuling Substation are not dedicated point-to-point limited facilities. The said assets are Transmission Assets by function in accordance with ERC Resolution No. 23, Series of 2016, entitled "A Resolution Adopting Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Providers", particularly Standard Grid Interconnection Variant 4, *to wit*:

Figure 3.



Variant 4: Connection to the Grid of Generation Company and Distribution Utility/End-User with the HV Switchyard owned by NGCP/TransCo or (formerly) owned by GENCO or End-User

| LEGEND | |
|--------|-------------------|
| (P) | Protection |
| (M) | Metering |
| (T) | Telecom Equipment |

d) Technical and Financial Capability

LPC manifested that it will engage the services of NGCP to undertake the operation and maintenance of the dedicated facility involving, among others, the periodic inspection of the point-to-point interconnection facilities and the regular assessment of poles and wire conditions.

LPC further claimed that it has the financial capability to undertake the development and construction of the dedicated point-to-point limited line.

However, LPC's financial capability will be assessed in its application for Certificate of Compliance (COC) to ensure that the applicant has complied with the financial qualifications set forth in the Financial Guidelines for Generation Companies.

V. 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 project based on its total project cost. It must be remembered that the project includes facilities that perform transmission function, and not just dedicated point-to-point limited facilities. Since the application was filed solely by LPC, which includes facilities to be transferred to NGCP, the permit fee should be paid solely by the LPC based on the total cost of the project. The permit fee is computed as follows:

$$\begin{aligned} \text{Permit Fee} &= \frac{\text{Total Project Cost} \times 0.75}{100} \\ &= \frac{8,735,548.08 \times 0.75}{100} \\ \text{Permit Fee} &= \underline{\text{PhP65,516.61}} \end{aligned}$$

15/3

A perusal of the documents submitted by LPC shows that the approval of the instant *Application* is in accordance with the provisions of Section 9, Paragraph 3 of the EPIRA, as well as with other issuances of the Commission. Furthermore, the project will redound to the benefit of the consumers in terms of being provided with continuous, quality, reliable and efficient power supply.

WHEREFORE, in view of the foregoing, the *Application* filed by Lamsan Power Corporation (LPC) for authority to develop and own a dedicated point-to-point limited facility to connect the 15 MW Lamsan Biomass Power Plant to the Mindanao Grid of the National Grid Corporation of the Philippines (NGCP) via a tap connection at NGCP's Sultan Kudarat Nuling Substation is hereby **APPROVED**, subject to the following conditions:

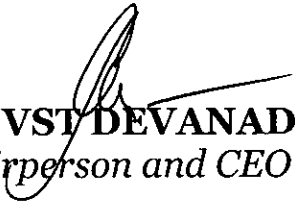
- 1) NGCP shall operate and maintain the subject dedicated point-to-point limited facility, subject to applicable charges;
- 2) LPC shall execute an undertaking or similar document/s that it will turn over to NGCP at fair market value those assets installed at the NGCP's Sultan Kudarat Nuling Substation that perform transmission function;
- 3) The subject facilities 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;
- 4) The dedicated point-to-point limited facility shall be used solely by the generating facility;
- 5) The metering point shall be at the connection point in accordance with the Philippine Grid Code (PGC);
- 6) The ownership of any portion of the dedicated point-to-point limited facilities required for competitive purposes or to connect any other user 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 the Feed-in-Tariff (FIT) should be accounted for.

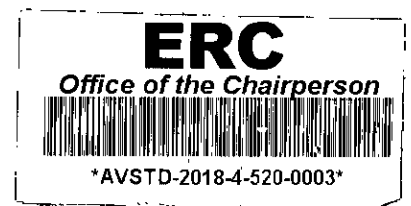
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Lastly, LPC is hereby directed TO REMIT to the Commission, within fifteen (15) days from receipt hereof, the Permit Fee amounting to *Sixty Five Thousand Five Hundred Sixteen and 61/100 Pesos (PhP65,516.61)*.

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
Commissioner


GERONIMO D. STA. ANA
Commissioner


LS: JCM/ARG/GLS/APV


ROS: JRS/REGR/REM/LLG/FFD

17/6

Copy Furnished:

1. Atty. Anne Marie Joy B. Amantillo
MOLO SIA DY TUAZON TY & COLOMA LAW OFFICES
Counsel for Applicant LPC
Unit 901 One Corporate Center, Doña Julia Vargas cor.
Meralco Avenue, Ortigas Center, Pasig City
2. Lamsan Power Corporation (LPC)
Applicant
Lamsan Industrial Complex, Barangay Crossing Simuay,
Sultan Kudarat 9605, Maguindanao, Philippines
3. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village,
Makati City, Metro Manila
4. Commission on Audit
Commonwealth Avenue, Quezon City, Metro Manila
5. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City, Metro Manila
6. House Committee on Energy
Batasan Hills, Quezon City, Metro Manila
7. Office of the President
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
8. Office of the Provincial Governor
Province of Maguindanao
9. Office of the Sangguniang Panlalawigan
Province of Maguindanao
10. Office of the City Mayor
Pasig City
11. Office of the Sangguniang Panlungsod
Pasig City
12. Office of the Municipal Mayor
Sultan Kudarat, Maguindanao
13. Office of the Sangguniang Bayan
Sultan Kudarat, Maguindanao
14. Regulatory Operations Service
17th Floor, Energy Regulatory Commission,
Pacific Center Building, San Miguel Avenue,
Ortigas Center, Pasig City

18/3