

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



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP,
OWN AND OPERATE
DEDICATED POINT-TO-
POINT LIMITED
TRANSMISSION
FACILITIES TO CONNECT
THE OCCIDENTAL
MINDORO CONSOLIDATED
POWER CORPORATION'S
24 MW BUNKER FUEL
POWER PLANT TO THE
MINDORO GRID WITH
PRAYER FOR RECOVERY
OF COSTS AND WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2016-037 MC

**OCCIDENTAL MINDORO
CONSOLIDATED POWER
CORPORATION (OMCPC),
Applicant.**

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D O C K E T E D
Date: APR 20 2018
By: W

ORDER

Notice is hereby given that on 2 December 2016, an *Application* dated 2 December 2016 was filed by applicant Occidental Mindoro Consolidated Power Corporation (OMCPC) seeking the Commission's approval for its authority to develop, own and operate a dedicated point-to-point limited transmission facilities to connect the Occidental Mindoro Consolidated Power Corporation's 24 MW Bunker Fuel Power Plant to the Mindoro Grid with prayer for the recovery of costs and with prayer for the issuance of provisional authority.

OMCPC alleged the following in its Application:

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THE PARTIES

1. Applicant OMPCPC is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at Unit 1001, 10th Floor, Galleria Corporate Center, EDSA cor. Ortigas Ave., Ortigas Center, Quezon City.

Copies of Applicant OMPCPC's Certificate of Incorporation, Amended Articles of Incorporation, By-Laws and its latest General Information Sheet are attached hereto as **Annexes "A" and series**.

2. Applicant OMPCPC may be served orders and other processes through the undersigned counsel.

3. Respondent National Power Corporation ("NPC") is a government-owned and controlled corporation duly organized and existing under and by virtue of Republic Act No. 6395, as amended, with principal office at the corner of Agham Road and Quezon Avenue, Diliman, Quezon City.

4. Under Section 70 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 ("EPIRA"), NPC "shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system."

5. NPC may be served orders and other processes at the aforementioned address.

NATURE OF THE APPLICATION

6. This Application seeks the consideration and approval of this Honorable Commission for Applicant OMPCPC to develop, own and operate dedicated limited point-to-point 69 kV transmission facilities that will connect its 24 MW Bunker Fuel Power Plant located in the municipality of San Jose, Occidental Mindoro ("Power Plant") to the Mindoro Grid via a cut-in connection to the existing Mamburao S/S – San Jose S/S 69 kV line of the National Power Corporation ("NPC").

STATEMENT OF THE FACTS

7. **Prevailing Power Supply Shortage in Occidental Power.** Over the past years, the residents of Occidental Mindoro have experienced daily power interruptions.

8. In fact, San Jose, the province's capital town, was once dubbed as the "Blackout Capital of the Philippines" because of the daily power outages that last between six to twelve (6-12) hours a day. These daily blackouts have been ongoing for almost two (2) decades already.

9. Further, aside from the inconvenience and the disruptions that the outages cause to the daily lives of the residents

of Occidental Mindoro, they have also hampered the growth of the commercial and tourist activity in the province.

10. Unfortunately, these power outages are expected to continue and worsen in the coming years due to the steadily increasing demand for electricity in the area as well as due to the lack of available reliable power supply.

11. Hence, there is a need to procure sufficient and reliable power supply for the province.

12. **Power Supply from OMCP.** In order to provide the necessary power supply in Occidental Mindoro, Applicant OMCP has undertaken to develop and construct the Power Plant. The said power plant will help supply the much needed power to the Mindoro Grid, and will ensure that there is sufficient supply to meet the total power demand in Occidental Mindoro.

13. In fact, upon construction of the Power Plant, the power demand in Occidental Mindoro will already be provided solely by OMCP, instead of NPC.

14. However, as discussed hereunder, in order to deliver the supply from the Power Plant, it is necessary to connect the said plant to the Mindoro Grid through the dedicated limited point-to-point 69 kV transmission facilities subject of the present Application.

15. Under Republic Act No. 9136, authorization from this Honorable Commission is required for a generation company to develop, own, and operate point-to-point limited transmission facilities. Hence, this Application.

ABSTRACT OF THE CONNECTION PROJECT
AND RELATED INFORMATION

16. **The Connection Project.** The power generated by the Power Plant will be transmitted to the Mindoro Grid thru 69 kV transmission facilities ("Connection Project") from the Power Plant to the existing Mamburao S/S – San Jose S/S 69kV line ("Mindoro 69 kV transmission line") via a cut-in connection as required by NPC.

A copy of a letter from NPC requiring the cut-in connection is attached hereto as **Annex "B."** A copy of a single line diagram illustrating the Connection Project and the simplified version of the same are attached hereto as **Annex "B-1."** Likewise, copies of engineering designs and drawings pertaining to the Connection Project are hereto attached as **Annex "B-2."** Lastly, a copy of the brief description of the Connection Project as well as of the Power Plant is attached hereto as **Annex "C."**

17. The Connection Project involves dedicated point-to-point limited transmission facilities within the purview of Republic Act No. 9136. The said facilities are required only for the purpose of

connecting the Power Plant to the Mindoro Grid, and will be used solely by the Power Plant. The said facilities are not intended to serve end-users or suppliers directly.

18. **The Second Connection Point.** Aside from the cut-in connection to the existing Mindoro 69 kV transmission line, a 13.2 kV connection will be constructed and owned by Occidental Mindoro Electric Cooperative, Inc. ("OMECO") connecting the Power Plant to OMECO's distribution system.

19. **Gantt Chart Schedule.** The timeline for the implementation of the Connection Project is attached hereto as **Annex "D."**

20. **Options Considered.** The Connection Project consisting of the cut-in connection to the Mindoro 69 kV transmission line to be able to transmit the power to be generated by the Power Plant to the Mindoro Grid is the most cost-effective and viable option available to Applicant OMCP.

A discussion of the options considered in determining the most practical and least costly manner of connecting the Power Plant to the Mindoro Grid is attached hereto as **Annex "E."**

21. **Technical Studies.** Applicant OMCP engaged the services of a third-party consultant to undertake the preparation of the necessary studies for the Connection Project.

21.1. A System Impact Study ("SIS") was conducted to determine the impact of the Power Plant on the Mindoro Grid. Notably, the SIS states that the entry of the 24 MW Power Plant to the Mindoro Grid is technically feasible.

Copies of the SIS and NPC's approval of the same are attached hereto as **Annexes "F" and "F-1"** respectively.

21.2. A Facility Study ("FS") was also conducted for the Power Plant.

A copy of the FS is attached hereto as **Annex "G."**

22. **Environmental Compliance Certificate.** The Department of Environment and Natural Resources ("DENR") has issued the necessary Environmental Compliance Certificate ("ECC") covering the Power Plant. The said ECC also covers the switchyard which includes the Connection Project subject of the present Application.

Copies of the relevant documents are attached hereto as **Annexes "H" and "H-1"**.

22.1. The facilities subject of this present Application are not required to be covered by an ECC under the relevant guidelines of the DENR.

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A copy of the said guidelines is attached hereto as **Annex "H-2."** The relevant portion of the said guidelines is in page 24 thereof.

23. **Project Cost.** The total project cost of the Connection Project is USD 2,280,701.

A copy of the breakdown of the said project cost is attached hereto as **Annex "I."**

24. **Technical Capability.** Applicant OMPC has a team of qualified, experienced and competent engineers to operate and maintain the Connection Project.

Copies of the summary of the curriculum vitae of the said engineers and the supporting documents are attached hereto as **Annexes "J" and series.**

25. **Financial Capability.** Applicant OMPC is capable of financing the cost of the Connection Project, as indicated by its latest Audited Financial Statements.

A copy Applicant OMPC's latest Audited Financial Statements are attached hereto as **Annex "K."**

COSTS ADVANCED FOR ASSETS PERFORMING OFF-GRID TRANSMISSION FUNCTIONS

26. Aside from the Connection Project, OMPC also advanced the costs for the construction and installation of other assets and facilities necessary for the implementation of the Connection Project.

27. This covers the assets performing off-grid transmission functions, which must necessarily be considered as assets of NPC.

27.1. As mentioned earlier, under Section 70 of the EPIRA, it is NPC who shall be responsible for the transmission function in off-grid areas, or those areas that are not connected to the transmission system.

27.2. Considering that the Connection Project will be implemented in Mindoro, which is an off-grid area, it is NPC who will become the owner and operator of the assets performing off-grid transmission functions which were constructed and financed by OMPC.

28. The costs for the aforementioned assets, amounting to USD 2,887,960, were advanced by OMPC in behalf of NPC. The foregoing is indicated in **Annex "I."**

29. The advancement of the costs was made a condition precedent by NPC for OMPC to connect the Power Plant to the Mindoro Grid.

30. Considering that the said assets are performing off-grid transmission functions, they should rightfully and lawfully be financed and owned by NPC instead.

31. In view of the foregoing, OMCPD respectfully seeks judgment directing NPC to pay OMCPD the costs advanced by OMCPD for the construction and installation of the aforementioned assets performing off-grid transmission functions.

ALLEGATIONS IN SUPPORT OF
THE MOTION FOR PROVISIONAL AUTHORITY

32. As discussed above, the Connection Project is necessary to provide the much needed supply of power to the Mindoro Grid.

33. As a result of the insufficient supply of power over the past years, the residents of Occidental Mindoro experience daily power interruptions which disrupt their activities as well as hinder the economic growth of the province.

34. Thus, it is of utmost urgency and necessity that the present Application be approved. A provisional authority will help ensure the much needed power supply in Occidental Mindoro.

35. Hence, Applicant OMCPD respectfully moves for the provisional approval of the instant Application pursuant to Rule 14 of the ERC Rules of Practice and Procedure.

A copy of a sworn statement supporting the said motion is attached hereto as **Annex "L."**

PRAYER

WHEREFORE, premises considered, Applicant OMCPD respectfully prays that this Honorable Commission:

1. immediately issue an Order provisionally approving the present Application; and
2. after due hearing, render judgment approving the instant Application with finality, and directing NPC to pay OMCPD the costs advanced for the construction and installation of the assets performing off-grid transmission functions.

Applicant OMCPD prays for other just and equitable relief under the premises.

Finding the said Application to be sufficient in form and 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

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presentation of evidence on **4 June 2018 at ten o'clock in the morning (10:00 A.M.), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

Accordingly, OMCPD is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing once (1x) in a newspaper of nationwide circulation in the Philippines at its own expense, the date of the publication to be made not later than ten (10) days before the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor, City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, 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;

Handwritten initials

- 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 Governor, 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 of the filing of the Application, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (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 interested parties are also required to submit, at least five (5) days before the date of the 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.

OMCPC 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 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.

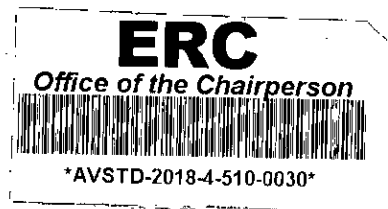
SO ORDERED.

Pasig City, 2 April 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


L.S./SLAN/KTB/APV



COPY FURNISHED:

1. Occidental Mindoro Consolidated Power Corporation (OMCPC)
Applicant
Unit 1001, 10th Floor, Galleria Corporate Center, EDSA cor. Ortigas Ave.,
Ortigas Center, Quezon City
2. Atty. Sundy Lorence C. Lachica and Atty. Abigail T. Madanlo
Counsel for Applicant OMCPC
LACHICA & ASSOCIATES
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Exchange Road, Ortigas Center, Pasig City
3. Office of the Mayor
City of Quezon
4. Office of the LGU legislative body
City of Quezon
5. Office of the Mayor
San Jose, Occidental Mindoro
6. Office of the LGU legislative body
San Jose, Occidental Mindoro
7. Office of the Mayor
Mamburao, Occidental Mindoro
8. Office of the LGU legislative body
Mamburao, Occidental Mindoro
9. Office of the Governor
Province of Occidental Mindoro
10. Office of the LGU legislative body
Province of Occidental Mindoro



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11. Occidental Mindoro Electric Cooperative, Inc. (OMEKO)
San Jose, Iriga City, Occidental Mindoro
12. National Power Corporation (NPC)
Agham Road corner Quezon Avenue, Diliman, Quezon City
13. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
14. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
15. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
16. House Committee on Energy
Batasan Hills, Quezon City
17. 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
18. Regulatory Operations Service (ROS)
[Standards and Compliance Monitoring Division (SCMD)]
17th Floor, Pacific Center Bldg., San Miguel Avenue, Pasig City