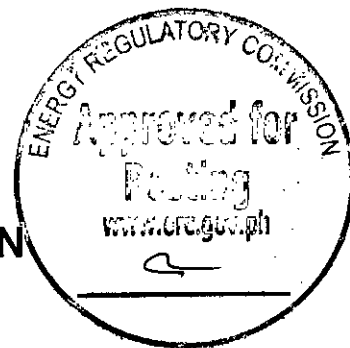


Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE  
PETITION FOR APPROVAL OF  
THE RECLASSIFICATION OF  
NEW CIP II SUBSTATION,  
BACNOTAN-MABANENGBENG  
LINES 1 AND 2 AND  
MABANENGBENG-HOLCIM 69  
KV LINE INTO TRANSMISSION  
ASSETS**

**ERC CASE NO. 2015-019 MC**

**NATIONAL GRID  
CORPORATION OF THE  
PHILIPPINES (NGCP),  
Petitioner.**

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**D O C K E T E D**  
Date: **AUG 26 2015**  
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**ORDER**

On April 30, 2015, the National Grid Corporation of the Philippines (NGCP) filed a petition for the approval of the reclassification of the New CIP II Substation, Bacnotan-Mabanengbeng Lines 1 and 2 and Mabanengbeng-Holcim 69 kV Line into transmission assets.

In the said petition, NGCP alleged, among others, the following:

1. It is a corporation created and existing under the laws of the Philippines, with principal office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City, where it may be served with notices, orders, resolutions and other issuances of the Commission through its Office of the General Counsel. It is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic

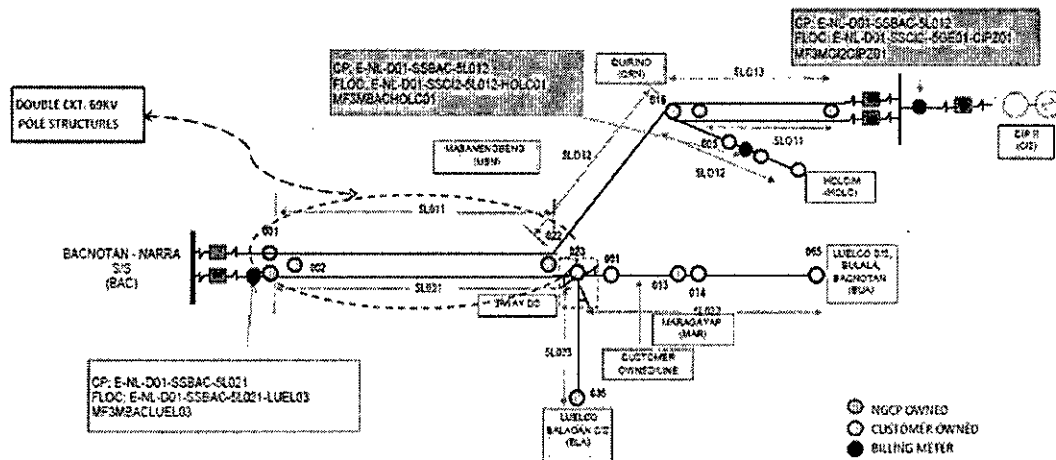
Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA)<sup>1</sup>;

2. Under Republic Act No. 9511,<sup>2</sup> it was granted a franchise to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines;
3. CIP II Power Corporation is a generation company existing under and by virtue of the laws of the Republic of the Philippines, with address at Brgy. Quirino, Bacnotan, La Union. It is a 100%-owned subsidiary of Trans-Asia Oil & Energy Development Corporation;
4. Holcim Philippines, Inc. – La Union, a company existing under and by virtue of the laws of the Republic of the Philippines, is a directly connected customer of NGCP with address at 7/F Venice Corporate Center, #8 Turin St. McKinley Town Center, Fort Bonifacio, Taguig City;
5. CIP II Power Corporation presently operates the 21 MW Bacnotan Diesel Power Plant which is connected to the Luzon Grid via the New CIP II Substation. Holcim Philippines, Inc.- La Union likewise draws power from the grid through the New CIP II Substation;
6. CIP II Power Corporation owns the New CIP II Substation; while the Bacnotan – Mabanengbeng Lines 1 and 2 and Mabanengbeng – Holcim 69 kV line are classified as Residual Subtransmission Assets in the Sinclair Knight Merz 2010 Valuation Report adopted by the Honorable Commission in NGCP's Final Determination for the third (3<sup>rd</sup>) Regulatory Period;
7. Illustrated below is the simplified diagram showing the present connection of Bacnotan Diesel Power Plant and Holcim Philippines:

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<sup>1</sup> Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes."

<sup>2</sup> Republic Act No. 9511 entitled "An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-bone System or Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes."



8. As illustrated above, the New CIP II Substation, including associated equipment such as SCADA and Microwave system, Bacnotan – Mabanengbeng Lines 1 and 2 and Mabanengbeng – Holcim 69 kV lines are used by both CIP II Power Corporation and Holcim Philippines;
9. As such, these assets should be classified as transmission assets and turned over to NGCP in accordance with Section 9 of the EPIRA which provides:

“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.” (Emphasis supplied.)

10. The Commission likewise issued resolutions in compliance with the provisions of the EPIRA:

- A. Section 2.0 of Resolution No. 16 Series of 2011<sup>3</sup> defined Connection Assets 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 Customers.”
- B. Section 4.2 of Resolution No. 16 provides that “a generation company may develop and own or operate a dedicated point-to-point limited facilities 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.”
11. Corollary, any asset, which is not solely used by either a load customer or generator should be classified as transmission asset;
12. The proposed reclassification of the subject assets to transmission are also in consonance with the following decisions issued by the Commission:
- A. In ERC Case No. 2010-032 MC entitled “*In the Matter of the Petition for Approval of the Reclassification of the National Transmission Corporation Subtransmission Asset to Full Transmission Asset Serving the Dingle-Passi Lines in Iloilo*,”<sup>4</sup> the ERC ruled as follows:

“Section 2, Article III of the Guidelines to the Sale and Transfer of the TRANSCO’s Subtransmission Assets and the Franchising of Qualified Consortium reads:

“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:

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<sup>3</sup> Entitled “Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Asset for Customers of Transmission Provider.”

<sup>4</sup> Decision dated 01 December 2010.

"a) Directly Connected Generators

Lines, power transformers and other assets held by TRANSCO or its Buyer or Concessionaire, which allow the transmission of electricity to a Grid from one or more Directly Connected Generators, shall be classified as Transmission Assets.

X X X

"WHEREFORE, the foregoing premises considered, the petition filed by Central Azucarera De San Antonio, Inc. (CASA) for approval of the reclassification of the National Transmission Corporation's (TRANSCO) Subtransmission Asset to full transmission asset serving Dingle-Passi Lines in Iloilo is hereby APPROVED subject to the condition that CASA's bagasse power plant should connect to the Dingle-Passi 69 kV Line and only the portion of the said line where CASA's plant is connected shall be reclassified as transmission asset."

- B. In ERC Case No. 2010-156RC entitled "*In the Matter of the Approval of the Electric Power Purchase Agreement between Cebu 1 Electric Cooperative, Inc. and Cebu Energy Development Corporation,*"<sup>5</sup> Case No. 2010-100 RC entitled "*In the Matter of the Approval of the Electric Power Purchase Agreement between Mactan Electric Company, Inc. and Cebu Energy Development Corporation,*"<sup>6</sup> and Case No. 2010-095 entitled "*In the Matter of the Approval of the Electric Power Purchase Agreement between Bohol 1 Electric Cooperative, Inc. and Cebu Energy Development Corporation,*"<sup>7</sup> the ERC ruled as follows:

"However, the Sangi to Talavera 138 kV, 5.1-kilometer Double Circuit Transmission Line does not qualify as a dedicated point-to-point limited facility

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<sup>5</sup> ERC Decision dated 01 August 2011

<sup>6</sup> ERC Decision dated 03 October 2011

<sup>7</sup> ERC Decision dated 26 September 2011

considering that the same line is not solely used to connect CEDC's plant to the grid (NGCP Talavera Substation) but also used to transmit power to VECO through the 138 kV CEDC-Colon Line and another line to CEBECO III and Balamban Enerzone Corporation. x x x

"The Commission believes that the 5.1 kilometer Sangi to Talavera Double Circuit 138 kV Transmission Line should be owned, operated and maintained by the NGCP."

13. Considering that these assets, including all of the associated equipment, are used by both CIP II to deliver power to the grid, and by Holcim Philippines in drawing power from the grid, it is imperative that the subject assets be reclassified to full transmission assets; and
14. It prays that the instant petition be granted and the and the New CIP II Substation, Bacnotan – Mabanengbeng Lines 1 and 2 and Mabanengbeng – Holcim 69 kV lines, and all of the associated equipment, be reclassified as Transmission Assets, and its ownership and operation be turned over to NGCP.

Finding the said application sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **September 15, 2015 (Tuesday) at ten o'clock in the morning (10:00 A.M.) at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

NGCP is hereby 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, with the date of the publication to be made not later than ten (10) days before the scheduled date of initial hearing. It is also directed to inform the consumers, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the application, this Order and the attached Notice of Public Hearing be furnished 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.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Office of the Mayor of Quezon City for the appropriate posting thereof on its bulletin board.

NGCP is hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, NGCP must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of a certification issued to that effect, signed by the afore-mentioned Mayor or his duly authorized representative, bearing the seal of his office, and the affidavit of the Editor or Business Manager of the newspaper where the said Notice of Public Hearing was published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

NGCP and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-trial Briefs containing, among others:

- a) A summary of admitted facts and proposed stipulation of facts;
- b) The issues to be tried or resolved;
- c) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of NGCP to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses 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 said date of cancellation.

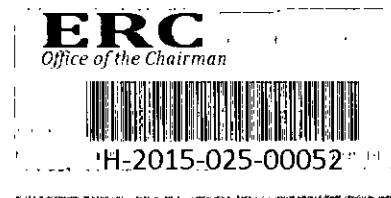
As part of the pre-trial conference, NGCP must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned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

**SO ORDERED.**

Pasig City, August 17, 2015.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**JOSE VICENTE B. SALAZAR**  
Chairman





**Copy Furnished:**

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4. **THE COMMITTEE ON ENERGY**  
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5. **THE COMMITTEE ON ENERGY**  
House of Representatives  
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