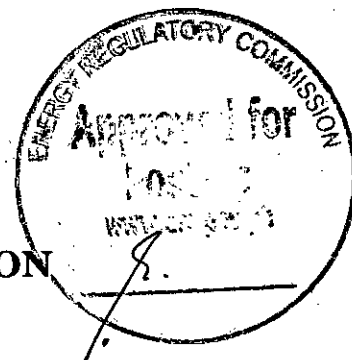


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP,
OWN, AND OPERATE
DEDICATED POINT-TO-
POINT LIMITED
TRANSMISSION
FACILITIES TO CONNECT
THE SAN MIGUEL
CONSOLIDATED POWER
CORPORATION (SMCPC)
POWER PLANT IN
MALITA, DAVAO DEL SUR
TO THE 230 KV MALITA-
MATANAO
TRANSMISSION LINE OF
THE NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP),
WITH PRAYER FOR
PROVISIONAL
AUTHORITY**

ERC CASE NO. 2016-014 MC

**SAN MIGUEL
CONSOLIDATED POWER
CORPORATION (SMCPC),
Applicant.**

X-----X

DOCKETED
Date: **SEP 22 2016**
By: _____

ORDER

On 25 May 2016, San Miguel Consolidated Power Corporation (SMCPC) filed an application for authority to develop, own, and operate dedicated point-to-point limited transmission facilities to connect the 100 MWp Power Project of SMCPC Power Plant in Malita, Davao del Sur to the 230 kV Malita-Matanao transmission line of the National Grid Corporation of the Philippines (NGCP), with prayer for the issuance of provisional authority.

In support of the said application, SMCPC alleged the following:

The Applicant

1. SMCPC is a corporation duly created and existing by and under the laws of the Republic of the Philippines, with business address at No. 40 San Miguel Avenue, Mandaluyong City 1550;
2. SMCPC may be served with the orders, notices and other processes of the Honorable Commission through its undersigned counsel at the address indicated herein;

Nature of the Application

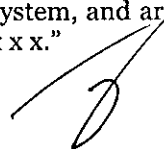
3. The Application for authority to develop, own, and operate dedicated point-to-point limited transmission facilities to connect SMCPC's Power Plant in Malita, Davao del Sur to the 230 kV Transmission Line of the National Grid Corporation of the Philippines (NGCP) is being submitted to the Honorable Commission for its review and approval pursuant to Section 9(f) of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA¹ and other pertinent rules and regulations;

Statement of Facts

4. SMCPC has constructed a 2 x 150 MW Circulating Fluidized Bed Coal-Fired Thermal Power Plant (the Power Plant) located in Barangay Culaman, Malita, Davao del Sur, which is expected to be commercially operational by the 2nd quarter of calendar year 2016;
5. SMCPC is now in the process of conducting the testing and commissioning of Unit 1 of the Power Plant and is expected to be synchronized to the Mindanao Grid on 19 May 2016 at an initial load of twenty-five percent (25%). The load will gradually increase to fifty percent (50%), seventy-five percent (75%) and one hundred percent (100%) on 22, 24, and 27 May 2016, respectively;
6. To dispatch the power to be generated by the Power Plant, SMCPC recently developed a dedicated point-to-

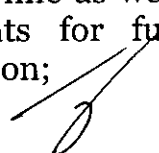
¹ "Section 9. Functions and Responsibilities. x x x.
(f) x x x.

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."



point limited transmission facilities to connect said Power Plant to the 230 kV Transmission Line of the NGCP;

7. SMCPD is awaiting for the Department of Energy's (DOE) confirmation of its Declaration of Commerciality and subsequent issuance of a Certificate of Endorsement (COE) in order to apply for a Certificate of Compliance (COC) with the Honorable Commission;
8. The Power Plant Project is consistent with NGCP's Transmission Development Plan (TDP);
9. A System Impact Study (SIS) was prepared by CEMA Consultancy Services, Incorporated on the technical feasibility of connecting the Power Plant Project to the NGCP's 230 kV Malita-Matanao Transmission Line;
 - 9.1 Based on said SIS, it is possible to integrate the Power Plant Project to the Mindanao Grid without significantly degrading the system's performance;
10. **Description of the Connection Facilities.** The Malita 230 kV Substation/Switchyard was installed to connect the Power Plant Project. This Substation caters the connection requirements of Davao del Sur Electric Cooperative, Incorporated (DASURECO) 10 MVA transformer. The transfer of DASURECO 10 MVA from the Matanao 69 kV Feeder to the Malita Substation improves the voltage regulation for the loads being served by this transformer;
 - 10.1 The connecting 230 kV transmission line is approximately 62.5 kilometers. It is designed at 230 kV but will be energized at 138 kV to minimize transmission-related costs. With the 138/230 kV transformers, there is no need to construct the 230 kV switchyard in the Matanao Substation during the interim period; and
 - 10.2 At the Matanao Substation, the only needed modification is the extension of the existing 138 kV buses. Two (2) bays each consisting of two (2) circuit breakers provide for the termination requirements of the double circuit line as well as two (2) spare termination points for future expansions at the Matanao Substation;

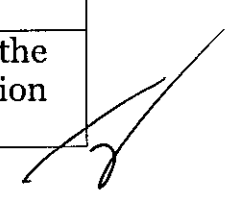


11. **Project Cost.** The cost of the dedicated point-to-point limited transmission facilities is PhP108,744,130.01, broken down as follows:

Item	Amount, PhP
EPC of Interconnection Facility and Teleprotection Interface Between SMCPA AIS One Bay Breaker Substation and NGCP Switchyard/Substation in Barangay Culaman, Malita, Davao del Sur	46,783,416.58
Supply, Construction, Installation, and Commissioning of 20 MVA, 69/13.2 kV, 3 PH, 60 Hz Outdoor Substation	58,928,571.43
Installation of Protection Panel for 40 MVA Transformer (Vacuum Circuit Breaker)	3,032,142.00
Total	108,744,130.01

12. In support of the Application, the following documents and/or information are attached hereto as annexes and made integral parts hereof:

Annex	Documents/Information
A	Description of the Project
B	Proof that the Project is Consistent with the Transmission Development Plan (TDP)
C	System Impact Study (SIS)
D	Facility Study
E	Conceptual Engineering Designs and Drawings
F	Project Cost Estimates
G	Gantt Chart Schedule
H	Connection Agreement
I	Secretary's Certificate Approving the Project
J	Environmental Certificate Compliance (ECC) issued by the Department of Environment and Natural Resources (DENR)
K	Articles of Incorporation
L	Certificate of Registration issued by the Securities and Exchange Commission (SEC)



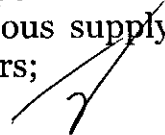
M	Latest General Information Sheet (GIS)
N	Certificate of Registration with the Board of Investments (BOI)
O	Latest Audited Financial Statements (AFS)
P	Judicial Affidavit in support of the motion for provisional authority

Allegations in Support of the Motion for Provisional Authority

13. SMCPD repleads the foregoing allegations in support of its prayer for the immediate issuance of provisional authority, anchored on the following grounds:

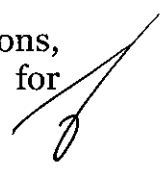
13.1 SMCPD has filed before the Honorable Commission eleven (11) Joint Applications for approval of Power Supply Contracts (PSCs) it executed with the following Distribution Utilities (DUs): Agusan del Sur Electric Cooperative, Incorporated (ASELCO), Cotabato Electric Cooperative, Incorporated (COTELCO), Cotabato Electric Cooperative, Incorporated-PPALMA (COTELCO-PPALMA), Davao del Norte Electric Cooperative, Incorporated (DANECO), Davao del Sur Electric Cooperative, Incorporated (DASURECO), Lanao del Norte Electric Cooperative, Incorporated (LANECO), Misamis Oriental I Rural Electric Service Cooperative, Incorporated (MORESCO I), Siargao Electric Cooperative, Incorporated (SIARELCO), Surigao del Sur II Electric Cooperative, Incorporated (SURSECO II), Zamboanga City Electric Cooperative, Incorporated (ZAMCELCO), and Zamboanga del Sur I Electric Cooperative, Incorporated (ZAMSURECO I);

13.2 At present, there is an existing power supply deficiency in the Mindanao Region resulting in frequent and/or rotational brownouts and intermittent power interruptions. Likewise, the DUs in said Region are heavily dependent on hydroelectric power plants which, during the summer season coupled with the occurrence of the *El Niño* phenomenon, the supply of power is significantly reduced and/or irregular. Thus, there is a need for these DUs to draw power from generation companies for the continuous supply of electricity to their member-consumers;



- 13.3 As previously stated, SMCPCC is now in the process of conducting the testing and commissioning of Unit 1 of the Power Plant and is expected to be synchronized to the Mindanao Grid on 19 May 2016;
- 13.4 Article 5 (Pre-Commercial Operations) of SMCPCC's PSCs with the foregoing DUs provide that the DUs (as the Buyers) agree to purchase the Net Electrical Output of the Power Plant delivered by SMCPCC (as the Seller) and billed to the DUs during the period of testing and commissioning, on a non-firm basis, subject to payment of Energy Fees and other charges under Article 9.3 thereof;
- 13.5 In order for SMCPCC to comply with its contractual obligations with said DUs, it is imperative that the Power Plant should be immediately connected to the 230 kV Malita-Matanao Transmission Line of NGCP. Thus, the development of dedicated point-to-point limited transmission facilities is a pre-requisite for the testing and commissioning, and eventually, the commercial operations of the Power Plant;
- 13.6 Further, said Power Plant is considered as a committed project, and is in the process of securing a certification from the DOE that the same is consistent with the Power Development Plan (PDP); and
- 13.7 It bears stressing that pursuant to Rule 14, Section 3 of the Honorable Commission's Rules of Practice and Procedure, the Honorable Commission may issue a provisional authority pending approval of the Application, to wit:

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

14. To emphasize the necessity of the foregoing allegations, a judicial affidavit in support of the motion for
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provisional authority is attached to the Application as Annex "P" and made an integral part hereof.

Prayer

WHEREFORE, the foregoing premises considered, Applicant San Miguel Consolidated Power Corporation (SMCPC) most respectfully prays that the Honorable Commission:

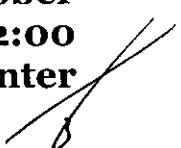
1. Pending hearing, **ISSUE** an Order provisional approving the development, ownership, and operation of dedicated point-to-point limited transmission facilities to connect the SMCPC Power Plant in Malita, Davao del Sur to the 230 kV Malita-Matanao Transmission Line of the National Grid Corporation of the Philippines (NGCP); and
2. After due notice and hearing, **ISSUE** a Decision approving the Application and permanently authorize the development, ownership, and operation of said dedicated point-to-point limited transmission facilities.

On 18 August 2016, finding the said application to be sufficient in form and in substance with the required fees having been paid, the Commission issued an Order setting the instant Application for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference, and presentation of evidence on 19 October 2016 (Wednesday) 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.

On 07 September 2016, SMCPC filed an *Urgent Motion for Resetting of Public Hearing* dated 06 September 2016 (Motion) requesting for a change in hearing schedule to an earlier date, preferably on 22 September 2016.

However, there is no sufficient time for Applicant to comply with the publication requirements should the hearing be reset to 22 September 2016.

In view thereof, the hearing of this case scheduled on 19 October 2016 is hereby **CANCELLED** and reset to **05 October 2016 (Wednesday) at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center**



Building, San Miguel Avenue, Pasig City, for determination of compliance with the jurisdictional requirements, Expository Presentation, Pre-trial Conference, and presentation of evidence.

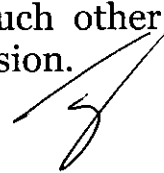
SMCPC is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, at least ten (10) days before the date of the scheduled initial hearing. It is also directed to inform the consumers, by 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 Offices of the Governor of the Province of Davao del Sur, as well as the Mayors and the Local Government Legislative Bodies of the Municipalities of Malita and Matanao, Davao del Sur, for the appropriate posting thereof on their respective bulletin boards.

SMCPC 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 and pre-trial conference, SMCPC must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidence of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and Local Government Legislative Bodies, or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.



SMCPC, 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 thereof 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 SMCPC to submit the required Pre-Trial Brief and Judicial Affidavits of their 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.

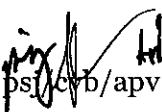
As part of the pre-trial conference, SMCPC must also be prepared to make an expository presentation of their application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned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

SO ORDERED.

Pasig City, 9 September 2016.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman and CEO

LS: /apv

ERC
Office of the Chairman



I-2016-021-OC-04938

Copy furnished:

1. **Atty. Jupiter M. Cabaguio and Avelino G. C edo**
Counsels for Applicant SMCP
23rd Floor, San Miguel Properties Centre,
No. 7 St. Francis Street, Mandaluyong City
2. **San Miguel Consolidated Power Corporation (SMCP)**
No. 40 San Miguel Avenue,
Mandaluyong City 1550
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 Building, Roxas Boulevard
Pasay City, Metro Manila
6. **House Committee on Energy**
Batasan Hills
Quezon City, Metro Manila
7. **Office of the Provincial Governor**
Province of Davao del Sur
8. **Office of the LGU Legislative Body**
Province of Davao del Sur
9. **Office of the Municipal Mayor**
Malita, Davao del Sur
10. **Office of the LGU Legislative Body**
Malita, Davao del Sur
11. **Office of the Municipal Mayor**
Matanao, Davao del Sur
12. **Office of the LGU Legislative Body**
Matanao, Davao del Sur
13. **National Grid Power Corporation of the Philippines**
Quezon Avenue cor. BIR Road,
Diliman, Quezon City, Philippines
14. **Standards & Compliance Monitoring Division,
Regulatory Operations Service**
Energy Regulatory Commission, Pacific Center Building,
San Miguel Avenue, Ortigas Center 1600, Pasig City

