



NATIONAL GRID CORPORATION
OF THE PHILIPPINES

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5 April 2013

Atty. FRANCIS SATURNINO C. JUAN

Executive Director

Energy Regulatory Commission (ERC)

Pacific Center Building, San Miguel Avenue

Ortigas Center, Pasig City

Subject: NGCP's Comments on the Petition of Philippine Independent Power Producers Association, Inc. for the Amendment of ERC Resolution No. 16, Series of 2011

Dear **Hon. Executive Director Juan:**

We wish to submit NGCP's comments on the petition filed by the Philippine Independent Power Producers Association, Inc. (PIPPA) for the amendment of ERC Resolution No. 16, Series of 2011 entitled, *"Resolution Adopting Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Providers"*.

Thank you and we look forward to the Honorable Commission's consideration of this submission.

Truly yours,

A handwritten signature in blue ink, appearing to read "Ma. Cynthia Y. Manrique", is written over a horizontal line.

MA. CYNTHIA Y. MANRIQUE
Head, Revenue and Regulatory Affairs and
Regulatory Compliance Officer

cf: *Mr. Rolando T. Bacani, TransCo, President and CEO*

NGCP's Comments to PIPPA's Arguments and Proposed Amendments to Resolution 16, Series of 2011

PIPPA's ARGUMENTS and PROPOSED AMENDMENTS	NGCP'S COMMENTS AND COUNTER PROPOSAL
<p>The purpose of replacing the existing Diagram 4 with Diagram 4-A and 4-B is to emphasize that under Section 4.2 of Annex A of Resolution 16, "Connection Assets for Generation Customers of Transmission Provider include those assets from the last Single Mechanical Connection of a User System or Equipment of a Generator, at its Connection Point, to the last Single Mechanical Connection which is not shared with another Generator within the Grid". (underscoring and emphasis supplied). Thus, Diagram 4-B clearly indicates that a connection asset remains a connection asset of a Generation Customer even if that asset is shared by that Generation Customer with a Load Customer. On the other hand, Diagram 4-A clearly indicates that once that asset is shared by the Generation Company with another Generation Company it becomes a transmission asset.</p> <p>This proposal is in line with the following arguments, among others, as stated in PIPPA's Position Paper:</p> <ol style="list-style-type: none"> 1. The Published Diagram oversteps the purpose of Resolution No. 16 when it seemingly "reclassified" GenCo Assets such as switchyards and related facilities that connect a generation unit to the Grid into transmission assets to be owned by TransCo/NGCP if a load customer of NGCP (e.g., a distribution utility) also happens to be connected to that generation unit through these switchyards and related facilities. 2. The Published Diagram is inconsistent with the definition of Connection Assets for Generation Customers in Section 4.2 of Resolution No. 16 	<p>within its franchise area, to procure and compete with generators/RES to offer, electricity at the lowest possible prices. This would not be possible if the connection of the DU to the grid will be via a generator-owned asset because such owner can deny access, directly or indirectly, between competing generators/RES and the DU via the assets under the ownership and control of said generator. Moreover, if and when the said generator is under maintenance or forced outage, the DU and its consumers would have no alternative source of supply if generator connection to the grid is likewise unavailable.</p> <p>The alleged "savings" of the DUs from the non-payment of power delivery charges due to its direct connection to the asset of a Generator can easily be wiped out by uncompetitive pricing of said Generator. In fact, this is proscribed by law. What the law allows is for a DU to get reliable and secured supply as well as free access to competitive electricity market (for competing generators, RES, DUs as well as contestable customers within a DU's franchise area) by paying power delivery charges. It is important to ensure all stakeholders that their connection to the grid is assured by a provider/s who is/are mandated by law to provide open access to its/their facilities.</p> <p>It is worth mentioning that Sec 45 (c) of the EPIRA explicitly states,</p> <p><i>"For the first five (5) years from the establishment of the wholesale electricity spot market, no distribution utility shall source more than ninety percent (90%) of its total demand from bilateral power supply contracts.</i></p>



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<p>3. The Published Diagram was wrong in seemingly characterizing a GenCo's switchyard facilities as transmission assets since these switchyard facilities are in fact integral parts of a generation facility</p> <p>4. Neither does NGCP need a GenCo's switchyard facilities for "competitive purposes" if the GenCo does not share those facilities with another GenCo in the first place, because the former does not thereby control the ability of the latter to supply energy to the Grid.</p>	<p>x x x</p> <p>The ERC shall, within one (1) year from the effectivity of this Act, promulgate rules and regulations to ensure and promote competition, encourage market development and customer choice and discourage/penalize abuse of market power, cartelization and any anti-competitive or discriminatory behaviour, in order to further the intent of this Act and protect the public interest. x x x"</p> <p><u>Again, once an end-user, a supplier, or a generator is connected to such dedicated point-to-point limited transmission facilities, the ownership of the said facilities must be turned over to the transmission provider at a fair market price as the asset is required for competition and open access.</u></p> <p>Moreover, PIPPA must be reminded that a power plant can either be considered as an Embedded Generating Plant or a grid-connected plant. Under the Philippine Grid Code (PGC), Embedded Generating Plant is defined as "A Generating Plant that is connected to a Distribution System or the Power System of any User and has no direct connection to the Grid." Therefore, any Generating Plant cannot claim to be both an Embedded Generating Plant and at the same time a plant that is directly connected to the Grid.</p> <p>Lastly, a Generation Company is only allowed to generate power as clearly contained in its Certificate of Compliance (COC) issued by the ERC. This clearly states that the Generation Company is not mandated by the law to transmit and distribute power to the end-users. The Generation Company does not have a franchise to act as a transmission provider as well as a</p>



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<p>5. The Published Diagram is detrimental to the public interest as it will unnecessarily lead to an increase in electricity rates to be paid by End-Users.</p> <p>6. The Published Diagram discourages the construction of new generation facilities with large generating capacities, to the detriment of the public.</p>	<ul style="list-style-type: none"> <p>distribution utility. As set forth by RA 9511 (i.e. "Franchise Law"), NGCP is the sole transmission provider.</p> <p><u>The argument of PIPPA is totally speculative and baseless.</u> The Published Diagram in ERC's Resolution 16, Series of 2011 is not detrimental to all End-Users of the Grid, instead, it will, somehow, prevent the increase of Power Delivery Services (PDS) Rates. Take note that with the ERC-approved Maximum Allowed Revenue (MAR) of NGCP per annum, the demand, in kW, serves as the driver of the monthly PDS Rates. It means that the higher the demand, the lower the PDS Rates. <u>Thus, the Published Diagram is beneficial to all consumers.</u></p> <p>NGCP believes that it is not appropriate for a generation company to promote its power plant by ensuring an energy supply to local governments without having them to pay Power Delivery Services Charges.</p> <p>Firstly, NGCP would like to emphasize that, under Section 8 (d), Rule 11 of EPIRA IRR entitled, "Anti-Competitive Behaviour and other Unfair Trade Practices" states,</p> <p><i>"Electric Power Industry Participants shall not use a position of market power to condition the sale of one product or service on the purchase of another product or service. No Distribution Utility shall make access to its Distribution System contingent upon the purchase of generation, metering, billing or other services."</i></p> <p>Secondly, the delivery/transmission of power is not a business of the generation company, and thus, using the allegedly "free Power Delivery</p>



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	<p>Services Charges" is not appropriate.</p> <p>Thirdly, given the fact that the Transmission charges, inclusive of Ancillary Services Charge, is only around ten percent (10%) of the overall electricity cost, then, the impact of which to the consumers' electricity rates is very minimal compared to the cheapest generation rate that is available in the Grid and in the WESM.</p> <ul style="list-style-type: none"> As a counter-proposal, NGCP proposes that the first paragraph of Section 4.2 be read as follows consistent with the provisions set forth by the EPRA: <ul style="list-style-type: none"> <i>"Connection Assets for Generation Customers of Transmission Provider include those assets from the last Single Mechanical Connection of a User System or Equipment of a Generator, at its Connection Point, to the last Single Mechanical Connection which is not shared with another Generator Customer¹ within the Grid."</i>
<p>PIPPA proposes the insertion of the underscored sentence in the definition of Connection Assets in Section 2.0 of Annex A of Resolution 16, Series of 2011.</p> <p>Connection Assets (CA): 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</p>	<ul style="list-style-type: none"> NGCP disagrees with the proposal of PIPPA. NGCP proposes that the existing definition be retained. <p>It is worthy to note that the existing definition of Connection Asset is based on its function in the electricity transmission. Hence, the authority of a Load Customer or a Generator to own a Connection Asset ceases when said Asset is no longer considered a Connection Asset because it already</p>

¹As per Resolution 16, "Customer" is defined as A person whose User System or Equipment is directly connected to the Grid and who purchases or receives, or who is seeking to purchase or receive, Regulated Transmission Services. For the avoidance of doubt, this may include a person who operates a Generation Facility, a Distribution Utility, a Retail Electricity Supplier or an End-user subject to the Commission's decisions. In addition, and notwithstanding the foregoing, a Customer includes an Embedded Generator (as that term is defined in the Philippine Grid Code) in so far as that Embedded Generator purchases or receives, or is seeking to purchase or receive the Regulated Transmission Services referred to in paragraphs (e) or (g) of the definition of "Regulated Transmission Services".



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<p>The System, will only affect the Customer connected to it and will have minimal effect on the Grid, or other connected Customers. <u>For the avoidance of doubt, Connection Assets exclude a User System or Equipment or other Facilities owned by a Customer such as a Load Customer or a Generator, which User System or Equipment or other Facilities shall remain owned by such Customer.</u></p>	<p>performs a transmission function. Corollary, once an Asset performs a transmission function, it must be turned-over to NGCP as mandated by Section 8 of R.A. 9136, which states:</p> <p style="padding-left: 40px;">"x x x Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities. x x x"</p> <p>Furthermore, PIPPA's proposal violates the Section 9 of RA 9136, i.e.,</p> <p style="padding-left: 40px;"><i>"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)</i></p>
<p>PIPPA proposes the inclusion of the following definitions of Generator, Distribution Utility and Load Customer in Section 2.0 of Annex A of Resolution 16, Series of 2011.</p> <p>Generator: Has the same meaning as Generation Company under the Philippine Grid Code, which is a person or entity authorized by the ERC to operate a facility used in the generation of electricity.</p>	<ul style="list-style-type: none"> • NGCP is in a position that it is best practice to cross reference the definition with the primary document such as, among others, the EPIRA, PGC, and PDC rather than re-state the definition. Cross referencing the primary document ensures that the definition is always consistent and up to date with the primary document.

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<p>Distribution Utility: Has the same meaning given to this in the Philippine Grid Code, which is an Electric Cooperative, private corporation, government-owned utility, or existing local government unit that has an exclusive franchise to operate a Distribution System.</p> <p>Load Customer: A Distribution Utility or other End User that receives electricity through the Grid.</p>	