

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 LIMITED  
TRANSMISSION  
FACILITIES , WITH  
MOTIONS FOR  
PROVISIONAL AUTHORITY  
AND CONFIDENTIAL  
TREATMENT OF  
INFORMATION**

**ERC CASE NO. 2018-010 MC**

**GNPOWER KAUSWAGAN  
LTD. CO.,**

**Applicant.**

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**D O C K E T E D**

Date: 11 JUN 06 2018

By: [Signature]

**NOTICE OF PUBLIC HEARING**

**TO ALL INTERESTED PARTIES:**

Notice is hereby given that on 11 June 2018, the GNPpower Kauswagan Ltd. Co. (GNPK) filed an *Application* dated 07 June 2018, seeking approval of the authority to develop, own and operate point-to-point limited transmission facilities, with motions for provisional authority and confidential treatment of information.

GNPK alleged the following in its *Application*:

**I. THE APPLICANT**

1. GNPK is a duly registered limited partnership organized and existing under the laws of the Republic of the Philippines that is engaged in the business of developing, constructing, operating and owning power generation facilities and in the sale and trade of electric power. Its principal office is at the 28<sup>th</sup> Floor, The Orient Square, Don Francisco Ortigas, Jr. Road, Ortigas Center, Pasig City.

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2. Copies of GNPk's pertinent documents evidencing its due registration as a limited partnership and list of its Management Committee Representatives and officers are attached to the instant *Application*, as follows:

<b>ANNEX</b>	<b>NATURE OF THE DOCUMENT</b>
<b>"A"</b>	GNPK's Certificate of Registration issued by the Securities and Exchange Commission (" <b>SEC</b> ") dated 12 November 2013
<b>"B"</b>	GNPK's Amended Articles of Partnership dated 26 July 2016
<b>"C"</b>	List of GNPk Management Committee Representatives and Partnership and Senior Officers

3. GNPk may be served with orders, notices and other processes of this Honorable Commission through the undersigned counsels.

**II. NATURE OF THE APPLICATION**

4. Pursuant to *Section 9(f)<sup>1</sup> of Republic Act No. 9136, or the "Electric Power Industry Reform Act" and Section 5, Rule 5* of its Implementing Rules and Regulations, this *Application* is being submitted to this Honorable Commission for the authority to develop, own, and operate the following point-to-point limited transmission facilities: (i) the 230kV Connection Facility and (ii) the 69kV Connection Facility, as described below.

**III. STATEMENT OF FACTS**

5. GNPk has been constructing a four (4) x 138 MW (net) clean pulverized coal-fired electric power generation facility (the "**Generation Facility**") in Barangays Libertad and Tacub in the Municipality of Kauswagan, Province of Lanao del Norte.
6. The Generation Facility will be connected to the Mindanao grid through the Balo-I – Kasuwagan – Aurora 230kV Transmission Line (the "**NGCP 230kV T/L**").
- 6.1. On 16 December 2014, NGCP filed an application before this Honorable Commission praying for the immediate issuance of an Order authorizing the advanced implementation of Phase I of the NGCP 230kV T/L after notice and hearing. On 08 June 2015, the Honorable Commission approved the Application.

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<sup>1</sup> Sec. 9 (f), last paragraph of R.A. 9136. "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 same.

- 6.2. Given the intended location of the Generation Facility in the Municipality of Kauswagan, its optimum connection to the Mindanao grid network should inevitably be through the NGCP 230kV T/L. Consistent with the Transmission Development Plan (“TDP”) of the National Grid Corporation of the Philippines (“NGCP”) and in support of the transmission requirement of the Generation Facility, NGCP has implemented Phase 1 of the NGCP 230kV T/L, which includes the new Kauswagan 230kV Indoor GIS Substation, the 12.4 kilometer Double Circuit Transmission Line from Kauswagan to Balo-I Substation, and the Balo-I 230kV Substation Expansion.
- 6.3. The technical feasibility of connecting the Generation Facility to NGCP’s Kauswagan 230kV Substation was confirmed in the System Impact Study (“SIS”) Final Report, which NGCP approved in a letter dated 14 April 2014. A copy of the SIS Final Report and the approval letter is attached hereto as **Annexes “D” and “D-1”**, respectively.
- 6.4. Aside from the SIS, a Power Plant Facilities Study (the “**Facility Study**”) was conducted to determine the technical specifications, the design and operational criteria, and the cost of equipment, engineering, procurement and construction, and the time required for the proposed connection. The Facility Study was likewise approved by NGCP in its letter dated 29 September 2015. Copies of the Facility Study and NGCP’s letter of approval thereon are attached hereto as **Annexes “E” and “E-1”**, respectively.
7. In order to test and commission the Generation Facility, GNPCK started to develop and construct dedicated point-to-point connection facilities consisting of: (i) the 230kV Double Circuit – Steel Towers 2-795MCM connection asset lines extending from each generation unit to the Kauswagan 230kV Substation (the “**230kV Connection Facility**”) and (ii) the 69kV line Single Circuit – Steel Poles 1- 336.4 MCM ACSR up to the tapping point at the Agus 6-Kauswagan 69kV Line (the “**69kV Connection Facility**”) (collectively, the “**Dedicated Connection Facilities**”).
- 7.1. The 230kV Connection Facility consists of six (6) 230kV transmission towers carrying the power line wires approximately 1.16 circuit-k.m. in length to connect the four (4) x 138 MW (net) units from the GNPCK switchyard and shall connect to the NGCP 230kV Facility. These transmission line circuits will end at bays 81, 82, 83, and 84 of the Kauswagan 230kV Substation. The 230kV Connection Facility will serve as the Generation Facility’s primary connection

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and the sole route for exporting power to the Mindanao grid.

- 7.2. Meanwhile, the 69kV Connection Facility consists of a 1.3 k.m. single circuit transmission line from the GNPk switchyard up to the tapping point in the existing Agus 6 to the Kauswagan 69kV line. The 69kV Connection Facility shall be used to supply the backfeed power during the testing and commissioning of the Generation Facility until the completion of the NGCP 230kV Facility. Once the NGCP 230kV Facility is fully operational, the 69kV Connection Facility shall serve as standby or black start power source should there be any failure of the NGCP 230kV Facility. Lastly, the design of the 69kV system is incapable of exporting power from the Generation Facility to the grid.

A copy of the description of the Dedicated Connection Facilities is attached hereto as **Annex "F"**.

8. The Dedicated Connection Facilities are consistent with the TDP of the NGCP for 2014-2015. A copy of the relevant excerpt of the TDP is attached hereto as **Annex "G"**.
9. To be clear, GNPk shall be the sole and exclusive user of the Dedicated Connection Facilities for the abovementioned purposes only. For ease of reference, the respective single line diagrams which show the Dedicated Connection Facilities and related plans and layouts are attached hereto as follows:

<b>ANNEX</b>	<b>NATURE OF THE DOCUMENT</b>
<b>"H"</b>	Overall Single Line Diagram
<b>"H-1"</b>	GNPK Plant Single Line Diagram
<b>"H-2"</b>	Kauswagan 230kV GIS Substation SLD (NGCP)
<b>"H-3"</b>	Balo-I Substation SLD (NGCP)
<b>"H-4"</b>	GNPK Plant Layout
<b>"H-5"</b>	GNPK Project Site Photo
<b>"H-6"</b>	GNPK 69kV Switchyard layout and section
<b>"H-7"</b>	GNPK 230kV Switchyard layout and section
<b>"H-8"</b>	Kauswagan 230kV GIS Substation layout and section
<b>"H-9"</b>	Balo-I Substation Layout

10. In order for GNPk to timely conduct the necessary testing and commissioning of the first unit of the Generation Facility by the second half of 2018, GNPk intends to have the Dedicated Connection Facilities operationally ready by then. A copy of the Gantt Chart Schedule for each of the Dedicated Connection Facilities is attached hereto as **Annexes "I" and "I-1"**.
11. Once completed and approved by the Honorable Commission (assuming arguendo), GNPk shall operate, service, and maintain the Dedicated Connection Facilities

through its competent technical and transmission teams and comply with the Statement of Compliance as required under the Philippine Grid Code of the Philippines. Moreover, a copy of the respective company profile and employment background of the employees and/ or contractors that have been engaged by GNPk to operate, service, and maintain the Dedicated Connection Facilities are hereto attached and marked as **Annexes “J”, “J-1” and “J-2”**.

12. Further, GNPk and NGCP are currently discussing the terms and conditions of the connection agreement which will govern the interconnection and transmission of power supply from the Generation Facility into the Mindanao grid. A letter dated 15 March 2018 issued by NGCP confirming the pendency of the discussions is attached hereto as **Annex “K”**. GNPk undertakes to provide the Honorable Commission with a copy of the Connection Agreement once it is signed by the parties thereto.
13. Meanwhile, GNPk, as a load customer, and Lanao del Norte Electric Cooperative, Inc. (“LANECO”) have recently finalized a power distribution contract dated 25 April 2018 for back feed power through the 69kV Connection Facility, a copy of which is attached hereto as **Annex “L”**. In addition, GNPk hereby submits a copy of the letter dated 02 April 2018 from LANECO confirming its mutual arrangements with GNPk, which is attached hereto as **Annex “L-1”**. It is worthy to note that LANECO has consented to GNPk’s financing and construction of the 69kV Connection Facility.
14. Moreover, the Department of Environment and Natural Resources (“DENR”) has issued an Environmental Compliance Certificate (“ECC”) with number ECC CO 1310-0034 dated 14 March 2014 in respect of the Generation Facility, which includes the 230kV Connection Facility, a copy of which is hereto attached as **Annex “M”**. Meanwhile, in lieu of an ECC, GNPk has secured a Certificate of Non-Coverage (“CNC”) with number CNC-OL-R10-2018-04-00237 dated 17 April 2018 for the 69kV Connection Facility, in accordance with the requirements of the DENR, a copy of which is hereto attached as **Annex “M-1”**.
15. In further support of this *Application*, GNPk hereby submits certified copies of the Grid Owner and System Operator’s Statement of Compliance, Summary and the Specific and Detailed Compliance Plan to the Philippine Grid Code attached hereto as **Annex “N”**.
16. Further, the Applicant respectfully avers that the required submission of a copy of the Honorable Commission’s Certificate of Compliance (“COC”) for the Generation Facility is not yet applicable at this stage because GNPk’s Application for the COC is still pending approval before this Honorable Commission. A copy of the first page of the

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application stamp received by the Honorable Commission is hereto attached as **Annex “O”**.

17. It is likewise important to note that the costs for the completion of the Dedicated Connection Facilities are already included in the project cost of GNPk’s Generation Facility. Thus, GNPk’s projected financial and economic cost analysis applies to the Dedicated Connection Facilities as well. Consequently, the generation rate that this Honorable Commission has approved in the relevant PPSA rate cases already includes the recovery of the costs for the Dedicated Connection Facilities. In this connection, GNPk hereby submits the following:

<b>ANNEX</b>	<b>NATURE OF THE DOCUMENT</b>
<b>“P”</b>	Project Financial and Economic Cost Analysis
<b>“Q”</b>	Detailed breakdown of the project cost of the Dedicated Connection Facilities
<b>“R”</b>	Copy of the Audited Financial Statements for the years ended December 31, 2017 and 2016

18. Also, given that GNPk has solely funded the development and construction of the Dedicated Connection Facilities and that such facilities will be for GNPk’s exclusive use for the operation of the Generation Facility, the construction of the Dedicated Connection Facilities will have no impact on the transmission rates that will be charged by NGCP.
19. A copy of the Secretary’s Certificate containing the resolutions of the sole general partner of GNPk approving the financing, construction, ownership and operation of the Dedicated Connection Facilities as well as the filing of the instant *Application* is attached hereto as **Annex “S”**.
20. In view of the foregoing, GNPk respectfully submits that the Dedicated Connection Facilities meet the requirements under *Section 9 of the EPIRA* and the relevant regulations issued by the Honorable Commission, as follows:
- a. The Dedicated Connection Facilities are dedicated point-to-point limited interconnection facilities whose sole purpose is to connect the Generation Facility to the Mindanao grid and are considered as “Connection Assets” under *ERC Resolution No. 16, Series of 2011*.
  - b. The Dedicated Connection Facilities will be exclusively used by GNPk for the operations of the Generation Facility and will not serve any end-user.
  - c. The Dedicated Connection Facilities are consistent with the TDP of the NGCP.
  - d. The Dedicated Connection Facilities are technically feasible and will not result to the degradation of the Mindanao grid.

- e. GNPk has the technical and financial ability to develop, construct, operate and maintain the Dedicated Connection Facilities.

**IV. ALLEGATIONS IN SUPPORT OF  
THE MOTION FOR PROVISIONAL AUTHORITY**

21. GNPk repleads all of the above allegations in further support of its prayer for the immediate issuance of a provisional authority.
22. Given that the Generation Facility will help address the need for additional capacity, it is imperative that the testing and commissioning of the first unit of the Generation Facility be conducted by the second half of 2018.
23. In line with this, there is an urgent need for the issuance of a provisional authority for the operation and maintenance of the Dedicated Connection Facilities by GNPk in order to meet the above target schedule.
24. GNPk therefore respectfully moves for the immediate issuance of a provisional approval pursuant to *Rule 14 of the ERC Rules of Practice and Procedure*. In further support of this motion, GNPk hereto attached the Affidavit executed by Mr. Steven C. Varberg, GNPk's Authorized Representative, as **Annex "T"**.

**V. ALLEGATIONS IN SUPPORT OF  
THE MOTION FOR CONFIDENTIAL TREATMENT OF  
INFORMATION**

25. GNPk repleads all the above allegations in further support of its motion for confidential treatment of information.
26. Under *Rule 4 of the ERC Rules of Practice and Procedure*, a party to any proceeding before the Honorable Commission may request the same not to disclose certain information and treat such information as confidential, by describing with particularity the information to be treated as confidential, specifying the ground for the claim of confidential treatment of the information and, if applicable, specifying the period during which the information must not be disclosed;
27. In connection with the foregoing, GNPk most respectfully moves for the confidential treatment of **Annexes "P" and "Q"** attached hereto, which are exclusively owned by the GNPk. These documents contain information which are considered part of GNPk's business and trade secrets. As such, GNPk has the sole proprietary interest and will be unduly prejudiced should they be disclosed to the public.
28. This foregoing annexes contain numbers, data, formula, methodology, and calculations involving valuable and sensitive commercial and financial information reflecting

GNPK's business operations and financial trade secrets. Therefore, the disclosure of GNPK's confidential, proprietary, and private information included in the aforesaid annexes should be protected from public dissemination. Otherwise, such information may be illegally and unfairly utilized by business competitors who may use the same for their own private gain and to the irreparable prejudice of GNPK.

29. As explained by the Supreme Court, a trade secret may consist of any formula, pattern, device, or compilation of information that is used in one's business and gives the employer an opportunity to obtain an advantage over competitors who do not possess the information<sup>2</sup>. It is indubitable that trade secrets constitute proprietary rights and jurisprudence has consistently acknowledged the private character of trade secrets<sup>3</sup>. Further, as ruled in *Garcia vs. Board of Investments*<sup>4</sup>, trade secrets and confidential, commercial, and financial information are *exempt* from public scrutiny;
30. It is respectfully submitted that the aforementioned annexes must be accorded confidential treatment. As such, they are to be used *exclusively* by the Honorable Commission and for the *sole* purpose of evaluating this *Application*, thereby protecting these data from unnecessary public disclosure.
31. In accordance with *Section 1(b), Rule 4 of the ERC Rules of Practice and Procedure*, Applicant hereby submits one (1) hard copy of **Annexes "P" and "Q"** in a sealed envelope, with the envelope and each page of the documents stamped with the word "*Confidential*".

#### **PRAYER**

**WHEREFORE**, in view of all of the foregoing, it is respectfully prayed of the Honorable Commission that (i) all information set forth in **Annexes "P" and "Q"** of the instant *Application* be treated as confidential and (ii) pending hearing on the merits, this Honorable Commission immediately issue an Order provisionally approving the instant *Application*; and (iii) after due hearing, render a Decision approving the instant *Application* with finality.

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

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on

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<sup>2</sup> *Air Philippines Corporation vs. Pennswell Inc.*, G.R. No. 172835, December 13, 2007.

<sup>3</sup> *Ibid.*,

<sup>4</sup> 177 SCRA 374 (1989).



**07 September 2018 (Friday) at ten o'clock in the morning (10:00 AM) at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name and address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

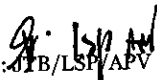
All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Applicant rests its case, subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name and address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All such persons who wish to have a copy of the *Application* may request from Applicant that they be furnished with the same, prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours.

**WITNESS**, the Honorable Chairperson and CEO **AGNES VST DEVANADERA**, and the Honorable Commissioners **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 4<sup>th</sup> day of July 2018 in Pasig City.

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Oversight Commissioner for Legal*

  
LS: JTB/LSP/APV