

2011-10-17

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

IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE CAPITAL
EXPENDITURE FOR THE
ACQUISITION OF THE PANAY
ENERGY DEVELOPMENT
CORPORATION (PEDC) ASSETS
PURSUANT TO SECTION 9 OF
REPUBLIC ACT NO. 9136, WITH
PRAYER FOR PROVISIONAL
AUTHORITY

ERC CASE NO. 2011-134 RC

NATIONAL GRID CORPORATION
OF THE PHILIPPINES (NGCP),

Applicant.

x-----x

RECORDED
Date: OCT 17 2011
By: *W*

ORDER

On September 22, 2011, the National Grid Corporation of the Philippines (NGCP) filed an application for the approval of the capital expenditure for the acquisition of the Panay Energy Development Corporation (PEDC) assets pursuant to Section 9 of Republic Act No. 9136, with prayer for provisional authority.

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

1. It is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at the Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City. It may be served with orders, notices and other legal processes through its undersigned counsel.
2. It is a concessionaire of the National Transmission Corporation (TRANSCO) which was granted by Congress a franchise under Republic Act No. 9511 to engage in the business of conveying or transmitting electricity through high voltage back-bone systems of

interconnected transmission lines, substations and related facilities, and for other purposes. Its franchise also includes the conduct of activities necessary to support the safe and reliable operation of the transmission system and at the end of the concession period, all transmission assets shall be returned by it to the government.

3. Among its functions and responsibilities pursuant to Section 9 of R.A. 9136 or the EPIRA, is to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for the operations and maintenance of the grid, as set forth in the Philippine Grid Code (PGC), and improve and expand its transmission facilities, consistent with the PGC and the Transmission Development Plan (TDP) to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system, provided, **that it shall submit any plan for expansion or improvement of its facilities for approval by the ERC.**

4. Section 8 of the EPIRA provides:

“There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, which shall assume the electrical transmission function of the National Power Corporation (NPC), and have the powers and functions hereinafter granted. **The TRANSCO shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities**, including grid interconnections and ancillary services.

xxx

“The TRANSCO may exercise the power of eminent domain subject to the requirements of the Constitution and existing laws. **Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities.**”(Emphasis ours)

Thus, from the afore-quoted provision of the EPIRA, it is clear that **no person, company or entity other than the TRANSCO shall own any transmission facilities.**

5. The only exception to Section 8 of the EPIRA is found in Section 9 of the same law when it recognizes that a Generation Company may construct, own and operate a dedicated point-to-point limited transmission facilities. This exemption, however, is bounded by numerous strict limitations. Section 9 of the EPIRA provides:

“Sec. 9. *Functions and Responsibilities.* – Upon the effectivity of this Act, the TRANSCO shall have the following functions and responsibilities:

xxx

“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 ours)

6. The above limitations are herein discussed below:

6.1 A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP.

In order for a generation company to own the facility, it must not only have the financial capacity but also the technical expertise to maintain and operate the facility. In the absence of such expertise, the reliability and security of the grid may be put at risk. To prevent this from happening, it is to the best interest of all power stake holders that ownership thereof be transferred to it which has the capability to maintain the high-voltage transmission assets.

6.2 The 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.

Being merely an exemption to the general rule, strict compliance is indispensable. Hence, the facility must be used solely to connect the power plant to the grid and not to the distribution system; and the facility must be used exclusively by the generating company without sharing it with any entity, be it distribution utility or another generation facility.

6.3 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

“Competitive purpose” means that the transmission facility must not be used by a generation company for a potential unfair market advantage over its competitors. In the case of a generation company that serves other Grid Users through its facilities, this advantage over other generation companies cannot be over emphasized.

7. Thus, to give equal opportunity to the generation companies, ownership of the generation facility which serves other Grid Users must be transferred to it.

8. Also, Rule 5, Section 4 (k) of the Implementing Rules and Regulations of R.A. No. 9136 (EPIRA IRR) provides:

“SECTION 4. Obligations of a Generation Company. —

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“(k) **A Generation Company that owns a dedicated point-to-point limited transmission facility shall transfer ownership of such facility to the TRANSCO at a fair market price in the event that such facility is required for competitive purposes** as prescribed in Section 5 (b) of this Rule.” (Emphasis ours)

9. In addition, Rule 5, Section 5 of the EPIRA IRR states:

“SECTION 5. Dedicated Point-to-Point Limited Transmission Facility of a Generation Company. —

“(a) Subject to prior authorization from ERC, TRANSCO or its Buyer or Concessionaire may allow a Generation Company to develop, own and/or operate dedicated point-to-point limited transmission facilities: Provided, That:

- I. **Such dedicated point-to-point limited transmission facilities are required only for the purpose of connecting to the Grid which will be used solely by the Generation Facility, and are not used to serve End-users or Suppliers directly;**
- II. The facilities are included and consistent with the TDP as certified by TRANSCO or its Buyer or Concessionaire; and
- III. Any other documents that may be required by the ERC.

“(b) **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.** In case of disagreement on the fair market price, the ERC shall determine the fair market value of such asset, either directly or through such dispute resolution mechanisms as ERC may specify.” (Emphasis ours)

10. Pursuant to the afore-quoted provisions of the EPIRA and the EPIRA IRR, the Commission on July 6, 2011, issued Resolution No. 16, Series of 2011 entitled, “*Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider*”. Said Resolution is an amendment to Resolution No. 25, Series of 2006, and Resolution No. 41, Series of 2006. It provides a very clear delineation of asset boundary between a Generation Customer and the Transmission Provider. Section 4.2 of said Resolution provides:

“4.2 Connection Assets for Generation Customers of Transmission Provider

“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.

“The specific assets which are owned by any Generation Customer and the Connection Assets which meet these boundary conditions are shown in Annex C.

“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.” (Underscoring ours)

11. The Panay Energy Development Corporation (PEDC), a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal address at Brgy. Ingore, La Paz, Iloilo City currently owns a 1 ½ breaker scheme switchyard that connects PEDC’s 164 MW clean coal-fired power plant located in Brgy. Ingore, La Paz, Iloilo City to the grid through the PEDC–Sta. Barbara 138 kV Double Circuit Transmission Line and other associated assets (collectively referred as the **“PEDC Assets”**).

12. The PEDC Assets perform transmission function and must be transferred to it pursuant to the afore-quoted provisions of R.A. 9136 and its IRR, and Resolution No. 16, Series of 2011. The PEDC Assets with the corresponding justification and legal basis for their transfer to it are enumerated as follows:

PEDC ASSETS	JUSTIFICATION/LEGAL BASIS
1. The PEDC switchyard composed of nine (9) 138 kV Power Circuit Breakers and accessories which include disconnect switches at PEDC switchyard, including Bus 1 and 2 and secondary equipment, and all materials installed in the switchyard.	The PEDC switchyard connects several Grid Users, namely: PEDC, Panay Electric Company (PECO), and Panay Power Corporation 1 and 2 (PPC 1 and PPC 2). The same switchyard will also be used to connect the 54 MW San Lorenzo Wind Farm of Trans-Asia Renewable Energy Corporation (TAREC) to the Grid. Thus, the PEDC switchyard is not a dedicated point-to-point limited transmission facility. Furthermore, being the point of connection of several grid customers, these facilities are also used for competitive purposes.
2. 50 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard.	This transformer is used to supply PECO’s Baldoza Substation (S/S). Considering that this transformer is used to serve PECO directly, PEDC cannot own and operate this transformer.

<p>3. 100 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard.</p>	<p>This transformer serves both PPC and PECO. Thus, it also cannot be considered as a dedicated point-to-point limited transmission facility.</p>
<p>4. Four (4) 138 kV Power Circuit Breakers and accessories which include disconnect switches at the Sta. Barbara Substation including secondary equipment and all materials installed in the switchyard.</p>	<p>These electrical equipment inside NGCP's Sta. Barbara substation are the termination equipment of the PEDC-Sta. Barbara 138 kV line that performs transmission function. Thus, these circuit breakers are not dedicated point-to-point limited transmission facility.</p>
<p>5. PEDC-Sta. Barbara 138 KV Line, 17.4 kms. (including the CVT's and surge arresters).</p>	<p>The Grid Management Committee Resolution No. 14, Series of 2009 has already recognized the PEDC-Sta. Barbara 138 KV line (PEDC line) as functionally a "Transmission Line."</p>
<p>6. SCADA & Microwave System and installation materials and foundation of antenna tower.</p>	<p>These assets are transmission assets because they are excluded as Connection Assets for Customer of Transmission Provider as defined under Section 6 of ERC Resolution No. 16 Series of 2011.</p>

Copy of the connection diagram of PEDC is attached to the application.

13. Considering that the PEDC Assets perform transmission function pursuant to the EPIRA and its IRR, and Resolution No. 16, Series of 2011, it already included these assets in the 2011 Transmission Development Plan (TDP).

14. It may also be worth mentioning that the Grid Management Committee (GMC) in its Resolution No. 14, Series of 2009 dated November 12, 2009 has already recognized that the PEDC-Sta. Barbara 138 KV line (PEDC line) as functionally a "Transmission Line." Consequently, PEDC filed on July 8, 2010 a petition before this Commission docketed as ERC Case No. 2010-043 MC seeking to reclassify the PEDC line to a transmission line. In said case, NGCP and PEDC already agreed that the PEDC line is indeed a transmission asset. The only remaining issue to be resolved in this particular case is the fair market price of the PEDC line which will be determined by the Commission.

Allegations in Support of the Prayer for Provisional Approval

15. Considering that the PEDC Assets play a very vital role in the configuration of the Visayas grid, its reliability and security must always be ensured. In its Comment dated July 20, 2011 in ERC Case No. 2010-043 MC, PEDC expressly admitted that *"it is not in the business of transmission and while it may have qualified personnel, it lacks the necessary equipment to expertly operate and maintain the Transmission Line. On the other hand, NGCP, which is entrenched in the transmission business, has all the necessary resources to expertly*

operate and maintain the Transmission Line like its other transmission assets: hence, it is better suited to assume the O&M of the said line."

16. Given that PEDC lacks the necessary expertise, resources, and capability to operate and maintain these assets in accordance with the standard and procedures under the Philippine Grid Code, if these assets remain under the control of PEDC, the transmission system in Panay Island will continue to be at risk.
17. Therefore, pending final resolution of this application, it is imperative that the ownership, operation and maintenance of the PEDC Assets must immediately be turned-over to it upon payment to PEDC of the amount equivalent to its valuation of the assets as follows:

ASSETS	VALUATION(Php)
1. The PEDC switchyard composed of nine (9) 138 kV Power Circuit Breakers and accessories which include disconnect switches at PEDC switchyard, including Bus 1 and 2 and secondary equipment, and all materials installed in the switchyard	59,579,564.75
2. 50 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard	45,673,808.06
3. 100 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard	75,350,590.70
4. Four (4) 138 kV Power Circuit Breakers and accessories which include disconnect switches at Sta. Barbara Substation including secondary equipment and all materials installed in the switchyard	44,108,615.86
5. PEDC-Sta. Barbara 138 KV Line, 17.4 kms. (including the CVT's and surge arresters)	36,8420,165.36
6. SCADA & Microwave System and installation materials and foundation of antenna tower.	21,818,487.43
7. Lot of PEDC Switchyard (including ROW Costs)	5,025,631.05
TOTAL (Php)	619,976,863.21

18. Therefore, it respectfully moves for the issuance of a Provisional Approval (PA) authorizing it to acquire the PEDC Assets, including the lot where the switchyard is constructed, upon payment to PEDC of the amount equivalent to its valuation of the assets, pending the final resolution of this Application. A copy of the Judicial Affidavit of Mr. Gildo R. Listano, Head of Visayas Operation and Maintenance Department in support of the prayer for provisional approval is attached to the application.

19. It prays that the Commission immediately issue a PA authorizing it to acquire the PEDC Assets, including the lot where the switchyard is

constructed, upon payment to PEDC of the amount equivalent to its valuation of the assets to be charged from the CAPEX approved for 2011 or in any year of the 3rd Regulatory Period.

20. It likewise prays that the Commission approve, after due notice and hearing, the CAPEX Application for the acquisition of the CEDC Assets, including the lot where the switchyard is constructed, as transmission assets pursuant to the provisions of R.A. No. 9136, its Implementing Rules and Regulations, and ERC Resolution No. 16, Series of 2011, subject to payment to PEDC of its fair market price to be charged from the CAPEX approved for 2011 or in any year of the 3rd Regulatory Period.

21. It further prays that in the event that it exceeds the level of the CAPEX approved for 2011 or in any year of the 3rd Regulatory Period on account of the acquisition of the PEDC Assets, the difference in amount between the actual CAPEX and the ERC-approved levels be considered exempted and excluded from the computation of the CAPEX Efficiency Adjustment as provided in Article IX of the RTWR.

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 **November 8, 2011 (Tuesday) 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.**

NGCP is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than 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 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 affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing was published together with the complete issues of the said newspapers, 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.

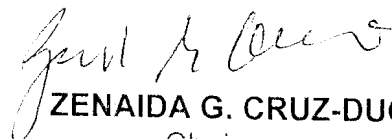

Failure of NGCP to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

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, October 10, 2011.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ZENAIDA G. CRUZ-DUCUT
Chairperson 

Copy Furnished:

1. **Attys. Luis Manuel U. Bugayong, Ronald Dylan P. Concepcion, Mark Anthony S. Actub & Raycell D. Baldovino**
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234 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
3. **THE COMMISSION ON AUDIT**
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
4. **THE COMMITTEE ON ENERGY**
House of the Senate
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
5. **THE COMMITTEE ON ENERGY**
House of Representatives
Batasan Hills, Quezon City, Metro Manila
6. **OFFICE OF THE CITY MAYOR**
Quezon City
7. **Atty. Amanda R. Abrera-Bengson**
Counsel for Panay Energy Development Corporation (PEDC)
c/o Global Business Power Corporation
22/F GT Tower International
6813 Ayala Avenue corner H.V. De la Costa Street
Makati City, Metro Manila
8. **Mr. Pete L. Ilagan**
National Association of Electricity Consumers for Reforms
(NASECORE)
No. 10 Bayside Court Compound,
680 Quirino Avenue, Tambo, Parañaque

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

IN THE MATTER OF THE
APPLICATION FOR THE APPROVAL
OF THE CAPITAL EXPENDITURE
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NATIONAL GRID CORPORATION OF
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Applicant.

x-----x

DOCKETED

Date: _____
By: _____

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on September 22, 2011, the National Grid Corporation of the Philippines (NGCP) filed with the Commission an application for the approval of the capital expenditure for the acquisition of the Panay Energy Development Corporation (PEDC) assets pursuant to Section 9 of Republic Act No. 9136, with prayer for provisional authority.

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

1. It is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at the Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City. It may be served with orders, notices and other legal processes through its undersigned counsel.

2. It is a concessionaire of the National Transmission Corporation (TRANSCO) which was granted by Congress a franchise under Republic Act No. 9511 to engage in the business of conveying or transmitting electricity through high voltage back-bone systems of interconnected transmission lines, substations and related facilities, and for other purposes. Its franchise also includes the conduct of activities necessary to support the safe and reliable operation of the transmission system and at the end of the concession period, all transmission assets shall be returned by it to the government.
3. Among its functions and responsibilities pursuant to Section 9 of R.A. 9136 or the EPIRA, is to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for the operations and maintenance of the grid, as set forth in the Philippine Grid Code (PGC), and improve and expand its transmission facilities, consistent with the PGC and the Transmission Development Plan (TDP) to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system, provided, **that it shall submit any plan for expansion or improvement of its facilities for approval by the ERC.**
4. Section 8 of the EPIRA provides:

"There is hereby created a National Transmission Corporation, hereinafter referred to as TRANSCO, which shall assume the electrical transmission function of the National Power Corporation (NPC), and have the powers and functions hereinafter granted. **The TRANSCO shall assume the authority and responsibility of NPC for the planning, construction and centralized operation and maintenance of its high voltage transmission facilities**, including grid interconnections and ancillary services.

xxx

"The TRANSCO may exercise the power of eminent domain subject to the requirements of the Constitution and existing laws. **Except as provided herein, no person, company or entity other than the TRANSCO shall own any transmission facilities.**"(Emphasis ours)

Thus, from the afore-quoted provision of the EPIRA, it is clear that **no person, company or entity other than the TRANSCO shall own any transmission facilities.**

5. The only exception to Section 8 of the EPIRA is found in Section 9 of the same law when it recognizes that a Generation Company may construct, own and operate a dedicated point-to-point limited transmission facilities. This exemption, however, is bounded by numerous strict limitations. Section 9 of the EPIRA provides:

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6. The above limitations are herein discussed below:
 - a. *A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP.*

In order for a generation company to own the facility, it must not only have the financial capacity but also the technical expertise to maintain and operate the facility. In the absence of such expertise, the reliability and security of the grid may be put at risk. To prevent this from happening, it is to the best interest of all power stake holders that ownership thereof be transferred to it which has the capability to maintain the high-voltage transmission assets.

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(PEDC line) as functionally a "Transmission Line." Consequently, PEDC filed on July 8, 2010 a petition before this Commission docketed as ERC Case No. 2010-043 MC seeking to reclassify the PEDC line to a transmission line. In said case, NGCP and PEDC already agreed that the PEDC line is indeed a transmission asset. The only remaining issue to be resolved in this particular case is the fair market price of the PEDC line which will be determined by the Commission.

Allegations in Support of the Prayer for Provisional Approval

15. Considering that the PEDC Assets play a very vital role in the configuration of the Visayas grid, its reliability and security must always be ensured. In its Comment dated July 20, 2011 in ERC Case No. 2010-043 MC, PEDC expressly admitted that *"it is not in the business of transmission and while it may have qualified personnel, it lacks the necessary equipment to expertly operate and maintain the Transmission Line. On the other hand, NGCP, which is entrenched in the transmission business, has all the necessary resources to expertly operate and maintain the Transmission Line like its other transmission assets: hence, it is better suited to assume the O&M of the said line."*
16. Given that PEDC lacks the necessary expertise, resources, and capability to operate and maintain these assets in accordance with the standard and procedures under the Philippine Grid Code, if these assets remain under the control of PEDC, the transmission system in Panay Island will continue to be at risk.
17. Therefore, pending final resolution of this application, it is imperative that the ownership, operation and maintenance of the PEDC Assets must immediately be turned-over to it upon payment to PEDC of the amount equivalent to its valuation of the assets as follows:

ASSETS	VALUATION(Php)
1. The PEDC switchyard composed of nine (9) 138 kV Power Circuit Breakers and accessories which include disconnect switches at PEDC switchyard, including Bus 1 and 2 and secondary equipment, and all materials installed in the switchyard	59,579,564.75
2. 50 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard	45,673,808.06
3. 100 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard	75,350,590.70
4. Four (4) 138 kV Power Circuit Breakers and accessories which include disconnect switches at Sta. Barbara Substation including secondary equipment and all materials installed in the switchyard	44,108,615.86

<p>and all materials installed in the switchyard.</p>	<p>the 54 MW San Lorenzo Wind Farm of Trans-Asia Renewable Energy Corporation (TAREC) to the Grid. Thus, the PEDC switchyard is not a dedicated point-to-point limited transmission facility. Furthermore, being the point of connection of several grid customers, these facilities are also used for competitive purposes.</p>
<p>2. 50 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard.</p>	<p>This transformer is used to supply PECO's Baldoza Substation (S/S). Considering that this transformer is used to serve PECO directly, PEDC cannot own and operate this transformer.</p>
<p>3. 100 MVA 138/69 kV Transformer including 69 kV Breaker plus its associated secondary equipment and all materials installed in the switchyard.</p>	<p>This transformer serves both PPC and PECO. Thus, it also cannot be considered as a dedicated point-to-point limited transmission facility.</p>
<p>4. Four (4) 138 kV Power Circuit Breakers and accessories which include disconnect switches at the Sta. Barbara Substation including secondary equipment and all materials installed in the switchyard.</p>	<p>These electrical equipment inside NGCP's Sta. Barbara substation are the termination equipment of the PEDC-Sta. Barbara 138 kV line that performs transmission function. Thus, these circuit breakers are not dedicated point-to-point limited transmission facility.</p>
<p>5. PEDC-Sta. Barbara 138 KV Line, 17.4 kms. (including the CVT's and surge arresters).</p>	<p>The Grid Management Committee Resolution No. 14, Series of 2009 has already recognized the PEDC-Sta. Barbara 138 KV line (PEDC line) as functionally a "Transmission Line."</p>
<p>6. SCADA & Microwave System and installation materials and foundation of antenna tower.</p>	<p>These assets are transmission assets because they are excluded as Connection Assets for Customer of Transmission Provider as defined under Section 6 of ERC Resolution No. 16 Series of 2011.</p>

Copy of the connection diagram of PEDC is attached to the application.

13. Considering that the PEDC Assets perform transmission function pursuant to the EPIRA and its IRR, and Resolution No. 16, Series of 2011, it already included these assets in the 2011 Transmission Development Plan (TDP).

14. It may also be worth mentioning that the Grid Management Committee (GMC) in its Resolution No. 14, Series of 2009 dated November 12, 2009 has already recognized that the PEDC-Sta. Barbara 138 KV line

5. PEDC-Sta. Barbara 138 KV Line, 17.4 kms. (including the CVT's and surge arresters)	36,8420,165.36
6. SCADA & Microwave System and installation materials and foundation of antenna tower.	21,818,487.43
7. Lot of PEDC Switchyard (including ROW Costs)	5,025,631.05
TOTAL (Php)	619,976,863.21

18. Therefore, it respectfully moves for the issuance of a Provisional Approval (PA) authorizing it to acquire the PEDC Assets, including the lot where the switchyard is constructed, upon payment to PEDC of the amount equivalent to its valuation of the assets, pending the final resolution of this Application. A copy of the Judicial Affidavit of Mr. Gildo R. Listano, Head of Visayas Operation and Maintenance Department in support of the prayer for provisional approval is attached to the application.

19. It prays that the Commission immediately issue a PA authorizing it to acquire the PEDC Assets, including the lot where the switchyard is constructed, upon payment to PEDC of the amount equivalent to its valuation of the assets to be charged from the CAPEX approved for 2011 or in any year of the 3rd Regulatory Period.

20. It likewise prays that the Commission approve, after due notice and hearing, the CAPEX Application for the acquisition of the CEDC Assets, including the lot where the switchyard is constructed, as transmission assets pursuant to the provisions of R.A. No. 9136, its Implementing Rules and Regulations, and ERC Resolution No. 16, Series of 2011, subject to payment to PEDC of its fair market price to be charged from the CAPEX approved for 2011 or in any year of the 3rd Regulatory Period.

21. It further prays that in the event that it exceeds the level of the CAPEX approved for 2011 or in any year of the 3rd Regulatory Period on account of the acquisition of the PEDC Assets, the difference in amount between the actual CAPEX and the ERC-approved levels be considered exempted and excluded from the computation of the CAPEX Efficiency Adjustment as provided in Article IX of the RTWR.

The Commission has set the application for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on **November 8, 2011 (Tuesday) 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.**

All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and title of the proceeding and stating: (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 proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such person may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENaida G. CRUZ-DUCUT**, and the Honorable Commissioners, **MARIA TERESA A.R. CASTAÑEDA**, **JOSE C.**

REYES, ALFREDO J. NON and GLORIA VICTORIA C. YAP-TARUC, Energy
Regulatory Commission, this 10th day of October, 2011 at Pasig City.


ATTY. NOEL J. SALVANERA
Director III