

Republic of the Philippines
ENERGY REGULATORY COMMISSION
15th Floor, Pacific Center Building
San Miguel Avenue, Pasig City

10/19/10
ifamp

**IN THE MATTER OF THE PETITION
TO CLARIFY THE TREATMENT OF
SYSTEM LOSS RELATIVE TO THE
ELECTRIC POWER PURCHASE
AGREEMENT (EPPA) BETWEEN
VISAYAN ELECTRIC COMPANY, INC.
AND CEBU ENERGY DEVELOPMENT
CORPORATION (CEDC), WITH
PRAYER FOR PROVISIONAL
AUTHORITY,**

OCT 23 2010
890

ERC CASE NO. 2010-^{*128*} RC

**VISAYAN ELECTRIC COMPANY, INC.
(VECO) AND CEBU ENERGY
DEVELOPMENT CORPORATION
(CEDC),**

Petitioners.

X-----X

Cash 71,411.00
CHECK NO. 2/7079163
DATE: 10-22-10
(6)

PETITION

Petitioners, Visayan Electric Company, Inc. (“VECO”) and Cebu Energy Development Corporation (“CEDC”), by their respective counsels and unto this Honorable Commission, respectfully state that:

1. Applicant VECO is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at J. Panis Street, Banilad, Cebu City. It is the duly authorized distribution utility of the electric light, heat and power systems in the Municipalities of San Fernando, Minglanilla, Consolacion and Liloan and the Cities of Naga, Talisay, Cebu and Mandaue.

2. Applicant, Cebu Energy Development Corporation (CEDC) is a domestic

corporation duly organized and existing under Philippine law with office at Daanlungsod, Toledo City, Cebu, Philippines. It is in the process of completing its 3x82 MW coal-fired plant which it shall own, operate and maintain, located at Daanlungsod, Toledo City, Cebu.

3. VECO and CEDC entered into an Electric Power Purchase Agreement (EPPA) on 16 October 2009, wherein CEDC agreed to supply and deliver, and VECO agreed to pay for the electricity supplied by CEDC (1) during testing and commissioning (on a non-firm basis); (2) during the pre-commercial operation period of the Plant; and (3) at the commencement of the Commercial Operation Date at separate rates depending on the stage of the plant, subject to approval by the Commission.

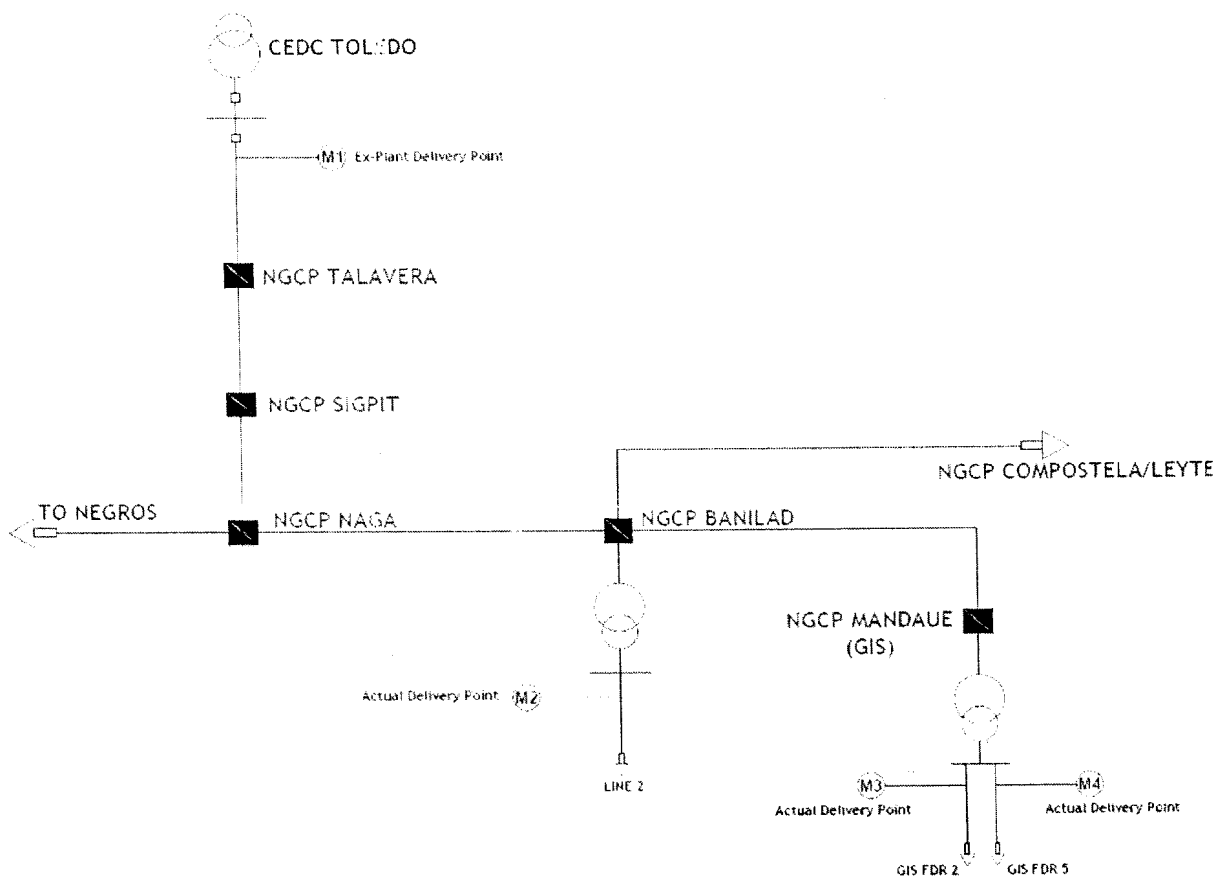
4. On 28 October 2009, Applicants VECO and CEDC jointly filed an Application entitled *In the Matter of the Application for Approval of the Electric Power Purchase Agreement (EPPA) between Visayan Electric Company, Incorporated (VECO) and Cebu Energy Development Corporation (CEDC), with Prayer for Provisional Authority* and docketed as ERC Case No. 2009-075 RC.

5. On 8 February 2010, the Commission approved the said Application subject to certain base rates and other conditions.

6. Among the provisions in the approved EPPA is that the Delivery Point shall be at the high side of CEDC's substation at Daanlungsod, Toledo City, i.e., "Ex-Plant." Energy metered at the Ex-Plant Delivery Point is the basis for the monthly billing of CEDC to VECO, in accordance with the EPPA. VECO then constructed a 37-kilometer 138kV subtransmission line to connect CEDC's plant. In addition, part of the energy requirements of VECO will pass through the transmission lines owned, maintained and operated by the National Grid Corporation of the Philippines ("NGCP") before being received by VECO at VECO's Receiving Points from the Grid located at NGCP Banilad Line 2 and NGCP GIS Feeders 2 and 5 (the "VECO Receiving Points").

7. However, when CEDC commenced delivery of energy to VECO during the testing and commissioning stage, the 138 kV Subtransmission Line was yet to be completed and consequently, considering that the energy delivered by CEDC to VECO passed through the transmission lines of NGCP until it is actually received by VECO at the VECO Receiving Points, system loss is incurred.

The illustration below shows the flow of energy delivered from Ex-Plant Delivery Point to VECO's Receiving Points from the Grid.



8. It is respectfully submitted that as a distribution utility, VECO should only absorb distribution system loss. The system loss as power from CEDC travels along NGCP transmission line should be treated as transmission loss; hence, should not be treated as VECO's distribution system loss. Otherwise, VECO would easily breach the Commission-set system loss cap for distribution utilities.

9. Moreover, when the parties attempted to settle the matter using existing

Commission policies and guidelines relative hereto, they could not find any such applicable policy. The issue therefore, is a novel one which could highly impact the manner by which distribution system loss and transmission line loss are to be treated and calculated.

10. On March 2010, when VECO started receiving power from CEDC, CEDC billed VECO the metered energy at Ex-Plant Delivery Point. However, from April 2010, CEDC agreed to temporarily bill VECO the metered energy at VECO's Receiving Points from the Grid, with the understanding that VECO shall compensate CEDC for the difference subject to the decision of the Honorable Commission. Either way, VECO will stand to lose in the absence of any defining Commission policy.

11. Since the time that the parties implemented the approved EPPA, the following summarizes the difference in energy in kWh and peso amounts between delivery at Ex-Plant Delivery Point and VECO's Receiving Points from the Grid and the corresponding loss to VECO and its customers:

	March	April	May	June	July	August	Total (as of July)
Purchased Power (Delivered, in kWh)	22,533,079	6,533,523	33,399,150	56,811,455	58,443,005	42,484,282	220,204,494
Purchased Power (Ex-Plant, in kWh)	23,391,549	6,782,439	34,671,597	58,975,869	60,669,578	44,102,857	228,593,889
System Loss Absorbed by VECO (in kWh)	858,470	248,916	1,272,447	2,164,414	2,226,573	1,618,575	8,389,395
System Loss Absorbed by VECO (in %)	0.50%	0.14%	0.66%	1.08%	1.19%	0.85%	0.75%
Total Cost of Power (Delivered in Php)	83,098,280.89	24,240,325.84	122,320,421.18	215,157,014.24	221,356,986.79	165,966,480.56	832,139,509.50
Total Cost of Power (Ex-Plant in Php)	84,505,009.98	24,610,402.59	124,208,253.90	218,376,115.21	224,675,096.61	168,380,540.67	844,755,418.96
Amount of Transmission Losses absorbed by VECO	1,406,729.09	370,076.75	1,887,832.72	3,219,100.97	3,318,109.82	2,414,060.11	12,615,909.46
Total Purchased Power (Delivered, in kWh)	170,770,870	181,771,776	192,796,152	199,486,063	186,355,419	190,455,988	1,121,636,268
Proposed Recovery Rate (in P/kWh)							0.0112
Proposed Recovery Period (in Months)							6 Months

12. The following table further summarizes the long-term impact on the Generation Rate of VECO using July 2010 kWh power purchased from CEDC using the Commercial Operations Rate under the EPPA.

Long-term Impact on the Generation Rate of VECO
 Generation Rate Computation using July 2010 kWh Power Purchase
 CEDC at Commercial Operations Rate

Supplier	Delivered (in kWh)	Ex-Plant (in kWh)	Difference (in kWh)
NPC	104,296,636	104,296,636	0
TPC	4,700,263	4,700,263	0
CPPC	18,680,000	18,680,000	0
Apo Cement	235,515	235,515	0
CEDC	58,443,005	58,443,005	0
Total	186,355,419	186,355,419	0

Supplier	Delivered (in Pesos)	Ex-Plant (in Pesos)	Difference (in Pesos)
NPC	409,327,078.62	409,327,078.62	0.00
TPC	18,285,871.87	18,285,871.87	0.00
CPPC	162,079,670.28	162,079,670.28	0.00
Apo Cement	6,423,419.85	6,423,419.85	0.00
CEDC	308,452,752.87	315,089,055.24	6,636,302.37
Total	904,568,793.49	911,205,095.86	6,636,302.37

	Delivered (in P/kWh)	Ex-Plant (in P/kWh)	Difference (in P/kWh)
Generation Rate	4.8540	4.8896	0.0356

Allegations in Support of a Provisional Authority

13. As alleged in paragraph 10, CEDC temporarily has been billing VECO energy based on VECO's Receiving Points from the Grid since April 2010. While in March 2010, CEDC billed VECO energy at Ex-Plant Delivery Point. Hence, the parties have been prevented from recovering their rates of return as approved by the Energy Regulatory Commission

14. Thus, it is necessary that a provisional authority be immediately issued on the manner of treatment of the system loss from Ex-Plant Delivery Point to VECO's Receiving Points from the Grid, and allow a recovery of the past transmission line losses absorbed by the Parties.

PRAYER

WHEREFORE, the foregoing premises considered, Petitioners Visayan Electric Company, Inc. and Cebu Energy Development Corporation respectfully pray that:

1. The Honorable Commission render a Decision setting the policy relative to the treatment and calculation of the system loss incurred during the transmission of energy from Ex-Plant Delivery Point to VECO's Receiving Points from the Grid, specifically, to recognize that such system loss is a "transmission line loss" and not a "distribution system loss;"

2. That VECO be allowed to recover the amount of Php 10,201,849.35 equivalent to 6,770,821 kWh covering the period from March to July 2010 only, which amount represents the difference between the purchased power at Ex-Plant Delivery Point and VECO's Receiving Points from the Grid and in turn compensate CEDC for the difference;

3. That VECO be allowed to recover any additional difference between the purchased power at Ex-Plant Delivery Point and VECO's Receiving Points from the Grid that will be incurred in the succeeding billing periods from the time of the filing of this Petition until the Decision for provisional or permanent authority.

Other just and equitable reliefs are likewise prayed for.

RESPECTFULLY SUBMITTED.

Cebu City for Pasig City, October 18, 2010.

Counsel for Petitioner Visayan Electric Company, Inc.


ATTY. JOANA A. GIDUQUIO-BARON

IBP O.R. No. 796108; January 4, 2010; Cebu City

PTR No. 9673037; January 4, 2010, Cebu City

Roll No. 41829

MCLE Compliance No. II – 0015874; Jan. 21, 2009

J.P. GARCIA & ASSOCIATES

Unit 902 Ayala Life-FGU Center

Cebu Business Park, Cebu City

Telefax No. (032) 232-0253

jbaron@jpgarcialaw.com

Counsel for Petitioner Cebu Energy Development Corporation


ATTY. KARL JOSEF D. BANAG

IBP No. 796061; Cebu City, January 4, 2010

PTR No. 9680325; Cebu City, January 4, 2010

Roll No.51767

MCLE Compliance No. III-0016103; May 7, 2010

Cebu Energy Development Corporation

15/F Metrobank Plaza Building

Osmena Blvd., Cebu City

Tel. No. (032) 2548855 loc 514

Fax No. (032) 253-2665

Karljosef.banag@globalpower.com.ph

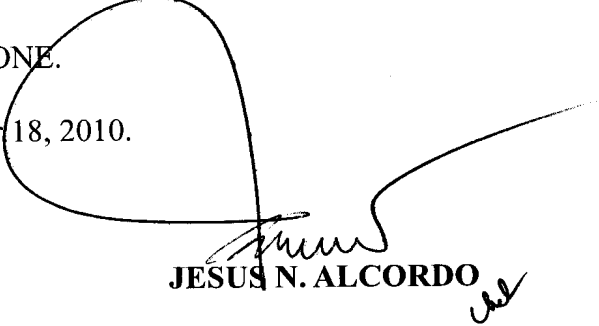
VERIFICATION AND CERTIFICATION

I, **JESUS N. ALCORDO**, of legal age, Filipino and with office address at 10/F GT Tower International, 6813 Ayala Avenue, Makati City, after having been duly sworn to in accordance with law, depose and say:

1. I am the President of Cebu Energy Development Corp. (CEDC), the co-Petitioner in the above-entitled case;
2. Jointly with co-Petitioner Visayan Electric Company, Inc., I caused the preparation and filing of the instant Petition;
3. I read the same and that all the allegations contained therein are true and correct of my own personal knowledge and belief;
4. I certify that **CEDC** has not commenced any action and/or proceeding involving the same issue/s before the Supreme Court, the Court of Appeals or any other tribunal or agency;
5. To the best of my knowledge no such action and/or proceeding involving the same issue/s is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency;
6. Should I thereafter learn that such action and/or proceeding is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, I herein undertake to report such fact before this Honorable Commission within five (5) days from knowledge.

FURTHER AFFIANT SAYETH NONE.

Cebu City, (for Pasig City), October 18, 2010.


JESUS N. ALCORDO

SUBSCRIBED AND SWORN to before me this OCT 18 2010, affiant exhibited to me his Senior Citizen's ID No. 29494 and Community Tax Certificate No. 20899905 issued on 26 January 2010 at Muntinlupa City..


ATTY. KARL JOSEF D. BANAG

Notary Public
Until December 31, 2011
Notarial Commission No. 185 06
362-K Visitacion St., Jones Ave., Cebu City
Roll of Attorneys No. 51767
PTR No. 9680325; Cebu City; Jan. 4, 2010
IBP No. 796061; Cebu City; Jan. 4, 2010

Doc. No. 56 ;
Page No. 12 ;
Book No. 11 ;
Series of 2010.


VERIFICATION AND CERTIFICATION

I, **ARLO G. SARMIENTO**, of legal age, Filipino and with office address at VECO, J. Panis Street, Banilad, Cebu City, Philippines after having been duly sworn to in accordance with law, depose and say:

1. I am the Vice President – Utility Economics Group of Visayan Electric Company, Inc. (“VECO”), the co-Petitioner in the above-entitled case;
2. Jointly with co-Petitioner Cebu Energy Development Corporation, I caused the preparation and filing of the instant Application;
3. I read the same and that all the allegations contained therein are true and correct of my own personal knowledge and belief;
4. I certify that **VECO** has not commenced any action and/or proceeding involving the same issue/s before the Supreme Court, the Court of Appeals or any other tribunal or agency;
5. To the best of my knowledge no such action and/or proceeding involving the same issue/s is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency;
6. Should I thereafter learn that such action and/or proceeding is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, I herein undertake to report such fact before this Honorable Commission within five (5) days from knowledge.

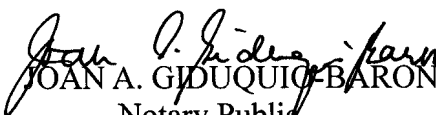
FURTHER AFFIANT SAYETH NONE.

Cebu City, (for Pasig City), October 18, 2010.


ARLO A. G. SARMIENTO

SUBSCRIBED AND SWORN TO before me this Oct. 18, 2010 at Cebu City, affiant exhibiting to me his Passport No. TT0729806 issued on Oct. 2, 2006 at DFA-Cebu City.

Doc. No. 1;
Page No. 1;
Book No. IX;
Series of 2010.


JOAN A. GIDUQUIO-BARON
Notary Public

Until December 31, 2010
Unit 902 Ayala Life-FGU Center, Cebu Business Park
Roll of Attorneys No. 41829
PTR No. 9673037; Jan. 4, 2010, Cebu City
IBP No. 796108; Jan. 4, 2010, Cebu City