

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

**IN THE MATTER OF THE
APPLICATION FOR THE APPROVAL
OF CONNECTION CHARGES AND
RESIDUAL SUBTRANSMISSION
CHARGES FOR CALENDAR YEAR
2010 ON THE EXCLUDED SERVICES
COVERING THE EXISTING
SUBTRANSMISSION ASSETS OF THE
NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP), WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2010-__RC

**NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP),**

Applicant.

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APPLICATION

Applicant **NATIONAL GRID CORPORATION OF THE PHILIPPINES
(NGCP)**, by counsel, respectfully states:

1. NGCP is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at NGCP Building Quezon Avenue corner BIR Road, Diliman, Quezon City. It is the corporate vehicle of the consortium which was awarded the concession to assume the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).

2. Under Republic Act No. 9511, entitled "*An Act Granting the National Grid Corporation of the Philippines A Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Backbone System or Interconnected Transmission Lines, Substations and Related*

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Facilities, and For Other Purposes," NGCP was granted a franchise to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.

3. On 15 January 2009, NGCP assumed the transmission functions of TRANSCO including the operation, management and maintenance of the nationwide electrical grid.

4. Under Section 1.6.3 of the Rules for Setting Transmission Wheeling Rates (RTWR) and in relation to Annex IV, Module F of the Open Access Transmission Service Rates (Revised OATS Rules), NGCP is allowed to recover the reasonable cost incurred in providing efficient sub-transmission services from its transmission customers.

5. Thus, this Application.

**FORMULAE USED IN THE COMPUTATION
OF THE CONNECTION CHARGE AND
RESIDUAL SUBTRANSMISSION CHARGE
(CC/RSTC) FOR CY 2010**

6. The summary of the proposed CC/RSTC for CY 2010 is shown in the table below:

	Monthly CC, PhP	Monthly RSTC, PhP
Luzon	24,362,361.80	62,101,106.66
Visayas	11,456,453.80	27,021,424.98
Mindanao	23,397,859.58	48,111,250.39

A copy of the itemized Proposed 2010 CC/RSTC is hereto attached as **Annex "A."**

7. In the computation of the CC, NGCP used the formula provided in Clause F(AIV)3.2 of the Revised OATS Rules, to wit:

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$$\frac{[\text{ODRC}_i \times \text{WACC}] + D_i + O_i + T_i + R_i}{12}$$

Where:

- ODRC_i = is the Optimised Depreciated Replacement Cost of the Connection Assets as determined under F(AIV)4.1 subject to Rule B 20 of the OATS Rules
- WACC = is the Weighted Average Cost of Capital as determined under F(AIV)4.2
- D_i = is the depreciation cost of the Connection Asset for the current year, as determined under F(AIV)4.1(c)
- O_i = is the operational and maintenance cost attributable to the Connection Asset for the current year, as determined under F(AIV)4.3
- T_i = is the corporate tax expense attributable to the Connection Asset for the current year, as determined under F(AIV)4.5
- R_i = is the short-fall, or surplus, in the Connection Charge collected for that Connection Asset in the previous year, increased by an amount to reflect the time value of money calculated using the Weighted Average Cost of Capital as determined under F(AIV)4.2. If R_i is a surplus, it shall be expressed as a negative.

7.1. While for RSTC, NGCP adopted the formula provided in Clause F(AIV)7.2 of the Revised OATS Rules, to wit:

$$\frac{[\text{ODRC}_s \times \text{WACC}] + D_s + O_s + T_s + R_s}{12}$$

Where:

- ODRC_s = is the Optimised Depreciated Replacement Cost of the Residual Sub-transmission Assets as determined under F(AIV)4.1 subject to Rule B 20 of the OATS Rules
- WACC = is the Weighted Average Cost of Capital as determined under F(AIV)8.2
- D_s = is the depreciation cost of the Sub-transmission Asset for the current year, as determined under F(AIV)8.1(c)
- O_s = is the operational and maintenance cost attributable to the Sub-transmission Asset for the current year, as determined under F(AIV)8.3

x-----x

- T_s = is the corporate tax expense attributable to the Residual Sub-transmission Asset for the current year, as determined under F(AIV)8.5
- R_s = is the short-fall, or surplus, in the Residual Sub-transmission Charge collected for that Sub-transmission Asset in the previous year, increased by an amount to reflect the time value of money calculated using the Weighted Average Cost of Capital as determined under F(AIV)8.2. If R_t is a surplus, it shall be expressed as a negative.

7.2. Lastly, for the sub-transmission asset used by two (2) or more transmission customers, NGCP adopted the formula in Clause F(AIV)7.3 of the Revised OATS Rules, to wit:

$$\frac{BD_i}{\sum BD_i}$$

Where:

- BD_i = the Generator Billing Determinant as determined under F(AI)2.2, F(AI)2.3 & F(AI)2.4 or the Load Billing Determinant as determined under F(AI)3.2, F(AI)3.3 & F(AI)3.4 as the case may be, for the Transmission Customer at the relevant Connection Point
- $\sum BD_i$ = the sum of the Billing Determinants of all Transmission Customers at the relevant Connection Point

VALUES, FACTORS, PARAMETERS AND ISSUANCES ADOPTED BY NGCP TO COMPUTE THE PROPOSED CC/RSTC FOR CY 2010

8. With the said formulae and figures, the following values and parameters established in the Second Regulatory Period Final Determination (FD) were used to compute the proposed CC and RSTC for CY 2010:

Particulars	Connection Charges	Residual Subtransmission Charges
Asset Classification	As identified and classified by the ERC in the FD	
Asset Values	2004 ODRC Asset values rolled-forward to 2010	
Asset Composition	Inclusion of new assets commissioned and in operation as of December 2009 and disposal of sub-transmission assets to qualified distribution utilities	
WACC	15.8739%	15.8739%

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Particulars	Connection Charges	Residual Subtransmission Charges
OPEX ¹	P110.6Mn	P237.1Mn
Proposed Franchise Tax	P20.51Mn	P49.29Mn
Other Taxes ²	P10.5Mn	P22.7Mn
Billing Determinant (kW)	Actual recorded billing determinants (kW) of 2009 were used to allocate the cost of assets, particularly to those being shared.	

9. Also, NGCP utilized the 2009 billing determinants and asset configurations data. The allocation to transmission customers of the cost of assets, OPEX and taxes, particularly to those which share the same subtransmission asset and service, will reflect the most recent usage of the assets and provision of services.

10. It should be emphasized that the rolled-forward value of the Connection or Residual Subtransmission Assets do not include the ERC-approved capital expenditure levels³ and disposals in the FD, shown below:

ERC-APPROVED CAPITAL EXPENDITURES & DISPOSAL, Nominal (Php Mn)						
Asset type	2005	2006	2007	2008	2009	2010
Connection	185.9	128.7	189.0	81.2	66.3	75.0
Residual Subtransmission	2.3	95.8	325.5	466.2	43.7	45.2
ERC-APPROVED DISPOSAL, Nominal (Php Mn)						
Asset type	2005	2006	2007	2008	2009	2010
Connection	485.1	0	0	0	0	0
Residual Subtransmission	1,040.4	0	0	0	0	0

11. This is consistent with Clause F(AIV)4.1 (b) of the Revised OATS Rules, which provides that: "x x x the rolled-forward depreciated value for the current Regulatory Year will be determined using actual capital expenditures (rather than forecast capital expenditures) including capital expenditures incurred upgrading or replacing (in part or in whole) donated assets. x x x"

12. Further, NGCP excluded in the computation of the proposed CC/RSTC for CY 2010 the following subtransmission assets disposed up to 2009:

¹ 2010 Opex level in Tables 7.5 and 7.6 (pages 134 & 135) of the FD.
² 2010 Other Tax levels in Table 7.5 and 7.6 (pages 134 & 135) of the FD.
³ Tables 5.18 and 5.19 (page 89) of the FD.

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Distribution Utility	Date of Deed of Absolute Sale/Date of Transfer of Possession	Distribution Utility	Date of Deed of Absolute Sale/Date of Transfer of Possession
SFELAPCO	30 August 2006	MORESCO II	10 November 2008
CELCOR	29 November 2006	TARELCO II	24 December 2008
AEC	28 May 2007	MORESCO I	12 January 2009
TEI	19 October 2007	DECORP	16 January 2009
BOHECO I	3 December 2007	SOCOTECO I	12 March 2009
NOCECO	2 May 2008	BOHECO II	3 April 2009
VECO	24 June & 21 November 2008	VRESCO	4 May 2009
SEDC	25 September 2008	LUC	25 May 2009
MERALCO	26 September 2008	COTELCO	10 June 2009
CENECO	20 October 2008	ANECO	9 September 2009

13. It should be noted that in the Honorable Commission's Decision dated 7 December 2007 in ERC Case No. 2007-007RC was implemented; and the 2007 CC/RSTC were billed, in CY 2008 which represents a delay of one (1) year from the intended period of imposition/collection.

14. Given the said delay, changes or modifications in these services of a given year (including asset disposals, new connections to the subtransmission assets, increases or decreases in demand or energy consumption and others related factors) will not affect the amount to be charged to the connected customers for that particular year. Such changes are accounted for in the calculation of charges for services to be rendered in the subsequent years.

15. Also, in Honorable Commission's Resolution No. 1, Series of 2009, NGCP was allowed to continue to collect the uncollected connection and residual charges due to the said deferred charges, to wit:

"Section 5. TRANSCO Rates. TransCo will continue to bill or collect any uncollected connection and residual charges resulting from the one (1) year deferred charges as approved by the ERC.

x x x

"TransCo will likewise continue to bill the corresponding subtransmission rates to any entity connected to the subtransmission assets that have not been acquired by a Qualified Distribution Utility or Qualified Consortium or entities duly authorized by PEZA to operate within the EZs. (pp. 5 - 6,

x-----x

Resolution 1, Series of 2009 dated January 26, 2009)." (Emphasis supplied)

16. In addition to the parameters mentioned above, NGCP further used the following factors in the computation of proposed CC/RSTC for CY 2010 :

- a) Depreciation for the years 2005, 2006, 2007, 2008, 2009 and 2010 were considered;
- b) Return on Capital:
 - 2004 values of Subtransmission assets were rolled-forward to closing values of CY2005, CY2006, CY2007, CY2008, CY2009, taking into account actual capital expenditures. The rolled-forward for CY 2010 does not take into account capital expenditures;
 - 2004 values of Subtransmission assets were rolled-forward to closing values of CY 2005, CY2006, CY2007, CY2008, CY2009, taking into account the disposals covered by contracts submitted to the Honorable Commission for approval. The rolled-forward value for CY2010 does not take into account the disposal covered by contracts submitted to the Honorable Commission for approval;
 - In the rolling forward of assets no IDC Adjustment factors⁴ of 1.08% and 0.93% or any escalation factor were imputed in the calculation;
- c) ERC-approved OPEX and Other Taxes levels covered in the Final Determination were allocated based on particular customer assets over the total identified Connection or Residual Subtransmission Assets or the formula of:

$$\frac{ODRC}{\Sigma ODRC} \times OPEX \qquad \frac{ODRC}{\Sigma ODRC} \times Other Taxes$$

- d) Only qualified Connection and/or Residual Subtransmission assets are to be billed and used in the computation of the appropriate charges. As referred to herein, qualified subtransmission assets refer to lines, substations and such other facilities, including capital maintenance cost therefore, that were identified by this Honorable Commission in the 2nd Regulatory Period Decision and Final Determination as subtransmission assets providing service to connected customers.

⁴ IDC adjustment Factor in Table 5.11 (page 84) of the Final Determination.

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**OTHER ADJUSTMENTS MADE IN THE
COMPUTATION OF THE PROPOSED
CC/RSTC FOR CY 2010**

17. Under Section 9 of Republic Act No. 9511, NGCP shall pay a franchise tax equivalent to three percent (3%) of all gross receipts in lieu of income tax and any and all taxes, duties, fees and charges of any kind.

18. Thus, NGCP proposes the following factors in the computation of the proposed CC/RSTC for CY 2010:

- The corporate income tax, determined at Php274.6 million for CC and Php593.1 million for RSTC levels in the Second Regulatory Period Final Determination, shall be pegged at **zero**;
- The three percent (3%) Franchise Tax shall be included and computed as follows:

$$\text{Franchise Tax} = 3\% * \text{Total Charge}$$

Where:

$$\text{Total Charge} = \frac{[(\text{ODRCave} * \text{WACC}) + (\text{Depreciation}) + (\text{OPEX}) + (\text{Other Taxes})]}{0.97}$$

19. In relation thereto, the Bureau of Internal Revenue (BIR) issued a Ruling dated 16 October 2009 stating as follows:

“Section 9 of R.A. No. 9511 specifically imposes upon NGCP a tax on its franchise equivalent to three percent (3%) of all gross receipts derived from its operations. Pursuant to the same provision, said franchise tax shall be in lieu of income tax and any and all taxes of any kind, nature or description on its franchise, rights, privileges, receipts, revenues and profits, and on properties used in connection with its franchise, from which taxes NGCP is expressly exempt. By clear import of the law, there is no question that under Section 9 of R.A. No. 9511, NGCP is exempt from income tax on all income derived from all its business activities included within the scope of its franchise.”

20. While NGCP is tax-exempt pertaining to income tax, as provided in Section 9 of Republic Act No. 9511 and BIR Ruling dated 16 October 2009, the Bureau of Local Government Finance (BLGF) has yet to issue a definitive ruling confirming NGCP's tax-exempt status as regards to local business tax. Thus, this Application includes the imposition of the local business taxes.

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21. NGCP made adjustments in the RSTC of Nueva Ecija I Electric Cooperative (NEECO I), Gapan Ice Plant & Cold Storage (GIPCS), Edong Ice Plant & Cold Storage (ECOSIP) and Nueva Ecija II Electric Cooperative (NEECO II) - Area 2. for the .78km portion of the Cabanatuan - San Isidro 69kV Line 1 to proportionately allocate the charges.

22. Without any intention to delay the implementation of the proposed CC/RSTC for CY 2010, this Application is being filed at this time in order to consider significant changes in the customers' connection, i.e. to include new connections in 2009, and most importantly to include necessary changes in the asset connection of existing customers.

23. The Board of Directors of NGCP approved the filing of this Application as evidenced by a Secretary Certificate dated 11 November 2010, hereto attached as **Annex "B"**.

24. The proposed CC/RSTC for CY 2010 for the excluded services of Subtransmission Assets designed and developed in accordance with the provisions of the RTWR, Revised OATS Rules and pertinent ERC Orders sets forth fair and reasonable rates that will serve the public interest and convenience, and signals the efficient utilization of transmission and subtransmission facilities that will ultimately redound to the best interest and benefit of the consuming public.

**ALLEGATIONS IN SUPPORT OF THE
APPLICATION FOR PROVISIONAL
AUTHORITY/INTERIM RELIEF**

25. The Revised OATS Rules, under Clause F(AIV)1.3, states that the CC/RSTC will come into effect on the same date as the new tariff rates resulting

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from the final determination by this Honorable Commission of the MAR for the Second Regulatory Period take effect.

26. Further, Clause 6.2.1 (f) of the RTWR, expressly provides:

(f) The ERC must, on or before 11 December of the Calculation Year, determine whether or not the maximum transmission wheeling rates proposed by the Regulated Entity in its submission (as such submission may be amended with the approval of the ERC) comply (or are likely to comply) with the requirements of these Rules (including, in particular, Sections 3.1.2, 4.1.2, 5.1, 6.4 and 6.5 (as applicable)) and the OATS Rules.

If:

(i) the ERC is satisfied that such rates do comply (or are likely to comply) with the requirements of these Rules and the OATS Rules, the Regulated Entity must implement those rates with effect from 26 December of the Calculation Year;

(ii) the ERC is not satisfied that such rates do comply (or are likely to comply) with the requirements of these Rules and the OATS Rules:

(A) the Regulated Entity must amend its proposed maximum transmission wheeling rates in accordance with such directions as the ERC (after consulting with the Regulated Entity) may give for the purposes of ensuring that those rates comply (or are likely to comply) with the requirements of these Rules and the OATS Rules; and

(B) the Regulated Entity must implement those amended rates by 15 days after the date on which the ERC gives those directions but not earlier than 26 December of the Calculation Year (pending which the Regulated Entity must continue to apply its existing rates).

27. Accordingly, the CC and RSTC for CY 2010 are to be imposed commencing the billing period of 26 December 2010 – 25 January 2011.

28. It bears stressing that the delay in the implementation would effectively mean delay in the recovery of the necessary revenue from the services that NGCP has been providing to its customers. The cost of the investments made on these subtransmission assets, which is not being recovered in the MAR, should be recovered in a timely manner.

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29. Thus, NGCP respectfully prays that it be given the provisional authority to implement the CC and RSTC specified herein commencing the billing period of 26 December 2010 – 25 January 2011.

30. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Ms. Leezyl C. Echon hereto attached as **Annex "C"**.

PRAYER

WHEREFORE, NGCP most respectfully prays that this Honorable Commission:

1. **ISSUE a *Provisional Authority*** to implement and commence the billing and collection of the 2010 Connection Charges and Residual Subtransmission Charges applied for herein beginning the billing period of 26 December 2010 – 25 January 2011;

2. **APPROVE** the recovery of the computed 2010 Connection Charges and Residual Subtransmission Charges provided in this Application to all transmission customers beginning the billing period of 26 December 2010 – 25 January 2011;

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

Quezon City for Pasig City, 11 November 2010.

x-----x

OFFICE OF THE GENERAL COUNSEL
National Grid Corporation of the Philippines
NGCP Building, Quezon Avenue corner
BIR Road, Diliman, Quezon City

By:



LUIS MANUEL U. BUGAYONG
PTR No. 5931266 01/18/10 Pasig
IBP No. 812742 04/14/10 Rizal
MCLE Compliance No. III-0009784
Roll No. 38002



RONALD DYLAN P. CONCEPCION
PTR No. 0686869/ 01-18-10/ Mandaluyong City
IBP Lifetime No. 04995/ RSM Chapter
MCLE Compliance No. III-0009719
Roll of Attorneys No. 40065



MARK ANTHONY S. ACTUB
PTR No. 3806854/05-04-10, Quezon City
IBP Lifetime No. 04514/ Misamis Oriental
MCLE Compliance III No. 0018582/Aug. 27, 2010
Roll No. 45707



RAYCELL D. BALDOVINO
PTR No. 5931267 / 01-14-10 Pasig City
IBP No. 812743/01-14-10 RSM
MCLE Compliance No. III-0009779
Roll No. 50672

REPUBLIC OF THE PHILIPPINES)
Quezon City) S. S.

**VERIFICATION AND CERTIFICATION
OF NON-FORUM SHOPPING**

I, **LUIS MANUEL M. BUGAYONG**, after having been duly sworn to in accordance with law, hereby depose and say that:

1. I am presently the OIC, Office of the General Counsel of the National Grid Corporation of the Philippines (NGCP);

2. I am duly authorized to sign the Verification and Certification of Non-Forum Shopping for and in behalf of NGCP as evidenced by the Secretary's Certificate and a Special Power of Attorney hereto attached as **Annexes "A-Verification" and "B-Verification"**;

3. I have caused the preparation of the foregoing Application;

4. I have read the foregoing Application and I attest that the allegations therein are true and correct of my personal knowledge and belief based on authentic records;

5. I further attest that NGCP has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein;

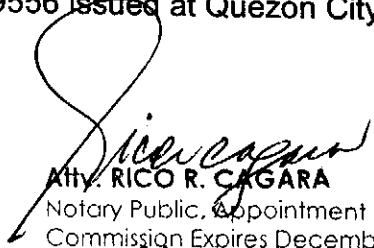
6. If I should thereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact to this Commission within five (5) days therefrom.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 11 day of November, in Quezon City, Philippines.


LUIS MANUEL M. BUGAYONG
Affiant

SUBSCRIBED AND SWORN to before me this 11th day of November 2010, affiant exhibited to me his Driver's License No. A07-93-019556 issued at Quezon City.

Doc. No. 55 ;
Page No. 12 ;
Book No. 9 ;
Series of 2010. 7 ;


Atty. RICO R. CAGARA
Notary Public, Appointment No. 045-10
Commission Expires December 31, 2011
PTR No. 3/2201 : 1-2-10 Quezon City
IBP Lifetime Roll No. 08600; Bulacan
MCLE Compliance, No. III-0001360; 12/10/08
Roll of Attorney's No. 53664

REPUBLIC OF THE PHILIPPINES)
CITY OF QUEZON) S.S.

ANNEX "A-VERIFICATION"

SECRETARY'S CERTIFICATE

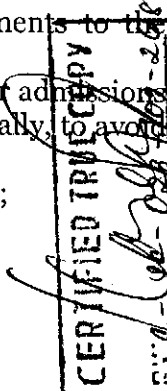
I, **KAREN S. ONG**, of legal age, Filipino, and with office address at Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City, Metro Manila, after having been duly sworn in accordance with law, hereby certify that:

1. I am the Corporate Secretary of NATIONAL GRID CORPORATION OF THE PHILIPPINES ("NGCP"), a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City.

2. At the Meeting of the Board of Directors of the corporation held on 15 June 2009, at which a quorum was present, the following resolutions were approved:

"NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the following are hereby approved and adopted:

1. Confirming and ratifying all previous acts of the Office of the General Counsel, and the President and CEO, relative to regulatory applications and proceedings with the Energy Regulatory Commission, and all other civil, criminal, labor, and tax disputes to which NGCP was a party, and which needed immediate and expeditious attention to protect the Corporation's interests;
2. Granting authority to the President and CEO, and/or his duly authorized representative, to sign the verification and certification of non-forum shopping relative to regulatory applications and proceedings with the Energy Regulatory Commission, and all other civil, criminal, labor, and tax disputes;
3. Granting authority for the Office of the General Counsel or any of its lawyers to do the following:
 - a. Represent NGCP in the regulatory applications and proceedings with the Energy Regulatory Commission, and all other civil, criminal, labor, and tax disputes, and to consider:
 - i. The possibility of an amicable settlement or a submission to alternative modes of dispute resolution;
 - ii. Simplification of the issues;
 - iii. The necessity or desirability of amendments to the pleadings;
 - iv. The possibility of obtaining stipulations of admission of facts and of documents, totally or partially, to avoid unnecessary proof;
 - v. The limitation of the number of witnesses;


CERTIFIED TRUE COPY
 BIR - 087-087-268
KAREN S. ONG
 CORPORATE SECRETARY

- vi. The advisability of a preliminary reference of issues to a commissioner; and
 - vii. Such other matters as may aid in the prompt disposition of the case.
- b. To execute, sign, and obtain any bond that may be required in said case from any bonding or insurance company, and to sign any document necessary to obtain said bond;
 - c. To do and perform, on behalf of NGCP, any act and deed relating to the case, which NGCP may legally do and perform, including any appeals or further legal proceedings; and
4. Granting authority to the President and CEO to execute, sign and/or deliver compromise agreements, and any and all documents to effect the foregoing resolution.”

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 18th day of June 2009 in Quezon City, Metro Manila.

[Handwritten Signature]
 KAREN S. OCHOA
 Affiant
 CHAIRMAN S. OCHOA
 CORPORATE SECRETARY
 CTS - TRUE COPY

SUBSCRIBED AND SWORN TO before me this 18th day of June 2009 in Quezon City, Metro Manila, affiant exhibiting to me her Passport No. TT0665884 issued on 16 August 2006 in Manila.

Doc. No. 211 ;
 Page No. 44 ;
 Book No. 3 ;
 Series of 2009.

[Handwritten Signature]
 Atty. RICOR R. CAGARA
 Notary Public
 Appointment No. 154-08
 Commission Expires December 31, 2009
 PTR No. 1119788/1-05-09/Quezon City
 IBP OR No. 757212/1-05-09/Bulacan
 MCLE Compliance No. 111-0001360
 Roll of Attorney's No. 53664

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

I, HENRY T. SY, JR., of legal age, Filipino, President and Chief Executive Officer of the NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP), with principal office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City, by virtue of the authority vested upon me by the Board of Directors of the NGCP as per Secretary's Certificate dated 18 June 2009, hereto attached, as Annex "A" do hereby name, constitute and appoint either of the following officials of the NGCP, namely ANTHONY L. ALMEDA, Director, Special Assistant to the President and Officer-in-Charge, Office of the Administrative Officer or Atty. LUIS MANUEL U. BUGAYONG, Officer-in-Charge, Office of the General Counsel, as my true and lawful Attorney-in-Fact and of the NGCP, to do and perform the following specific acts and things, viz:

1. To execute and sign the Verification and Certification of Non-Forum Shopping relative to the regulatory applications, complaints and other initiatory pleadings of the NGCP with Energy Regulatory Commission;
2. To execute and sign the Verification and Certification of Non-Forum Shopping relative to the complaints and other initiatory pleadings of the NGCP in Civil Cases;
3. To execute and sign the Verification and Certification of Non-Forum Shopping relative to the complaints and other initiatory pleadings of the NGCP in Criminal Cases;
4. To execute and sign the Verification and Certification of Non-Forum Shopping relative to the complaints and other initiatory pleadings of the NGCP in Labor Cases;
5. To execute and sign the Verification and Certification of Non-Forum Shopping relative to the complaints and other initiatory pleadings of the NGCP in Tax Cases;
6. To execute and sign the Verification and Certification of Non-Forum Shopping relative to the complaints and other initiatory pleadings of the NGCP in Administrative Cases; and
7. To execute and sign the Verification and Certification of Non-Forum Shopping in all other pleadings that needs to be verified.

HEREBY GRANTING AND GIVING unto the said Attorneys-in-Fact power and authority to do and perform every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as the undersigned might or could do if personally present, hereby ratifying and confirming all that said Attorneys-in-Fact shall do and cause to be done under and by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2010 in Quezon City, Philippines.

CERTIFIED TRUE COPY

HENRY T. SY, JR.

SIGNED IN THE PRESENCE OF:

[Signature]

[Signature]

ACKNOWLEDGMENT

BEFORE ME, a Notary Public, for and in Quezon City, the person of HENRY T. SY, JR., appeared and presented his valid identification through Passport No. ZZ202-308, with his photo and signature affixed therein, which I consider as competent evidence of his identity, and he is known to me and to me known to be the same person who executed the foregoing Special Power of Attorney, and acknowledged to me that the same is his free act and of the Corporation he represents.

WITNESS MY HAND AND SEAL, this 23 day of September, 2010 at Quezon City.

Doc. No. 465
Page No. 57
Book No. 1
Series of 2010.

Atty. RICO R. CAGARA
Notary Public, Appointment No. 045-10 +
Commission Expires December 31, 2011
PTR No. 37669 1.2.10 Quezon City
IBP Lifetime Roll No. 08600; Bulacan
MCLE Compliance, No. III-0001360; 12/10/08
Roll of Attorney's No. 53664

SECRETARY'S CERTIFICATE

I, **KAREN S. ONG**, of legal age, Filipino, and with office address at Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City, Metro Manila, after having been duly sworn in accordance with law, hereby certify that:

1. I am the Corporate Secretary of NATIONAL GRID CORPORATION OF THE PHILIPPINES (the "Corporation"), a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at Power Center, Quezon Avenue corner BIR Road, Diliman, Quezon City.

2. I hereby certify the following resolutions were approved by the Board of Directors of the Corporation via Board Referendum:

"WHEREAS, in a Memorandum to the NGCP Board of Directors dated November 9, 2010, NGCP Management requested for the approval of the proposed Connection and Residual Sub-Transmission Charges for 2010 (CC and RSTC for 2010). The Application shall be filed with the Energy Regulatory Commission (ERC) requesting the following:

1. Issuance of a Provisional Authority to implement and commence the billing and collection of the CC and RSTC for 2010 on the billing period of December 26, 2010 – January 25, 2011;
2. Approval of the recovery of the computed 2010 CC and RSTC to all transmission customers starting on the January 2011 billing month;
3. Approval to allow NGCP to make adjustments, if necessary, to the computed CC and RSTC within the implementing period.

WHEREAS, in the ERC Final Determination for the Second Regulatory Period (2nd Reg.) issued on June 2006, sub-transmission assets were carved out from the Regulated Asset Base;

WHEREAS, consequently, in various Orders and Resolutions, the ERC allowed NGCP to recover sub-transmission cost of service through the CC and RSTC;

WHEREAS, effectively, the CC and RSTC will be additional revenues to the 2011 Maximum Allowable Revenue (MAR) which will be filed in November 2010 after the issuance of the Final Determination for the 3rd Reg.;

WHEREAS, consistent with Republic Act No. 9511 (the law granting franchise to NGCP), it will be proposed in the Application that the corporate income tax building block be removed from the computation of the CC and RSTC. Instead, the recovery of the 3% franchise tax (to include real property and local business taxes) amounting to PhP103 Million will be proposed;

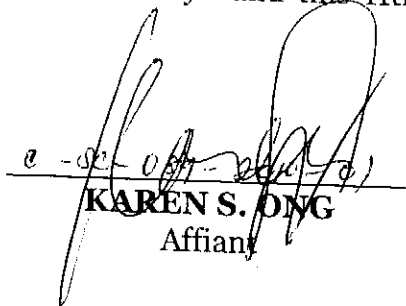
WHEREAS, the proposed annual CC and RSTC for 2010 amounts to PhP2.357 Billion;

[Handwritten signature and initials]
C-22-029-2010-01

NOW, THEREFORE, RESOLVED, AS IT IS HEREBY RESOLVED, that the request for the approval of the proposed Connection and Residual Sub-Transmission Charges for 2010 that will be filed with the Energy Regulatory Commission (ERC) via an Application as above-described is hereby granted;

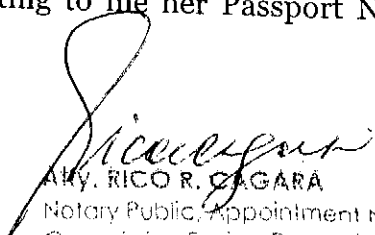
RESOLVED, that the President & CEO is hereby authorized to sign all necessary documents related to the filing of the Application.”

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of November 2010 in Quezon City, Metro Manila.


KAREN S. ONG
Affiant

SUBSCRIBED AND SWORN TO before me this 11th day of November 2010 in Quezon City, Metro Manila, affiant exhibiting to me her Passport No. TT0665884 issued on 16 August 2006 in Manila.

Doc. No. 59 ;
Page No. 13 ;
Book No. 9 ;
Series of 2010.


ATY. RICO R. CAGARA
Notary Public, Appointment No. 045-16
Commission Expires December 31, 2011
PTR No. 9/21/01 : 1-2-10 Quezon City
IBF Lifetime Roll No. 08600; Bulacan
MCLE Compliance, No. III-0001360, 12/15/08
Roll of Attorney's No. 53664

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

**IN THE MATTER OF THE
APPLICATION FOR APPROVAL OF
THE CONNECTION CHARGES AND
RESIDUAL SUB-TRANSMISSION
CHARGES FOR CALENDAR YEAR
2010 ON THE EXCLUDED SERVICES
COVERING THE EXISTING SUB-
TRANSMISSION ASSETS OF THE
NATIONAL GRID CORPORATION OF
THE PHILIPPINES, WITH PRAYER
FOR PROVISIONAL AUTHORITY**

ERC Case No. 2010-__ RC

**NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP),**

Applicant.

X ----- X

JUDICIAL AFFIDAVIT OF MS. LEEZYL C. ECHON

I, **LEEZYL C. ECHON**, Filipino, of legal age, with office address at the NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City, hereby depose and state:

1. **Q:** What is your present position?

A: I am a Tariff Specialist under the Tariff and Regulation Division of the Revenue and Regulatory Affairs Group of the NGCP.

2. **Q:** As Tariff Specialist, what are your duties and responsibilities?

A: As Tariff Specialist, my duties and responsibilities include the following:

a. Providing technical support in filing of tariff-related applications or petitions with the Energy Regulatory Commission (ERC) as required under regulatory guidelines, especially during the annual rate verification process and regulatory reset;

b. Providing information to management on the developments in tariff design and regulations;

- c. Providing technical support to management and the different functional groups in resolving or addressing tariff-related disputes, issues or concerns;
- d. Serving as witness or resource person during regulatory hearings, expository meetings with stakeholders and information dissemination on tariff-related matters;
- e. Representing the corporation in public dialogues, consultations, and conferences and communicating the policies or interests of the corporation in tariff-related matters.

3. Q: In the performance of your duties and responsibilities, have you come across the NGCP's Application for the Approval of its Connection Charges and Residual Sub-transmission Charges for Calendar Year 2010 (2010 CC and RSTC)?

A: Yes. As a staff of the Tariff and Regulation, I am the one handling the calculation of the 2010 CC and RSTC.

4. Q: What is your participation in the preparation of the said Application?

A: I computed the proposed 2010 CC and RSTC for NGCP's transmission customers in accordance with the 2006 Open Access Transmission Service (OATS) Rules and other pertinent ERC issuances.

5. Q: In calculating the proposed 2010 CC and RSTC, what principles did NGCP take into account?

A: NGCP principally took into consideration the Rules for Setting Transmission Wheeling Rates (RTWR), 2006 OATS Rules, relevant ERC Resolutions and the 2nd Regulatory Period Final Determination dated 13 June 2006 in the case entitled "*In the Matter of Undertaking a Revenue Reset for the National Transmission Corporation (TRANSCO) and Any Future Concessionaire (NGCP) Thereof for the Period 2006 to 2010 in Accordance with the Alternative Form of Rate Setting Methodology under the Transmission Wheeling Rate Guidelines (TWRG)*".

6. Q: What is the significance of these ERC issuances and 2nd Regulatory Period Final Determination?

A: The sub-transmission assets which are the connection and residual sub-transmission assets of TRANSCO were carved out from its regulatory asset

base (RAB). Thus, connection and residual sub-transmission services were treated as excluded services and allowed the recovery of the costs incurred in providing such services according to the formulae set out in the 2006 OATS Rules.

7. **Q:** How then does NGCP compute and determine the CC and RSTC due?

A: The CC and RSTC were calculated based on the formulae specified in Clauses F(AIV)3.2 and F(AIV)7.2 Annex IV Module F of the 2006 OATS Rules stated as follows:

$$\text{Charges (CC or RSTC)} = \frac{[\text{ODRC}_i \times \text{WACC}] + D_i + O_i + T_i + R_i}{12}$$

12

Where:

ODRC_i is the Optimised Depreciated Replacement Cost of the Connection Assets or Residual Sub-transmission Assets as determined under F(AIV)4.1 and F(AIV)8.1, subject to Rule B 20 of the OATS Rules.

WACC is the Weighted Average Cost of Capital.

D_i is the depreciation cost of the connection or residual sub-transmission assets for the current year.

O_i is the operational and maintenance cost attributable to the connection or residual sub-transmission assets for the current year.

T_i is the corporate tax expense attributable to the connection or residual sub-transmission assets for the current year.

R_i is the short-fall, or surplus, in the CC and RSTC collected for that connection or residual sub-transmission assets, respectively, in the previous year, increased by an amount to reflect the time value of money calculated using the WACC. If R_t is a surplus, it shall be expressed as a negative.

8. **Q:** How do you calculate the charges if there are two or more transmission customers who are using the sub-transmission assets?

A: The ~~RSTC~~ charges are allocated to these customers using the formula provided in Clause F(AIV)7.3 of the OATS Rules as follows:

$$PRSC = \frac{BD_i}{\sum BD_i}$$

Where:

PRSC refers to proportion of the CC and RSTC.

BD_i is the Generator Billing Determinant as determined under F(AI)2.2, F(AI)2.3 and F(AI)2.4 or the Load Billing Determinant as determined under F(AI)3.2, F(AI)3.3 and F(AI)3.4 as the case may be, for the transmission customer at the relevant connection point.

$\sum BD_i$ is the sum of the Billing Determinants of all transmission customers at the relevant connection point.

9. **Q:** What values and parameters established in the 2nd Regulatory Period Final Determination were used to compute for the 2010 CC and RSTC, if any?

A: The following values and parameters are used for the computation of the 2010 CC and RSTC:

Particulars	Connection Charges	Residual Sub-transmission Charges
Asset Classification	As identified and classified by the ERC in the 2 nd Regulatory Period Final Determination	
Asset Values	2004 ODRC Asset Values Rolled-Forward to 2010	
Asset Composition	Inclusion of new assets commissioned and in operation as of December 2009 and exclusion of sub-transmission assets sold to qualified Distribution Utilities	
WACC	15.8739%	15.8739%
OPEX	P110.6Mn	P237.1Mn
Proposed Franchise Tax	P20.51Mn	P49.29Mn
Other Taxes	P10.5Mn	P22.7Mn
Billing Determinant (kW)	Actual recorded billing determinants (kW) of 2009 are used to allocate the cost of assets. Particularly to those being shared.	

10. **Q:** Did you consider all the values and parameters from the 2nd Regulatory Period Final Determination?

A: No, NGCP did not include the ERC-approved capital expenditure (CAPEX) levels and the disposals in the 2nd Regulatory Period Final Determination.

11. **Q:** Why did you not include the ERC-approved CAPEX levels and disposals?

A: The OATS Rules requires actual CAPEX to be considered in the computation of CC and RSTC. Thus, the 2004 values of sub-transmission assets were rolled-forward to closing values of CY 2010 and took into account actual CAPEX associated with the sub-transmission assets recorded prior to CY 2010 and disposals as of CY 2009 are considered in this Application.

12. **Q:** Are there any other data that NGCP used in computing the 2010 CC and RSTC due from each transmission customer if any?

A: Yes, NGCP utilized the 2009 data on transmission customers' Billing Determinants and the 2009 asset configurations.

13. **Q:** Why did NGCP use 2009 data in the calculation of the proposed 2010 CC and RSTC?

A: In accordance with the 2006 OATS Rules, the Billing Determinants to be used in the calculation shall be the average of the 12-month period and the best available data is the previous year's data which is for 2009.

14. **Q:** Are the sub-transmission assets as classified and enumerated in the 2nd Regulatory Period Final Determination still included in this Application?

A: Not all sub-transmission assets in the 2nd Regulatory Period Final Determination are included since the ERC already approved the disposals of some of the sub-transmission assets and these are now operated and maintained by the Distribution Utilities.

15. **Q:** What sub-transmission assets are excluded in the computation of the 2010 CC and RSTC?

A: The following are excluded in the computation:

I. Those Sub-transmission Assets which were re-classified by the ERC as Transmission Assets under the following ERC Decisions:

1. ERC Case No. 2007-520MC;
2. ERC Case No. 2007-532MC;
3. ERC Case No. 2008-088MC;
4. ERC Case No. 2008-105MC;
5. ERC Case No. 2009-051MC

II. Those Sub-transmission Assets which were sold prior to January 2010. These are the Sub-transmission Assets bought by the following Distribution Utilities:

1. San Fernando Electric Light Power (*SFELAPCO*);
2. Cabanatuan Electric Corporation (*CELCOR*);
3. Angeles Electric Corporation (*AEC*);
4. Tarlac Electric Inc. (*TEI*);
5. Bohol I Electric Cooperative (*BOHECO I*);
6. Negros Occidental Electric Cooperative (*NOCECO*);
7. Visayan Electric Company (*VECO*);
8. Subic Enerzone Development Corporation (*SEDC*);
9. Manila Electric Company (*MERALCO*);
10. Central Negros Electric Cooperative (*CENECO*);
11. Misamis Oriental II Electric Cooperative (*MORESCO II*);
12. Tarlac II Electric Cooperative Inc. (*TARELCO II*);
13. Misamis Oriental I Electric Cooperative (*MORESCO I*);
14. Dagupan Electric Corporation (*DECORP*);
15. South Cotabato I Electric Cooperative (*SOCOTECO I*);
16. BOHOL II ELECTRIC COOPERATIVE (*BOHECO II*);
17. VMC Rural Electric Service Cooperative (*VRESCO*);
18. Lima Utilities Corporation, Inc. (*LUC*);
19. Cotabato Electric Cooperative, Inc. (*COTELCO*);
20. Agusan Norte Electric Cooperative, Inc. (*ANECO*).

16. **Q:** Why are the sub-transmission assets sold from January 2010 onwards still included in the computation of the 2010 CC and RSTC?

A: The sub-transmission assets sold in January 2010 onwards are still included in the 2010 CC and RSTC because there is a one-year lag in the recovery of revenue from the connection and residual sub-transmission services.

For example, the 2007 CC and RSTC were collected in CY 2008 while the 2008 CC and RSTC were collected in CY 2009.

17. **Q:** What is the effect of the one-year lag in the billing of 2010 CC and RSTC?

A: Any changes or modifications in 2010, which may include asset disposals, new connection to the sub-transmission assets, increases or decreases in demand or energy consumptions, and other related factors in the provision of connection and residual sub-transmission services, will not affect the 2010 CC and RSTC assessed against the transmission customers. Hence, even though the sub-transmission assets are already operated and maintained by the Distribution Utilities, they are still included in the design and computation of the 2010 CC and RSTC.

18. **Q:** When will the billing on the CC and RSTC on the sold or disposed 2010 sub-transmission assets cease?

A: NGCP will discontinue the billing of the CC and RSTC only after the revenues from the sub-transmission assets up to the time of transfer are fully recovered. This occurs one year from the date of execution of the Deed of Absolute Sale or Deed of Transfer of Possession or until after all uncollected charges have been collected.

19. **Q:** What will happen in the CC and RSTC being imposed to the Distribution Utilities who acquired sub-transmission assets in CY 2010?

A: Billings for CC and RSTC associated with the acquired asset/s due from the buying Distribution Utilities will be discontinued one year after the execution and implementation of the Deed of Absolute Sale or Deed of Transfer of Possession as long as the revenue/s due from the acquired asset/s has been collected.

20. **Q:** Why will the billings for 2010 CC and RSTC be discontinued for these Distribution Utilities?

A: This is consistent with Section 5 Resolution No. 1 Series of 2010 which provides:

“Section 5. TRANSCO Rates. TRANSCO will continue to bill or collect any uncollected connection and residual charges resulting from the one (1) year deferred charges as approved by the ERC. The acquiring DU shall have the following payment options:

X X X X X

3. To pay any uncollected connection and residual charges for a period of one year from the date the parties execute and implement a Deed of Conditional Sale or Transfer of Possession or similar documents over the sale of the subtransmission asset after the ERC’s approval of the sale.”

21. **Q:** What are the building blocks used in the computation of the 2010 CC and RSTC?

A: The building blocks used in the computation of 2010 CC and RSTC are the following:

- Return of Capital for the years 2005 up to 2010;
- ERC-approved 15.8739% level Return on Capital based on the 2nd Regulatory Period Final Determination;
- ERC-approved 2010 OPEX levels under the 2nd Regulatory Period Final Determination were allocated based on particular asset value over the total identified connection asset values or residual sub-transmission asset values.
- Taxes (3% Franchise, Local Business and Real Property).

22. **Q:** Is the methodology for the computation of 2010 CC and RSTC similar with the previous years?

A: The methodology applied for the computation of the CC and RSTC for CY 2010 is the same with that of the CC and RSTC for CY 2009. However, the tax components used in 2009 and 2010 CC and RSTC are different from those earlier charges, i.e., 2008, 2007 and 2006.

23. **Q:** What is the basis for this change in the tax cost components?

A: Based on Republic Act No. 9511, NGCP shall pay a franchise tax equivalent to three percent (3%) of its gross receipts in lieu of all taxes, duties, fees and charges. The 3% franchise tax is computed as follows:

$$\text{Franchise Tax} = 3\% * \text{Total Charge}$$

Where:

$$\text{Total Charge} = [(\text{ODRC}_{\text{average}} * \text{WACC}) + (\text{Depreciation}) + (\text{OPEX}) + (\text{Other Taxes})] / 0.97$$

In a Bureau of Internal Revenue Ruling dated 16 October 2009, NGCP's exemption from income and withholding taxes, value added tax and documentary stamp tax were confirmed. Thus, the Corporate Income Tax (CIT) is pegged at zero (0), instead of the ERC-approved 2010 level CIT amounting to P274.6M for CC and P593.1M for RSTC under the 2nd Regulatory Period Final Determination.

However, the Bureau of Local Government Finance has yet to issue a definitive ruling confirming NGCP's tax-exempt status as regard local business taxes. Thus, the computation of CC and RSTC still includes a portion on local business taxes.

Since NGCP's tax-exemption on local taxes is yet to be confirmed, the ERC-approved Local Business and Real Property Taxes which are incorporated in the Other Taxes 2010 level under the 2nd Regulatory Period Final Determination are still considered in the computation.

24. **Q:** What then are the proposed 2010 CC and RSTC due from each customer?

A: The summaries for the Proposed 2010 Monthly CC and RSTC for each NGCP Customer are attached as Annex A in the Application of NGCP entitled, *In the Matter of the Application for the Approval of Connection Charges and Residual Subtransmission Charges for Calendar Year 2010 on the Excluded Services Covering the Existing Subtransmission Assets of the National Grid Corporation of the Philippines (NGCP), with Prayer for Provisional Authority.*

25. **Q:** What is your assessment with regard to the proposed 2010 CC and RSTC?

A: Since the proposed 2010 CC and RSTC were designed and set in accordance with the provisions of the 2006 OATS Rules and pertinent ERC Issuances, I strongly believe that these charges are fair and reasonable that will

serve the public interest and convenience, and signals the efficient utilization of transmission and sub-transmission facilities that will ultimately redound to the best interest and benefit of the consuming public.


26. Q: What will be the effect, if any, if there is a delay in the billing of 2010 CC and RSTC?

A: The CC and RSTC should ideally be billed starting the 26 December 2010 to 25 January 2011 billing period. A delay in the billing of 2010 CC and RSTC will mean a deferral of the recovery of the necessary revenue from the services that NGCP already provided to its customers. The costs of the investments made on the sub-transmission assets should be recovered in a timely manner. Hence, it is prayed that Honorable Commission grant a provisional authority for NGCP to start billing the 2010 CC and RSTC.

29. Q: What is your purpose in executing this Judicial Affidavit?

A: I would like this Judicial Affidavit to serve as my direct testimony in the above-entitled case.

IN WITNESS WHEREOF, I have hereunto set my hand this _____
2010, in Quezon City, Philippines.



Leezy C. Echon
Affiant

SUBSCRIBED and SWORN to before me this November 11, day of _____, 2010,
affiant exhibiting to me (S&S) 3-41743191-8 as proof of _____ identity.

Doc. No. 65
Page No. 14
Book No. 4
Series of 2010.


ATTY. RICO R. GAGARA

Notary Public, Appointment No. 045-16
Commission Expires December 31, 2011
PTR No. 3122412-A Quezon City
IBP Lifetime No. 0000000000 Bulacan
MCLE Compliance No. 0000000000
Roll of Attorney's No. 33664