

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



IN THE MATTER OF THE
APPLICATION FOR AUTHORITY
TO DEVELOP, OWN, AND
OPERATE DEDICATED POINT-
TO-POINT LIMITED FACILITIES
TO CONNECT THE FDC MISAMIS
POWER CORPORATION COAL
PLANT TO THE MINDANAO GRID,
WITH PRAYER FOR
PROVISIONAL AUTHORITY

ERC CASE NO. 2015-054 MC

FDC MISAMIS POWER
CORPORATION (FDC MISAMIS),
Applicant.

x ----- x

DOCKETED
Date: SEP 24 2015
By: M

ORDER

On August 27, 2015, FDC Misamis Power Corporation (FDC MISAMIS) filed an application for authority to develop, own, and operate dedicated point-to-point limited facilities to connect its coal plant to the Mindanao Grid, with prayer for provisional authority.

In the said application, FDC MISAMIS alleged, among others, that:

Introduction

1. It is a corporation duly organized under and by virtue of the laws of the Philippines, with principal office at 30th Floor, PBCom Tower, 6795 Ayala Avenue, Makati City;
2. It is in the business of, among others, investing and/or undertaking or participating in the development, design, establishment, financing, construction, building, operation, maintenance and/or transfer or in the rehabilitation, operation, lease and transfer of diesel, gas turbine, coal and/or steam power plants, and other power generating

plants of any type and any related facilities, including substations, high voltage lines and interconnection facilities;

3. In its 2013 Supply-Demand Outlook, the Department of Energy (DOE) recognized the growing demand for power in the Philippines, especially, the Mindanao Grid. For the said Mindanao Grid, the DOE projected the energy demand to increase at an average annual growth rate (AAGR) of around 4.57%. Given this AAGR, the projected peak demand in the Mindanao Grid is expected to increase from 1,407 MW in 2012 to 2,068 MW in 2020 and to further increase to 3,250 MW in 2030.

The 2013 Supply-Demand Outlook states that the Mindanao Grid is experiencing under-generation since 2010 and the existing capacity in the region is composed of more than fifty percent (50%) hydroelectric power plant which is dependent on the availability of water and affected by weather conditions. A copy of the said 2013 Supply-Demand Outlook is attached to the application as Annex "G";

4. In order to address not only the increasing electricity demands in the Mindanao Grid but also the required reserve margin of the said Grid, the Philippine Government has encouraged investments by the private sector in power generation;
5. It has committed to develop, construct, own and operate a 3 x 135 MW Circulating Fluidized Bed Coal-Fired Power Plant (the Plant) to be located within the PHIVIDEC Industrial Estate, Villanueva, Misamis Oriental;
6. In order to supply the energy generated by the Plant to the public, it needs to connect the Plant to the Mindanao Grid. For this purpose, it plans to construct a connection asset for its exclusive use, which shall connect the Plant directly to the National Grid Corporation of the Philippines' (NGCP) Villanueva Substation. The proposed interconnection of the Plant to NGCP's Villanueva Substation consists of a 138 kV transmission line approximately 7 kilometers in length, composed of

transmission wires, steel towers, and other related facilities (the Connection Asset);

7. Section 9 of the Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (the EPIRA), expressly provides, that:

"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.";

8. The above-quoted provision requires prior authorization by the Commission for the development, ownership, and operation of a dedicated point-to-point limited facilities for connecting to the Mindanao Grid. Hence, the application;

Allegations in Support of Applciation

9. Its 405 MW Coal Power Plant (the Project) is located at the PHIVIDEC Industrial Estate in the Municipality of Villanueva, Misamis Oriental. The Project consists of three (3) units Circulating Fluidized Bed (CFB) combustion boiler and steam turbine generator with a maximum gross capacity of 135 MW each. The said Project is expected to be commercially operational by 2016.

The Project is to be connected to the Mindanao Grid through a double circuit line from the Plant switchyard to NGCP's Villanueva Substation with an approximate length of around 7 kilometers;

10. The connection of the Plant to the Mindanao Grid through NGCP's Villanueva Substation was determined to be the most technically and economically viable option. In deciding the most feasible means of dispatching energy from the Plant, the following interconnection options were considered:
 - a. NGCP's 138 kV Villanueva Substation, approximately 7 kilometers from project site;
 - b. NGCP's 138 kV Tagoloan Substation, approximately 10 kilometers from project site; and
 - c. NGCP's 138 kV Lugait Substation, approximately 70 kilometers from project site;
11. Based on the Grid Impact Study (GIS) it conducted and approved by NGCP (GIS for 3 x 135 MW FDC-MISAMIS CFB Coal Power Plant), the connection of the Project "has no significant system impact on the reliability, stability and operating characteristics of the Mindanao Grid." A copy of the said GIS is, likewise, attached to the application as Annex "H";
12. It obtained the Environmental Compliance Certificates (ECC) ECC-CO-1304-0012 for the Project and ECC-CO-R10-1307-0165 for the Connection Asset on May 27, 2013 and August 8, 2013, respectively. It has also secured all the necessary permits for the construction and development of the Project and will timely apply for the permits necessary for its operation. Copies of the said ECCs are attached to the application as Annexes "J" and "K";
13. It has also secured all the necessary permits for the construction and development of the project and will timely apply for the permits necessary for its operation;
14. On October 3, 2013, FDC-MISAMIS and NGCP entered into a Connection Agreement for the connection of its Connection Asset to NGCP's Villanueva Substation. A

copy of the said Connection Agreement is, likewise, attached to the application as Annex "M";

FDC MISAMIS has the financial capability to develop, operate, and maintain the Connection Asset

15. The total estimated cost for the construction of the Connection Asset is **PhP937.38 Million**¹;
16. The Project, including the Connection Asset, will be funded through a mix of debt and equity (70%/30%). Its Audited Financial Statements (AFS) for the year ending 2014 will show that it has sufficient funds on hand to undertake the construction, development, operation, and maintenance of the entire Project;

Its Connection Asset is technically feasible, and it has the capability to develop, operate, and maintain the same

17. The GIS shows that the Connection Asset is technically feasible;
18. It has, likewise, ensured that the generating facilities of the Project shall be compliant and consistent with the standards of the Philippine Grid Code (PGC);
19. It, by itself or through its affiliates, has the technical capability to develop, construct, operate, and maintain the Connection Asset;
20. The design was conducted by the First Northeast Electric Power Engineering Company (NEPC) affiliates to China Energy Engineering Group Company, Limited in coordination with Central Southern China Electric Power Design Institute (CSEPD). NEPC has over 60 years of experience in the design, management, construction and

¹ Using the prevailing exchange rate of PhP46.70/US\$1.0

commissioning of over 164 power plants and transmission lines. CSEPMI is engaged in the comprehensive design of power grid projects including transmission line and substation projects in 6 countries;

21. The erection and installation of the Connection Asset will be spearheaded by the EEI Corporation. EEI Corporation is recognized as one of the leading construction companies in the Philippines, known for the quality of its work and the excellence of its workforce. Moreover, it has built several power plants over the years;
22. The design, management, construction, commissioning and operation of the Connection Asset will be supplemented by its Engineering and Technical Services with an aggregate work experience with the National Power Corporation (NPC), the National Transmission Corporation (TRANSCO), and NGCP of over 100 years;

It should be granted authority to develop, own, and operate the Connection Asset

23. Pursuant to Section 4.2 of ERC Resolution No. 16, Series of 2011, it hereby applies with the Commission for authority to develop, own, and operate the Connection Asset;
24. Its Connection Asset is required only to connect the Project to the Mindanao Grid;
 - a. The 7-kilometer transmission line is the shortest, most economical, and viable option to connect the Plant to NGCP's Villanueva Substation;
 - b. The Connection Asset will be used solely by the Plant; and
 - c. If the Connection Asset is taken out of the Mindanao Grid, it will not affect the operations of the said Grid;

25. The single-line diagram of the proposed interconnection shows that the Connection Asset will be exclusively used by its Plant and is not designed and configured to serve end-users. A copy of the said single-line diagram is attached to the application as Annex "N";
26. In support of the instant application, it has, likewise, attached the following documents:

Annex	Nature of Document
A	Certificate of Filing of Amended Articles of Incorporation
A-1	Amended Articles of Incorporation
B	Green Renewable Power Holdings, Incorporated's Certificate of Incorporation
C	Strong Field Energy Corporation's Certificate of Filing of Amended Articles of Incorporation
D	Latest General Information Sheet
E	Latest AFS
F	Gantt Chart
G	The DOE 2013 Supply-Demand Outlook
H	GIS dated January 2013
I	The Mindanao Grid Data dated June 2, 2015
J	ECC-CO-134-0012
K	ECC-CO-R10-1307-0165
L	Certificate of Non-Overlap (Control No. RX-CNO-02.14-0083)
M	Connection Agreement
N	Single Line Diagram
O	Transmission Line Diagrams
P	Foundation Reports
Q	Judicial Affidavit of Engr. Roderick Z. Fernandez

Motion for Provisional Authority and Allegations in Support of Prayer for Provisional Authority

27. Rule 14 of the Commission's Rules of Practice and Procedure authorizes the issuance of a provisional authority or an interim relief prior to a final Decision, provided that the facts and circumstances warrant the issuance of the same;
28. It expects to complete the construction of the Connection Asset by the fourth (4th) quarter of 2015. It has prioritized

the completion of the Connection Asset to ensure that the same is ready for the start of testing and commissioning of Unit No. 1 of the Project in the first (1st) quarter of 2016;

29. Given the immediate need for additional capacity by 2016 as projected by the DOE, the completion of the Project within the projected timeframe is critical to ensure that additional capacity will be available for the Mindanao Grid in a timely manner. It prays that the Commission provisionally authorize the development, ownership, and operation of the Connection Asset considering that projected deficiency in supply for Mindanao by the DOE warrants the issuance of a provisional authority;
30. In support of the foregoing allegations, a copy of the judicial affidavit of Engr. Roderick Z. Fernandez is attached to the application as Annex "Q"; and

Prayer

31. Thus, it prays that the Commission:
 - a. Issue an Order provisionally authorizing it to develop, own, and operate the Connection Asset for the 405 MW FDC-Misamis CFB Coal Power Plant; and
 - b. After due notice and hearing, issue an Order making the provisional authority a permanent authority to develop, own and operate the said Connection Asset.

Finding the said application to be sufficient in form and in 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 **October 5, 2015 (Monday) at two o'clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

FDC MISAMIS is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, once (1x)

in a newspaper of general circulation in the Philippines, at least ten (10) days before the scheduled date of initial hearing.

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 hearings.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governor of Misamis Oriental and the Municipality of Villanueva for the appropriate posting thereof on their respective bulletin boards.

FDC MISAMIS 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, FDC MISAMIS must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences of the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governor and Mayor or their duly authorized representatives, bearing the seals of their offices, and the affidavit of the Editor or Business Manager of the newspaper where said Notice of Public Hearing was published together with the complete issue of the said newspaper, and such other proofs of compliance with the requirements of the Commission.

FDC MISAMIS 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 thereof 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 FDC MISAMIS 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.

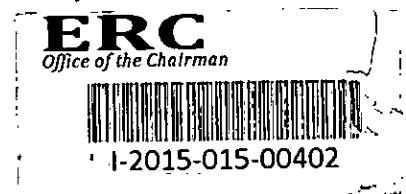
As part of the pre-trial conference, FDC MISAMIS must also be prepared to make an expository presentation of its application, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, September 1, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSE VICENTE B. SALAZAR
Chairman



Copy Furnished:

1. **Quaison Makalintal Barot Torres Ibarra and Sison**
Counsel for FDC MISAMIS
21st Floor, Robinsons-Equitable Tower,
4 ADB Avenue corner Poveda Street, Pasig City 1605
2. **Atty. Renato R. Vehemente**
Counsel for FDC MISAMIS
23rd Floor, PBCom Tower, 6795 Ayala Avenue
corner V.A. Rufino St., Makati City
3. **FDC Misamis Power Corporation (FDC MISAMIS)**
23rd Floor, PBCom Tower, 6795 Ayala Avenue
corner V.A. Rufino St., Makati City
4. **Office of the Solicitor General (OSG)**
134 Amorsolo Street, Legaspi Village, City of Makati 1229
5. **Commission on Audit (COA)**
Commonwealth Avenue, Quezon City 1121
6. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard, Pasay City 1300
7. **House of Representatives Committee on Energy**
Batasan Hills, Quezon City 1126
8. **Office of the Municipal Mayor**
Villanueva, Misamis Oriental
9. **Office of the Provincial Governor**
Province of Misamis Oriental
10. **National Grid Corporation of the Philippines (NGCP)**
Quezon Avenue corner BIR Road, Diliman, Quezon City
11. **Philippine Chamber of Commerce and Industry (PCCI)**
3rd Floor, Chamber and Industry Plaza (CIP),
1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City