

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP,
OWN, OPERATE AND
MAINTAIN DEDICATED
POINT-TO-POINT LIMITED
FACILITIES TO CONNECT TO
THE TRANSMISSION SYSTEM
OF THE NATIONAL GRID
CORPORATION OF THE
PHILIPPINES, WITH PRAYER
FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2017-017 MC

**VICTORIAS MILLING
COMPANY, INC.,**
Applicant.

Promulgated:
July 06, 2021

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DECISION

Before this Commission for resolution is the *Application* dated 04 October 2017 filed on 12 October 2017 by Victorias Milling Company, Inc. (VMCI), seeking the Commission's approval for authority to develop, own, operate and maintain dedicated point-to-point limited facilities to connect to the transmission system of the National Grid Corporation of the Philippines (NGCP), with prayer for the issuance of provisional authority.

In its *Application*, VMCI alleged the following pertinent provisions:

1. VMCI is a power generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at VMC Compound, J.J. Ossorio St., Brgy. XV, Victorias City, Negros Occidental. It may be served orders and other legal process through its undersigned counsel.
2. VMCI's primary purpose is to acquire, construct, maintain and operate mills in the Philippines, work refineries,

machinery and appliances which may be used in the grinding of sugar cane and the manufacture of sugar, and to do all business incidental thereto.¹

3. Consequently, the secondary purpose of VMCI is to undertake and carry on any business venture or enterprise, whether commercial, manufacturing, including, but not limited to, ethanol and or potable alcohol production, agricultural, educational, mercantile, insurance, trading, real estate, fiduciary, infrastructure, transportation, telecommunications, mining, water, power generation, recreation, financial or credit, consultancy, provided that the Company shall not provide financial advice and/or engage as a financial adviser to an investment house, or otherwise, which is or may be undertaken and carried on through a public-private partnership with the government or by natural persons as capitalists, financiers, merchants, contractors, agriculturalists, agents, factors, trustees or otherwise, either directly itself in its own name or indirectly by agents, or trustees or through the medium of ownership of stock or shares or other interests in any other business venture or enterprise established for or carried on to engage in any such pursuits; and to do so not only for its own benefit, but also in the capacity of agent, contractor, attorney or trustee for any other person, firm or corporation.²
4. VMCI is a registered renewable energy developer with the Department of Energy (“DOE”) and has an operating contract for the exploration, development and utilization of biomass energy resource, among others.³
5. VMCI has yet to update its registration with the Board of Investments (“BOI”).⁴
6. In the 2016-2040 Demand-Supply Outlook, the DOE recognized the growing demand for power in the Philippines. For the Visayas Grid, the DOE projects the energy demand to increase by 7%, which is the highest average annual growth rate (‘AAGR’), from 1,878 MW in 2016 to 9,210 MW in 2040. Based on the foregoing, the Visayas Grid still needs 9,180 MW of additional capacities of 5,330 MW base-load plant, 3,000 mid-merit plants and 850 MW peaking plants to meet the electricity demand.⁵

¹ Copies of VMCI’s Certificate of Incorporation, Amended Articles of Incorporation, By-Laws and a list of Key Management Officials are attached hereto as Annexes “B”, “B-1”, “B-2” and “B-3” and made integral parts hereof.

² Ibid. Citation [2].

³ A copy of VMCI’s Certificate of Registration as an RE Developer is attached hereto as Annex “C” and made an integral part hereof.

⁴ This is one of the government requirements contemplated in VMCI’s Affidavit of Approval from Concerned Agencies, which is attached hereto as Annex “D” and made an integral part hereof.

⁵ A copy of the DOE’s Power Development Plan 2016-2040 (*Please see* Figure 17, Visayas Demand-Supply Outlook, 2016-2040, p.46) is attached hereto as Annex “E” and made an integral part hereof.

7. Recent developments in the power industry, as indicated in the presentation by the DOE Secretary regarding a briefing on the Electric Power Industry⁶ showed that the required power system capacity addition for the Visayas Grid between the years 2016 to 2040 is 9,180 MW.
8. To help address the need for additional capacity in the Visayas Grid, VMCI will design, engineer, procure, construct, supply, start-up, test, commission, own, operate and maintain a Biomass Plant with a capacity of approximately 63MW – 38MW for its own use and 25MW for export (the “Project”), located in VMC Compound, J.J. Ossorio St., Brgy. XV, Victorias City, Negros Occidental. The Project's target date of completion and energization is in November 2017. Power for export generated from the Biomass Plant shall be delivered to the Visayas Grid.
9. In connection thereto, the DOE approved and issued an amended Biomass Renewable Energy Operating Contract (“BREOC”) and accompanying Certificate of Registration.⁷
10. On September 25, 2017, the DOE issued a letter addressed to the Honorable Commission stating that the Certificate of Confirmation of Commerciality is on-process and endorsing the Project of VMCI for testing and commissioning.⁸
11. To test, commission and dispatch its generating facility, soon after completion, VMCI proposes to connect the Project to the transmission system of the National Grid Corporation of the Philippines (“NGCP”) through a dedicated point-to-point limited interconnection facility (the “Transmission Line”) to be constructed by Thermax Ltd. of India and BUSSBAR Corporation.⁹
12. VMCI has secured the relevant permits for the Project and the Transmission Line.
 - 12.1 The Department of Environment and Natural Resources (“DENR”) has allowed VMCI to operate notwithstanding the Cease and Desist Orders (“CDO”) it has issued through its Pollution Adjudication Board (“DENR-PAB”). The DENR-PAB has issued a Temporary Lifting Order (“TLO”)¹⁰ of the CDO, which has been repeatedly extended after VMCI’s diligent submission of requirements and compliance with the conditions stated in the orders of DENR-PAB. While

⁶ A copy of the DOE presentation by Secretary Alfonso G. Cusi is attached hereto as Annex “F” and made an integral part hereof.

⁷ Copies of the Amended BREOC and Amended Certificate of Registration are attached hereto as Annexes “G” and “H” and made integral parts hereof.

⁸ A copy of the DOE letter dated September 25, 2017 is attached hereto as Annex “I” and made an integral part hereof.

⁹ A copy of the description and scope of the project denominated as Description of the Project is attached as Annex “J” and made an integral part hereof.

¹⁰ A copy of the Extension of the TLO dated February 17, 2017 is attached as Annex “K” and made an integral part hereof.

there is a TLO valid until February 17, 2018, VMCI has a pending Motion for Issuance of Formal Lifting Order for the permanent lifting of the CDO.¹¹

- 12.2 VMCI will apply with the DENR-EMB for the issuance of a Certificate of Non-Coverage for the Transmission Line, if necessary and applicable.¹²
- 12.3 VMCI will apply with the National Commission on Indigenous Peoples for the issuance of a Certificate of NonOverlap for the Project, if necessary and applicable.¹³

13. VMCI intends to connect the Transmission Line to the Visayas Grid via 69 kV that will tap to the existing NGCP Victorias Silay 69kV sub-transmission line through a Switching Station.¹⁴ The Transmission Line will consist of around 2.5 kilometers.

14. The proposed Connection Scheme Single Line Diagram for the project Transmission Line shall be as follows:

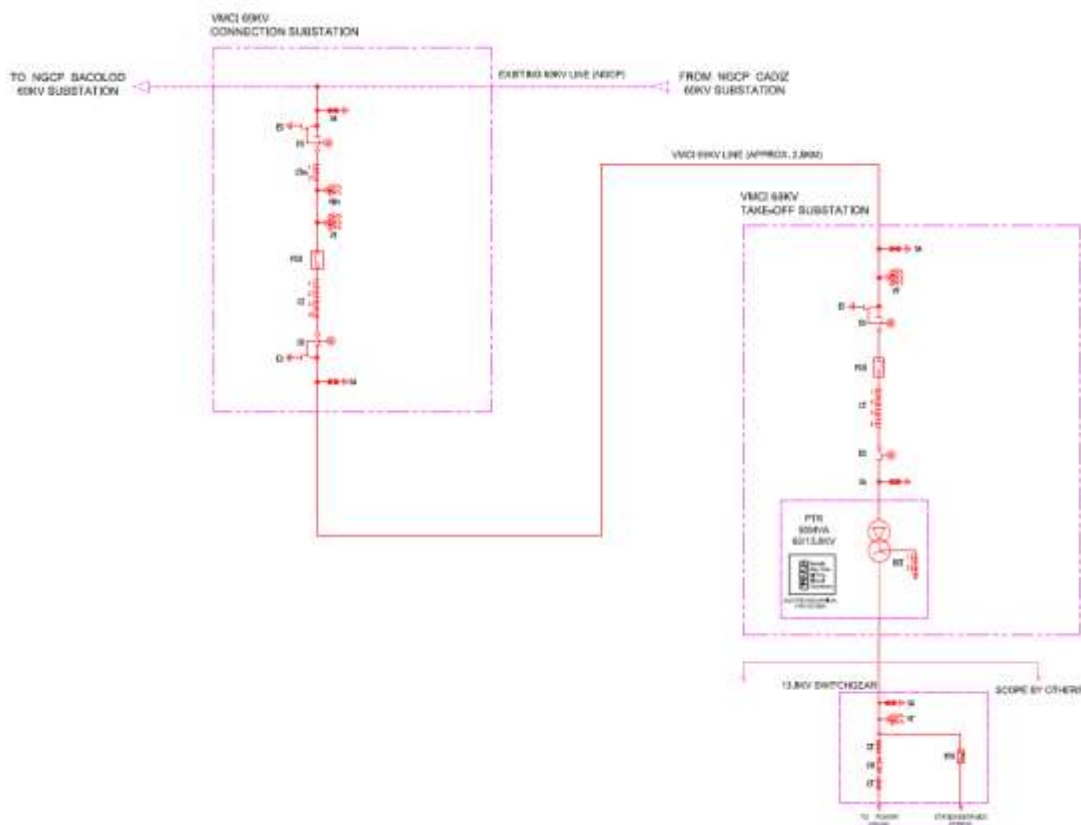


Figure 1. Connection Scheme Single Line Diagram¹⁵

¹¹ A copy of the Motion for Issuance of Formal Lifting Order dated June 10, 2017 is attached as Annex “L” and made an integral part hereof.

¹² This is one of the government requirements contemplated in VMCI’s Affidavit of Approval from Concerned Agencies. Kindly refer to citation [5].

¹³ Ibid. Citation [5].

¹⁴ A copy of the Conceptual Engineering Design is attached as Annex “M” and made an integral part hereof.

¹⁵ NGCP, System Impact Study, *please see* p. 2 thereof.

15. Consistent with the projected date of energization of the Project, the target completion and commissioning of the Transmission Line was September 2017 but was moved to November 2017.¹⁶ The estimated cost for the Transmission Line is One Hundred Seventy-Two Million One Hundred Fifty-Four Thousand Eight Hundred and Fifty-Three Pesos (Php172,154,853.00), based on the Transmission Line cost estimates.¹⁷
16. The proposed connection of the Project is the most viable and reasonable option among the interconnection schemes considered, recommended, and evaluated by VMCI that will enable VMCI to dispatch the Project's capacity when the need arises.¹⁸
 - 16.1 A System Impact Study ("SIS") on the proposed Transmission Line has been conducted and based on the results thereof, the said interconnection is technically feasible.¹⁹ NGCP has reviewed the SIS.²⁰
 - 16.2 A Facilities Study has been undertaken and approved by the NGCP.²¹
17. VMCI has a Connection Agreement with NGCP and is in the process of finalizing the Transmission Service Agreement and Metering Service Agreement.²²
18. Section 9(f) of the Electric Power Industry Reform Act ("EPIRA") provides:

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.
19. In accordance with the requirement of Section 9(f) of the EPIRA, VMCI hereby seeks the Honorable Commission's authorization to develop, own, and operate the Transmission Line, a dedicated point-to-point limited interconnection facility, to connect the Project to the grid.

¹⁶ A copy of the Project Schedule Gantt Chart is attached as Annex "N" and made an integral part hereof.

¹⁷ A copy of the Project Cost Estimate is attached hereto as Annexes "O" and made an integral part hereof.

¹⁸ The discussion of the options/alternatives considered in lieu of the proposed Transmission Line is attached as Annex "P" and made an integral part hereof.

¹⁹ A copy of the System Impact Study is attached as Annex "Q" and made integral part hereof.

²⁰ Ibid.

²¹ Copies of the Facilities Study and the NGCP Letter dated May 5, 2017 are attached as Annexes "R" and "R-1" respectively and made integral parts hereof.

²² A copy of the Connection Agreement executed between VMCI and NGCP is attached as Annex "S" and made an integral part hereof.

20. The proposed Transmission Line meets the requirements provided in Section 9 of the EPIRA and the relevant regulations issued by this Honorable Commission as follows:
 - 20.1 The Transmission Line is a dedicated point-to-point limited interconnection facility whose sole purpose is to connect the Project to the grid and is considered a “Connection Asset” under ERC Resolution No. 23, Series of 2016 (“ERC Resolution”);
 - 20.2 The Transmission Line will be exclusively used by VMCI for the operations of the Project and will not serve any end-user;
 - 20.3 The Transmission Line is technically feasible; and
 - 20.4 VMCI has the technical and financial ability to develop, construct, operate, and maintain the Transmission Line.

The Transmission Line is a dedicated point-to-point transmission facility and will be used exclusively by VMCI.

21. To reiterate, the Transmission Line is designed for the sole purpose of connecting the Project to the grid. The single-line diagram of the proposed interconnection shows that the Transmission Line will be exclusively used by VMCI and is not designed and configured to serve end-users.
 - 21.1 The single-line diagram of the Transmission Line is illustrated in Figure 2 below.

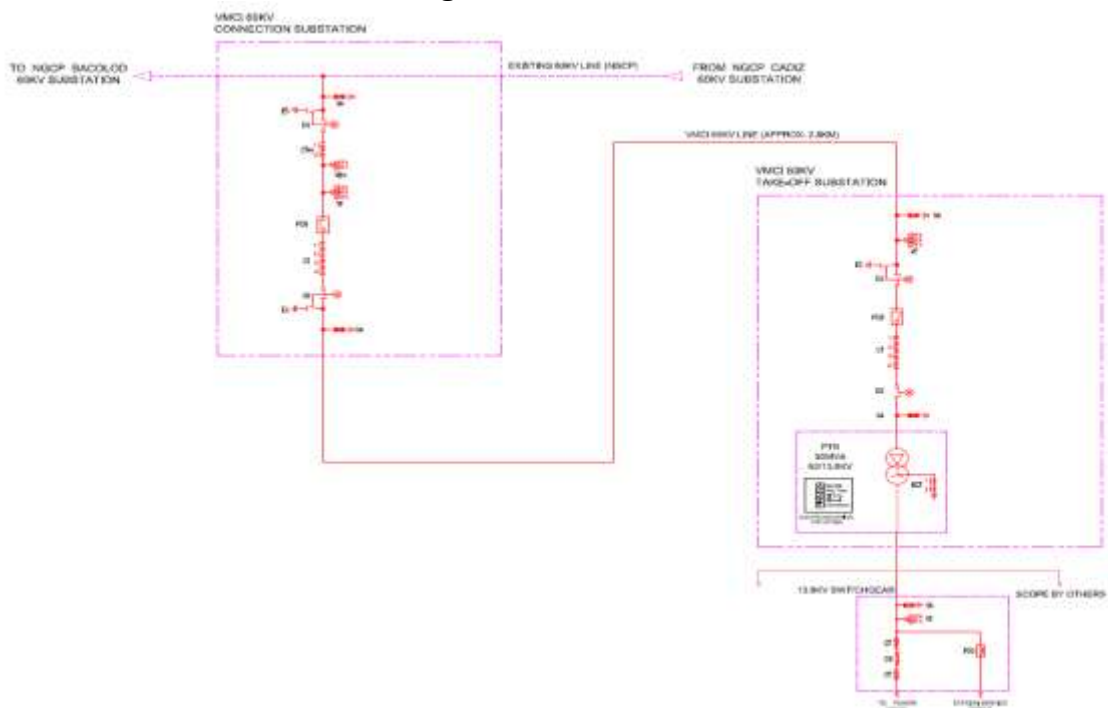


Figure 2. Single-line Diagram Transmission Line²³

²³ VMCI’s Facility Study, please see p.32.

22. The Transmission Line is also classified as a “Connection Asset” under the ERC Resolution since it is primarily designed to connect the Project to the grid and will be used for the conveyance of electricity from the Project to the grid.²⁴ If the Transmission Line is taken out of the transmission system of NGCP, such disconnection will only affect VMCI and will have no effect on the grid, or other connected customers.

The Project is included in the DOE List of Private Sector-Initiated Power Projects for Visayas.

23. The Project is one of the committed projects in the DOE List of Private Sector-Initiated Power Projects for Visayas as of June 30, 2017.²⁵

The Transmission Line is technically feasible.

24. The SIS review conducted by NGCP shows that the connection of the Project through the Transmission Line is technically feasible but subject to limitations prior to the upgrading of Negros-Cebu interconnection and Cadiz Substation. The connection poses no significant system impact to the stability, reliability and operating characteristics of the Visayas Grid. Further the SIS review concluded that the proposed project could be safely and reliably integrated thereto.
25. VMCI proposed the Transmission Line connection because of its viability and technical feasibility for the connection of the Project. The Project will connect to the Visayas Grid via a 2.5 km long 69kV transmission line that will tap to the existing NGCP Victorias-Silay 69kV sub-transmission line, through a Switching Station.²⁶
26. VMCI has likewise ensured that the design and technical specifications for the Transmission Line are consistent with the standards of the Philippine Grid Code.²⁷
27. The Project is also consistent with the Transmission Development Plan (“TDP”) of NGCP.²⁸

²⁴ Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provides, ERC Resolution No. 16, Series of 2011, Annex A, § 2, p.1.

²⁵ A copy of the DOE List of Private Sector-Initiated Power Projects (Visayas), as of June 30, 2017 is attached as Annex “T” and made an integral part hereof; *please see* p. 2 thereof.

²⁶ Citation [20], *please see* p. 2 thereof.

²⁷ A copy of the Statement of Compliance to the Philippine Grid Code is attached as Annex “U” and made an integral part hereof.

²⁸ A copy of the TDP 2014-2015 portion showing the Project (*please see* Table A3.7 AWARDED BIOMASS PROJECTS, p.179) is attached as Annex “V” and made an integral part hereof.

VMCI has the technical and financial capability to develop, construct, operate and maintain the Transmission Line

28. VMCI has the technical capability to develop the Transmission Line.
 - 28.1 The Transmission Line will be constructed by Thermax Ltd. of India and BUSSBAR Corporation.²⁹
 - 28.2 VMCI likewise has the financial capability to undertake the development and construction of the Transmission Line. The development and construction of the Project and the Transmission Line will be funded by VMCI through debt financing or internal funds.³⁰
29. Since VMCI will solely fund the development and construction of the Transmission Line and the Transmission Line will be exclusively used by VMCI for the operations of the Project and will not serve any end-user, the Transmission Line will not have an impact on the transmission rates currently being charged to the public.
30. Once completed, VMCI will undertake the operations and maintenance of the Transmission Line through NGCP and VMCI will subsequently fund the operations of the Transmission Line from its generation sales.³¹
31. VMCI also undertakes to file an application for a Certificate of Compliance with the Honorable Commission.
32. The foregoing clearly shows that the proposed Transmission Line complies with Section 9 of the EPIRA and the relevant regulations of this Honorable Commission.

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

33. Rule 14 of the Honorable 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.
34. VMCI respectfully prays that the Honorable Commission provisionally authorize the development, ownership, and operation of the Transmission Line considering that the facts, circumstances and the magnitude of the opportunity costs

²⁹ A copy of the Company Profile of BUSSBAR Corporation with a list of projects undertaken is attached as Annex "W" and made an integral part hereof.

³⁰ A copy of VMCI's General Information Sheet, Audited Financial Statements, and Financial Feasibility Study and Projected Financial and Economic Cost Analysis are attached as Annexes "X", "Y" and "Z" are made integral parts hereof.

³¹ A copy of VMCI's letter request to NGCP and the list of names and addresses of personnel responsible for the design, installation, maintenance, and repair of equipment for the proposed system are attached as Annexes "AA" and "BB" and made integral parts hereof.

entailed by any further delay in the interconnection of the Project warrants the issuance of a Provisional Authority.

- 34.1 VMCI hopes to be able to complete development and construction of the facilities at the soonest possible time in order to be able to dispatch electric power supply to the grid.
 - 34.2 The Project is one of the energy projects under Republic Act No. 9513 or the Renewable Energy Act of 2008, which aims to accelerate the development and utilization of the country's renewable energy sources. Thus, it is in the interest of the government to help RE developers such as VMCI to achieve commerciality and commence operations at the soonest practicable time.
 - 34.3 The construction of the Transmission Line is a prerequisite for the testing and commissioning, and ultimately, the commercial operations of VMCI. The Project is projected to be completed and energized in November 2017. Consistent with this timeline, VMCI intends to complete the development and construction of the Transmission Line by October 2017.
 - 34.4 Moreover, the use of biomass energy reduces the country's dependence on fossil fuels, which not only minimizes harmful carbon greenhouse emissions in the environment but also reduces the country's exposure to price fluctuations in the international markets.
 - 34.5 Further, given the immediate need for additional capacity by 2018, the completion of the Project within the timeframe is critical to ensure additional capacity will be available to the grid in a timely manner.
 - 34.6 The issuance of a provisional authority is also critical in light of the deadline for qualification for the Feed-in Tariff ("FIT") allocation. Thus, it is necessary for VMCI to secure a provisional authority to immediately commence and complete the construction of the Transmission Line in order to avail of the FIT, which is essential to the economic viability of VMCI.
35. It is in such context that VMCI respectfully prays that provisional authority be immediately issued for the development and construction of the proposed Transmission Line.

PRAYER

WHEREFORE, VMCI respectfully prays that this Honorable Commission:

1. Immediately ISSUE an order provisionally authorizing VMCI to implement the development, ownership and

operation of a dedicated point-to-point limited transmission facility to connect the Project to the Visayas Grid; and

2. After due notice and hearing, GRANT VMCI the authority to develop, own, operate and maintain a dedicated point-to-point limited transmission facility to connect the Project to the Visayas Grid.

Other reliefs as may be appropriate under the circumstances are likewise prayed for.

On 20 April 2018, the Commission issued an *Order* and a *Notice of Public Hearing*, both dated 21 March 2018, setting the case for the determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on 05 June 2018.

On 31 May 2018 VMCI filed its *Pre-trial Brief*.

During the hearing on 05 June 2018, only VMCI appeared. In the said hearing, VMCI submitted the following documents as proofs of its compliance with the Commission's posting and publication requirements, *to wit*:

1. Copy of the *Manila Times* dated 25 May 2018 and page F5³² where the *Notice of Public Hearing* was published, and the corresponding *Affidavit of Publication*³³ dated 04 October 2019 executed by Ms. Evelyn Fauni, Vice-President for Finance of *The Manila Times*;
2. *Certification* issued by the Office of the Governor of Negros Occidental;³⁴
3. *Certification* issued by the Office of the Sangguniang Panlalawigan of Negros Occidental;³⁵
4. *Certification* issued by the Office of the Mayor of Victorias City, Negros Occidental;³⁶

³² Exhibit "AA". Only the corresponding page of the newspaper where the *Notice of Public Hearing* was published was included in the *Formal Offer of Evidence* of VMCI, but during the hearing, VMCI was able to present the complete copy of newspaper where the said page is found.

³³ Exhibit "Z".

³⁴ Exhibit "BB".

³⁵ Exhibit "DD".

³⁶ Exhibit "CC".

5. *Certification* issued by the Office of the Sangguniang Panlungsod of Victorias City, Negros Occidental;³⁷
6. Evidence of receipt of copies of the *Order* and *Notice of Public Hearing* by the following offices: a) Office of the Solicitor General (OSG)³⁸; b) Commission on Audit (COA);³⁹ c) Senate Committee on Energy;⁴⁰ d) House Committee on Energy;⁴¹ and
7. *Affidavit*⁴² executed by VMCI's Corporate Communications Director, Ms. Judy Anne G. Tiongco, showing proof that VMCI employed other means on the posting of the *Notice of the Public Hearing* for the scheduled date of public hearing.

The Commission found the foregoing submissions of VMCI compliant with the *Order* dated 21 March 2018. Thus, the Commission declared that it acquired jurisdiction over the instant case.

VMCI then conducted its expository presentation and discussed in detail its *Application*. The Officer-in-Charge (OIC) of the Engineering Services Department Manager, Engr. Raymundo B. Reyes (Engr. Reyes), discussed under oath the following topics: (i) the brief history of the project; (ii) the installed equipment and machineries; (iii) the transmission line and substation general layout; (iv) the grid interconnection single line diagram; (v) the 69 kV transmission line; and (vi) the project completion and overall commissioning plan.

At the end of the expository presentation, the Commission propounded clarificatory questions relative thereto.

Thereafter, the Commission proceeded with the pre-trial conference. In the course thereof, VMCI moved for a declaration of general default in light of the absence of any intervenor or oppositor. Likewise, VMCI moved to adopt the proposed set of facts and the issues stated in its *Pre-trial Brief*. The Commission granted both motions and terminated the Pre-trial Conference.

³⁷ Exhibit "EE".

³⁸ Exhibit "GG".

³⁹ Exhibit "HH".

⁴⁰ Exhibit "II".

⁴¹ Exhibit "JJ".

⁴² Exhibit "KK".

The hearing then proceeded with VMCI's presentation of its evidence. VMCI presented again Engr. Reyes as its lone witness who testified on matters stated in his *Judicial Affidavit*, as follows:

- (i) He is the authorized representative of VMCI in this *Application*;
- (ii) VMCI is a power generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines;
- (iii) There is a need for additional capacity in the Visayas Grid;
- (iv) The undertaking of VMCI to develop, own, operate, and maintain the project, a Biomass Power Plant with a capacity of 63 MW;
- (v) The plan to electrically connect the project to the transmission system of NGCP through the transmission line, a dedicated point-to-point limited interconnection facilities to be developed by VMCI;
- (vi) The connection of the project to NGCP's transmission system is the most viable option that will enable VMCI to dispatch plant capacity when the need arises;
- (vii) NGCP approved the connection scheme for VMCI to connect the project to its transmission system;
- (viii) The conduct of technical studies and system impact studies on the proposed interconnection, which is technically feasible;
- (ix) The construction of the transmission line will not have an impact on the transmission rates currently being charged by NGCP to its customers considering that these facilities will be developed and funded solely by VMCI;
- (x) VMCI's financial and technical capability to develop, construct, operate, maintain, and fund the transmission line; and
- (xi) Other matters relevant to the *Application*.

In the course of his direct testimony, Engr. Reyes identified his *Judicial Affidavit* and his signature therein that was duly marked as Exhibit “LL”.

Thereafter, the Commission directed the submission of the following documents:

1. Certificate of non-coverage from Department of Environment and Natural Resources (DENR);
2. Certificate of Confirmation of Commerciality; and
3. Order from the DENR permanently lifting the Cease and Desist Orders (CDO) against VMCI

Likewise, the Commission directed VMCI to submit its *Formal Offer of Evidence* (FOE) once its motion for the permanent lifting of the Cease and Desist Order (CDO) issued by the Pollution Adjudication Board (PAB) of the DENR has been granted.

On 12 February 2019, the Commission issued an *Order* dated 06 February 2019 directing VMCI to submit the following documents:

1. Name of contractor for the plant side substation together with its company profile;
2. Relevant dates on the subject project, such as date it started, finished and energized;
3. Single line diagram on the final interconnection scheme of the 40MW, 15MW and 8MW co-generation power plants;
4. The maximum demand of VMCI as load during milling off-season; and
5. Proof of the existing generation facilities operations during milling off-season.

On 14 March 2019, VMCI filed its *Compliance with Manifestation* and attached therewith the following documents in compliance with the Commission’s *Order* dated 06 February 2019:

1. Company Profile of ABB India, the switchyard/ substation design and equipment supplier;

2. Company Profile of D&J Builders, the local switchyard/substation erector contractor-local;
3. Table on the relevant dates on the Project such as the date started, finished, and energized;
4. NGCP Letter dated 04 December 2018 on the Applicant's Certificate of Approval to Connect;
5. NGCP Letter dated 09 January 2019 on the Applicant's Provisional Certificate of Approval to Connect which certifies that the connection may take place effective 09 January 2019;
6. Single Line Diagram on the final interconnection scheme of the 40MW, 15MW, and 8MW cogeneration plants;
7. Northern Negros Electric Cooperative (NONECO) Billing Summary for Off Milling Season for the period covering 12 June 2018 to 26 August 2018 showing the maximum peak demand at 3,234 KW;
8. NONECO Statement of Account No. 1159824 for the 7.5MVA Substation with date billed on 17 July 2018;
9. NONECO Statement of Account No. 1159940 for the 7.5MVA Substation with date billed on 27 July 2018;
10. NONECO Statement of Account No. 1159941 for the CDC Water Pump with date billed on 27 July 2018;
11. NONECO Statement of Account No. 1159942 for VMC Da-an Banwa with date billed on 27 July 2018;
12. NONECO Statement of Account No. 1156043 for the Jerusalem Terminal with date billed on 30 July 2018;
13. NONECO Statement of Account No. 1158800 for the 7.5MVA Substation with date billed on 17 August 2018;
14. NONECO Statement of Account No. 1158856 for the 7.5MVA Substation with date billed on 28 August 2018;
15. NONECO Statement of Account No. 1158857 for the CDC Water Pump with date billed on 28 August 2018;
16. NONECO Statement of Account No. 1158858 for VMC Da-an Banwa with date billed on 28 August 2018; and

17. NONECO Statement of Account No. 1158994 for the Jerusalem Terminal with date billed on 29 August 2018.

On 02 March 2020, the Commission issued an *Order* dated 24 February 2020 directing VMCI to file its FOE.

On 08 May 2020, VMCI filed its *Compliance with Manifestation* wherein it manifested that during the 05 June 2018 hearing, the Commission directed VMCI to submit various documents, and in compliance therewith, submitted the following:

1. Formal Lifting Order issued by the PAB dated 11 December 2019;
2. Amended Environmental Compliance Certificate (ECC) dated 01 October 2018;
3. Department of Energy (DOE) Certificate of Confirmation of Commerciality dated 20 November 2014; and
4. DOE Certificate of Confirmation of Commerciality dated 24 January 2019.

On even date, VMCI filed its *FOE* and submitted the following exhibits, as part of its documentary evidence, *to wit*:

Exhibit	Document	Purpose
A	VMCI's Secretary's Certificate dated 29 September 2017	To prove that: 1. The development of the Transmission Line and the filing of the <i>Application</i> was authorized by VMCI; 2. Puno and Puno Law Offices is authorized to act as the Attorney-in-Fact of VMCI and to sign, execute and deliver any and all documents as may be required by this Honorable Commissions Rules of Practice and Procedure; 3. Eduardo V. Concepcion is authorized to sign and execute the Verification and
A-1	VMCI's Secretary's Certificate dated 10 October 2017	
A-2	VMCI's Secretary's Certificate dated 29 May 2018	

Exhibit	Document	Purpose
		Certificate of Non-Forum Shopping on behalf of VMCI; 4. VMCI’s President and/or Chief Finance Officer are hereby authorized to represent VMCI and act as its lawful representative for the purpose of negotiating with Thermax Ltd. of India; and 5. Engr. Raymundo B. Reyes is hereby designated and appointed as VMCI’s duly authorized representative for the purpose of executing the judicial affidavit in support of this <i>Application</i> .
B	Escritura Social de la Victorias Milling Company (VMCI’s Original Articles of Incorporation)	
B-1	VMCI’s Certificate of Filing of Amended Articles of Incorporation dated 11 December 2014 with the copy of the Amended Articles of Incorporation	To prove, among others, that VMCI is a power generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines.
B-2	VMCI’s Certificate of Filing of New By-laws dated 19 July 2005 with a copy of the New By-laws	
B-3	VMCI’s List of Key Management Officials	
C	VMCI’s Department of Energy (“DOE”) Certificate of Registration as a Renewable Energy Developer dated 18 May 2011	To prove, among others, that VMCI has been duly registered with the Department of Energy as a Renewable Energy Developer of Solar Energy Resources.
D	Department of Energy (“DOE”) Power Development Plan 2016-2040	To prove, among others, that there is a growing demand for power in the Philippines and that there is an energy demand of 7% in the Visayas Grid, which still needs 9,180 MW of additional capacities of 5,330 MW base-load plant, 3,000 mid-merit plants, and 850 MW peaking plants to meet the electricity demand.

**ERC CASE NO. 2017-017 MC
DECISION / 28 April 2021
PAGE 17 of 55**

Exhibit	Document	Purpose
E	DOE presentation by Secretary Cusi dated 07 April 2017	To prove that the required power system capacity addition for the Visayas Grid between the years 2016-2040 is 9,180 MW.
F	Amended Biomass Renewable Energy Operating Contract (BREOC No. 2011-01-018) dated 15 June 2016	To prove that the new capacity of the Biomass RE System of VMCI is 63 MW of electrical power.
G	Amended Certificate of Registration dated 14 June 2016	To prove that the new capacity of the Biomass RE System of VMCI is 63 MW of electrical power.
H	DOE Letter of Endorsement for Testing and Commissioning dated 25 September 2017	To prove that the DOE issued a letter addressed to this Honorable Commission stating that: <ol style="list-style-type: none"> 1. The Certificate of Confirmation of Commerciality is being processed; and 2. DOE endorses the subject biomass project of VMCI for testing and commissioning.
I	<i>Affidavit of Compliance</i> dated 04 October 2017 on the pending application with DENR for a Permit to Operate	To prove that VMCI has a pending Motion for Issuance of Formal Lifting Order for the permanent lifting of the Cease and Desist Order.
I-1	Motion for the Issuance of a Formal Lifting Order dated 10 June 2017	
I-2	DENR Pollution Adjudication Board (“DENR-PAB”) Order dated 17 February 2017 for Case No. 06-00094-89	To prove that: <ol style="list-style-type: none"> 1. The Department of Environment and Natural Resources-Pollution Adjudication Board has issued a TLO, which has been repeatedly extended after VMCI’s diligent submission of requirements and compliance; and 2. The TLO is valid six months from 19 April 2018, or until 19 October 2018
I-3	DENR-PAB Order dated 19 April 2018 for case No. 06-00094-89	
J	Description of the Project	To prove that: <ol style="list-style-type: none"> 1. The 40 MW Biomass-fired Cogeneration Plant of VMCI consists of one unit of 40 MW Condensing Extraction Type Steam Turbine Generation and one 200 tons steam per

**ERC CASE NO. 2017-017 MC
DECISION / 28 April 2021
PAGE 18 of 55**

Exhibit	Document	Purpose
		<p>hour Capacity High Pressure Boiler; and</p> <p>2. It is interconnected with the National Grid at the 5 km-69 kV Line (Sila – Victorias) of the National Grid Corporation of the Philippines (NGCP) passing through Bacayan Area, Victorias City, Negros Occidental.</p>
K	Conceptual Engineering Design	<p>To prove that:</p> <p>1. VMCI intends to connect the Transmission Line to the Visayas Grid via 69 kV that will tap to the existing NGCP Silay-Victorias 69kV sub-transmission line through a Switching Station; and</p> <p>2. The Transmission Line will consist of around 2.5 kilometers.</p>
L	Project Schedule Gantt Chart	To prove that the target completion and commissioning of the Transmission Line was moved to December 2018.
M	Project Cost Estimate	To prove that the estimated cost for the Transmission Line is PhP 172,154,853.00
N	Options/Alternatives considered in lieu of the Proposed Transmission Line with corresponding analyses of the advantages and disadvantages of each option	To prove that the proposed connection of the Project is the most viable and reasonable option among the interconnection schemes considered, recommended, and evaluated by VMCI.
O	System Impact Study dated November 2016	<p>To prove that:</p> <p>1. A System Impact Study on the proposed transmission line has been conducted and that based on the results thereof, the proposed interconnection is technically feasible; and</p> <p>2. NGCP has reviewed the System Impact Study.</p>
P	<i>Affidavit of Compliance</i> with the Philippine Grid Code dated 04 October 2017	To prove that the design and technical specifications for the Transmission Line are consistent

**ERC CASE NO. 2017-017 MC
DECISION / 28 April 2021
PAGE 19 of 55**

Exhibit	Document	Purpose
		with the standards of the Philippine Grid Code.
Q	NGCP's Transmission Development Plan 2014 to 2015	To prove that the Project is also consistent with the Transmission Development Plan of NGCP.
R	Facilities Study dated March 2017	To prove that a Facilities Study has been undertaken and approved by NGCP.
R-1	NGCP Letter dated 05 May 2017	
S	Connection Agreement between VMCI and NGCP dated 13 September 2017	To prove that VMCI has a Connection Agreement with NGCP and is in the process of finalizing the Transmission Service Agreement and Metering Service Agreement.
T	DOE List of Private Sector-Initiated Power Projects (Visayas) as of 30 June 2017	To prove that the Project is one of the committed projects in the DOE List of Private Sector Initiated Power Projects for Visayas as of 30 June 2017.
U	Company Profile of Thermax Ltd. of India	To prove, among others, that VMCI, through Thermax Ltd. of India and BussBarr Corporation, has the technical capacity to develop the Transmission Line.
U-1	Company Profile of Bussbarr Corporation	
U-2	List of Projects of BussBarr Corporation	
U-3	Company Profile of ABB India, the switchyard/substation design and equipment supplier	To provide the name of the contractor for the plant side substation together with its company profile.
U-4	Company Profile of D&J Builders, the local switchyard/substation erector contractor-local	
V	VMCI Letter to the NGCP dated 02 October 2017	To prove that VMCI is capable of maintaining and operating the facilities of the Transmission Line
V-1	List of the Names and Addresses of Personnel Responsible for the Design, Installation, Maintenance, and Repair of Equipment for the 40 MW Biomass-Fired Cogeneration Plant Project	
W	VMCI's General Information Sheet for the year 2017 dated 06 March 2017	To prove that VMCI has the financial capability to undertake the development and construction of the Transmission Line.
X	VMCI's Audited Financial Statements as at 31 August 2016	
Y	VMCI's Projected Financial and Economic Cost Analysis	
LL	<i>Judicial Affidavit</i> of Engr. Raymundo B. Reyes dated 30 March 2018	To prove, among others, that:

Exhibit	Document	Purpose
		<ol style="list-style-type: none"> 1. Engr. Reyes is the authorized representative of VMCI in the matter of this <i>Application</i>; 2. VMCI is a power generation company duly organized and existing under and by virtue of the laws of the Republic of the Philippines; 3. There is a need for additional capacity in the Visayas Grid; 4. VMCI's undertaking to develop, own, operate, and maintain the Project, a Biomass Plant with a capacity of 63 MW; 5. The plan to electrically connect the Project to the transmission system of NGCP through the Transmission Line, a dedicated point-to-point limited interconnection facilities to be developed by VMCI; 6. The connection of the Project to NGCP's transmission system is the most viable option that will enable VMCI to dispatch plant capacity when the need arises; 7. NGCP approved the connection scheme for VMCI to connect the Project; 8. The conduct of technical studies and system impact studies on the proposed interconnection, finding the same as technically feasible; 9. The construction of the Transmission Line will not have an impact on the transmission rates currently being charged by NGCP to its customers considering that these facilities will be developed and funded, solely by VMCI;

ERC CASE NO. 2017-017 MC
DECISION / 28 April 2021
PAGE 21 of 55

Exhibit	Document	Purpose
		<p>10. VMCI's financial and technical capability to develop, construct, operate, maintain, and fund the Transmission Line;</p> <p>11. The issuance of a Provisional Authority is warranted under the circumstances; and</p> <p>12. Other matters relevant to the <i>Application</i>, identify documents, material and relevant to the instant <i>Application</i>, in the course of his testimony.</p>
MM	Table on the relevant dates on the Project such as the date started, finished, and energized	To show the relevant dates on the subject project such as the date started, finished, and energized.
MM-1	NGCP Letter dated 04 December 2018 on the Applicant's Certificate of Approval to Connect	To show that NGCP certified that the connection may take place effective 04 December 2018.
MM-2	NGCP Letter dated 09 January 2019 on the Applicant's Provisional Certificate of Approval to Connect which certifies that the connection may take place effective 09 January 2019	To show that NGCP certified that the connection may take place effective 09 January 2019.
NN	Single Line Diagram on the final interconnection scheme of the 40MW, 15MW, and 8MW cogeneration plants	To show the single line diagram on the final interconnection scheme.
OO	Northern Negros Electric Cooperative ("NONECO") Billing Summary for Off Milling Season for the period covering 12 June 2018 to 26 August 2018 showing the maximum peak demand at 3,234 kW	To show the maximum peak demand at off milling season.
PP	NONECO Statement of Account No. 1159824 for the 7.5MVA Substation with date billed on 17 July 2018	To prove that there are no existing generation facility operations during off milling season as any power consumption is supplied by Distribution Utilities during the period.
PP-1	NONECO Statement of Account No. 1159940 for the 7.5MVA Substation with date billed on 27 July 2018	
PP-2	NONECO Statement of Account No. 1159941 for the	

ERC CASE NO. 2017-017 MC
DECISION / 28 April 2021
PAGE 22 of 55

Exhibit	Document	Purpose
	CDC Water Pump with date billed on 27 July 2018	
PP-3	NONECO Statement of Account No. 1159942 for VMC Da-an Banwa with date billed on 27 July 2018	
PP-4	NONECO Statement of Account No. 1156043 for the Jerusalem Terminal with date billed on 30 July 2018	
PP-5	NONECO Statement of Account No. 1158800 for the 7.5MVA Substation with date billed on 17 August 2018	
PP-6	NONECO Statement of Account No. 1158856 for the 7.5MVA Substation with date billed on 28 August 2018	
PP-7	NONECO Statement of Account No. 1158857 for the CDC Water Pump with date billed on 28 August 2018	
PP-8	NONECO Statement of Account No. 1158858 for VMC Da-an Banwa with date billed on 28 August 2018	
PP-9	NONECO Statement of Account No. 1158994 for the Jerusalem Terminal with date billed on 29 August 2018	
Z	<i>Affidavit of Publication</i> executed by the Vice President for Finance of <i>Manila Times</i> dated 25 May 2018	To prove that the <i>Notice of Public Hearing</i> dated 21 March 2018 was published in the 25 May 2018 issue of the <i>Manila Times</i> .
AA	Page F5 of the 25 May 2018 issue of the <i>Manila Times</i>	
BB	<i>Certification</i> dated 17 May 2018 issued by the Provincial Governor of Negros Occidental proving actual posting of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018	To prove that the Office of the Governor of the Province of Negros Occidental was furnished a copy of the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018 and that the documents were posted on the bulletin board in said office for the viewing of the general public and all interested parties in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
CC	<i>Certification</i> dated 18 May 2018 issued by the City Mayor	To prove that the Office of the City Mayor of Victorias City,

Exhibit	Document	Purpose
	of Victorias City, Negros Occidental proving actual posting of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018	Negros Occidental was furnished a copy of the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018 and that said documents were posted on the bulletin board in said Office for the viewing of the general public and all interested parties in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
DD	<i>Certification</i> dated 22 May 2018 signed by the Sangguniang Panlalawigan of Negros Occidental proving actual posting of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018	To prove that the Sangguniang Panlalawigan of Negros Occidental was furnished a copy of the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018 and that said documents were posted on the bulletin board in said Office for the viewing of the general public and all interested parties in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
EE	<i>Certification</i> dated 22 May 2018 issued by the Sangguniang Panlungsod of Victorias City, Negros Occidental proving actual posting of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018	To prove that the Sangguniang Panlungsod of Victorias City, Negros Occidental was furnished a copy of the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018 and that said documents were posted on the bulletin board in said Office for the viewing of the general public and all interested parties in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018
EE-1	Letter dated 09 May 2018 addressed to Hon. Jerry L. Jover, Presiding Officer of the Sangguniang Panlungsod of Victorias City, Negros Occidental, stamped received 15 May 2018	To prove that the Office of the Sangguniang Panlungsod was furnished a copy of the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018, and that VMCI, through counsel, requested for the posting of the same in the official bulletin board therein, in compliance with the jurisdictional requirements of this case and the

Exhibit	Document	Purpose
		Honorable Commission dated 21 March 2018.
FF	<i>Certification</i> dated 16 May 2018 signed by the Sangguniang Barangay of Barangay XVI, Victorias City, Negros Occidental	To prove that the Sangguniang Barangay of Barangay XVI, Victorias City, Negros Occidental was furnished a copy of the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018 and that said documents were posted on the bulletin board in said Office for the viewing of the general public and all interested parties in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
GG	Evidence of receipt by the Office of the Solicitor General of a copy of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018, stamped received on 09 May 2018	To prove that the Office of the Solicitor General was furnished copies of the <i>Application</i> , with attached Annexes, and the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018, in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
HH	Evidence of receipt by the Commission on Audit of a copy of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018 stamped received on 09 May 2018	To prove that the Commission on Audit was furnished copies of the <i>Application</i> , with attached Annexes, and the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018, in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
II	Evidence of receipt by the Senate Committee on Energy of a copy of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018, stamped received on 09 May 2018	To prove that the Senate Committee on Energy was furnished copies of the <i>Application</i> , with attached Annexes, and the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018, in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
JJ	Evidence of receipt by the House Committee on Energy	To prove that the House Committee on Energy was

Exhibit	Document	Purpose
	of a copy of the <i>Order</i> of the Honorable Commission and the <i>Notice of Public Hearing</i> both dated 21 March 2018, stamped received on 09 May 2018	furnished copies of the <i>Application</i> , with attached Annexes, and the <i>Order</i> and <i>Notice of Public Hearing</i> both dated 21 March 2018, in compliance with the jurisdictional requirements of the case and the <i>Order</i> of the Honorable Commission dated 21 March 2018.
KK	<i>Affidavit</i> dated 31 May 2018 on the posting of the <i>Notice of Hearing</i> and the Date of the Scheduled Hearing	To prove that VMCI employed means available to it to inform the consumers within the franchise area of the filing of the <i>Application</i> , its reasons therefore, and of the scheduled hearing thereon.
QQ	Formal Lifting Order issued by the Pollution Adjudication Board dated 11 December 2019	To prove that the Cease and Desist Order issued against VMCI has finally been lifted.
RR	Amended Environmental Compliance Certificate dated 01 October 2018	To prove that VMCI was able to secure an ECC covering the 40 MW Biomass Cogeneration Power Plant Project located Brgy. XVI, Victorias City, Negros Occidental.
SS	DOE Certificate of Confirmation of Commerciality dated 20 November 2014	To prove that VMCI secured the Certificate of Confirmation of Commerciality to develop and operate a biomass energy system with a capacity of 2 MW and a commitment to produce a minimum of 8,736 MWh annual generation.
SS-1	DOE Certificate of Confirmation of Commerciality dated 24 January 2019	To prove that VMCI secured the Certificate of Confirmation of Commerciality to develop and operate a biomass energy system with a capacity of 21.45 MW and a commitment to produce a minimum of 133,350 MWh annual generation.

**All the allegations stated above are directly quoted from the FOE of the Applicant.*

On 06 January 2021, VMCI filed a *Transmission and Connection Asset Project Cost Breakdown and List of Relevant Dates*.

The Commission found the foregoing exhibits contained in VMCI's *Compliances*, and *FOE* relevant and material in the final resolution of this case. Thus, the Commission admitted the same and declared the instant case submitted for resolution.

ISSUES

The issues for the Commission's resolution are the following:

1. Whether or not the Commission should approve the instant case and authorize VMCI to develop and own the subject facilities to deliver the generated output of its Biomass Cogeneration Power Plant (BCPP) to the Visayas Grid through a connection to the 69 kV Victorias – Silay transmission line of NGCP;
2. Whether or not the Commission should authorize VMCI to operate and maintain the subject facilities; and
3. In case the subject facilities are required for competitive purposes and ownership of the same shall be transferred to the National Transmission Corporation (TRANSCO)/NGCP, how should the cost be treated or recovered?

COMMISSION'S RULING

After due deliberation and thorough evaluation of all evidence submitted and all information gathered by the Commission pursuant to its regulatory powers, the Commission hereby resolves the issues presented, as follows:

1. The *Application* for authority of VMCI to develop and own the subject facilities to deliver the generated output of its BCPP to the Visayas Grid through a connection to the 69 kV Victorias – Silay transmission line of NGCP is hereby **APPROVED** subject to certain conditions;
2. The *Application* for authority of VMCI to operate and maintain the subject facilities is hereby **DENIED**. NGCP shall operate and maintain the subject dedicated point-to-point limited facilities subject to applicable charges to VMCI; and
3. In case the subject assets are required for competitive purposes, the ownership of the same shall be transferred to

TRANSCO/NGCP at a fair market price, subject to optimization.

DISCUSSION

In determining the merits of the *Application*, the Commission focused its evaluation on six (6) major aspects, namely: (1) The proposed project; (2) The legal basis of VMCI's authority to develop and own the dedicated point-to-point limited transmission facilities; (3) The technical capability of VMCI to develop the subject facilities; (4) The operation of the subject facilities; (5) The mode of recovery of cost in case the subject assets are required for competitive purposes and ownership of the same is transferred to TRANSCO/NGCP; and (6) The Distribution Wheeling Charges.

1. The Proposed Project

VMCI is a generation company engaged in the development of clean or renewable energy sources for power generation facilities. It is registered with the DOE as a Renewable Energy Developer.

On 18 May 2011, VMCI and the government through the DOE entered into a Biomass Renewable Energy Operating Contract (BREOC) with BREOC No. 2011-01-018, for a 36 MW Multi-Feedstock BCPP with a net capacity of 2 MW to be transported to the grid.

Subsequently, on 15 June 2016, the said BREOC was amended, reflecting the increase in the capacity of the BCPP to 63 MW with a net capacity of 25 MW to be exported to the grid.

In the original BREOC of VMCI, its 36 MW BCPP consists of four (4) generating units with varying capacities, namely: 3.5 MW, 9.5 MW, 15 MW and 8 MW. However, according to VMCI, the 3.5 MW and the 9.5 MW generating units were already decommissioned leaving the capacity of the BCPP to 23 MW. Out of this 23 MW capacity, 2 MW is intended by VMCI to be dispatched to the grid under the Feed-In-Tariff (FIT) System and the remaining capacity is for its own use.

On 20 November 2014, the DOE issued a Certificate of Confirmation of Commerciality (CoCoC) with No. BCC-2014-11-

012 to VMCI affirming its authority to develop and operate the 23 MW BCPP with a net capacity of 2 MW as FIT eligible.

On the other hand, in the amended BREOC of VMCI, the capacity of its BCPP was expanded with the installation of a new 40 MW generating unit located at VMC Compound, J.J. Ossorio St., Barangay. XV, Victorias City, Negros Occidental. With this expansion, the total capacity of VMCI's BCPP is 63 MW.

Out of this 40 MW capacity, 21.45 MW is intended to be dispatched by VMCI under the FIT System, while the remaining capacity is for its own use.

On 24 January 2019, the DOE issued a CoCoC with No. BCC-2018-12-030 to VMCI affirming its authority develop and operate the 40 MW BCPP with a net capacity of 21.45 MW as FIT eligible.

On 09 October 2019, the DOE granted VMCI a Certificate of Endorsement under a FIT System (COE-FIT) with No. B2019-08-024. The COE-FIT certifies that VMCI's 40 MW BCPP (21.45 MW Committed Capacity for Export) has complied with the requirements under Republic Act No. 9513⁴³ and is eligible to operate under the FIT System.

It is worthy to note that the DOE issued a separate COE-FIT to VMCI's 23 MW BCPP and 40 MW BCPP, respectively. The COE-FIT for the 23 MW BCPP has a net capacity of 2 MW intended for FIT, while that of the 40 MW BCPP has a net capacity of 21.45 MW for FIT.

Moreover, it should be noted that the 23 MW BCPP is connected to the distribution system of NONECO, while the 40 MW BCPP expansion is connected to the Visayas Grid through the 69 kV Victorias – Silay Line of NGCP. As manifested by VMCI, the two (2) plants (23 MW and 40 MW) are not interconnected and are covered by separate applications for Certificate of Compliance (COC) before the Commission.

Based on the foregoing submissions of VMCI, the Commission noted some discrepancies in the capacity to be exported by VMCI's 40 MW BCPP to the grid under the FIT

⁴³ Entitled, "An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for Other Purposes".

system. The amended BREOC of VMCI indicates that 25 MW out of the BCPP's 40MW are FIT eligible that will be exported to the grid; however, only 21.45 MW was affirmed by the DOE in the CoCoC of VMCI's 40 MW BCPP. Further, in the submitted System Impact Study (SIS) conducted by NGCP, the capacity indicated is 25 MW. These discrepancies would still be subject to further verification by the Commission.

With regard to the requirement to secure an Environmental Compliance Certificate (ECC) with the DENR for the subject facilities, VMCI is not required to secure the same since the line, subject of the instant case, is energized at 69 kV and 13.8 kV⁴⁴. In lieu of the ECC for the subject facilities, the Commission, during the hearing on 05 June 2018, directed the Applicant to submit a Certificate of Non-Coverage (CNC) from the DOE for the 69 kV Line. However, instead of a CNC, the Applicant, in its *Compliance with Manifestation* dated 08 May 2020, submitted an amended ECC under ECC-OL-R06-2015-0017 dated 01 October 2018, which covers the 69 kV Grid Connection Asset and the Transmission Line, as an additional component of the BCPP Project of VMCI.

1.1 Project Selection

VMCI decided to construct the dedicated point-to-point limited transmission facilities to connect its 40 MW BCPP to the Visayas Grid.

VMCI considered two (2) interconnection options for the connection of its Power Plant to the Visayas Grid, as follows:

Option 1: Connection to NONECO's 69 kV Line, which is 1.1 km away from the substation of the BCPP;

Option 2: Connection to NGCP's 69 kV Victorias-Silay line, which is located 2.425 km away from the substation of the BCPP (The Project).

⁴⁴ Based on the Environmental Management Bureau (EMB) Memorandum Circular No. 2014-005 issued by the Department of Environment and Natural Resources (DENR), prescribing the Guidelines for Coverage Screening and Standardized Requirements under the Philippine Environmental Impact Statement System (PEISS), for power lines energized above 138 kV and for substation/switchyard energized above 220 kV, an ECC from DENR is required.

According to VMCI, the connection to the 69 kV Victorias-Silay Line of NGCP will provide flexibility in exporting the generated power of the BCPP going to Bacolod City during peak generation of solar plants located in Northern Negros. Likewise, the connection is ideal for future expansion since the line will be upgraded by NGCP.

As to the operation, VMCI manifested that NGCP is more capable to handle the operation and maintenance of 69 kV transmission line rather than NONECO.⁴⁵

Considering the advantages of connecting to the system of NGCP, VMCI pursued Option 2 for the connection of the BCPP to the grid.

1.2 Project Description

1.2.1 Technical Configuration

For VMCI to fully dispatch the intended power to be generated by its 40 MW BCPP to the Visayas Grid, VMCI constructed the dedicated point-to-point limited transmission facilities (subject facilities) to connect said plant using a tap connection to the 69 kV Victorias-Silay transmission line of NGCP.

The subject facilities shall consist of the following:

- (1) 13.8 kV/69 kV, 50 MVA Substation;
- (2) 69 kV Switching Station near the connection point along the Victorias-Silay line of NGCP;
- (3) Approximately 2.425 kilometers, 69 kV single circuit transmission line (using 484.5 MCM ACSR, mounted in steel poles) extending from the 50 MVA

⁴⁵ Annex "P" of the Application, x x x (3) NGCP is more capable to handle operation and maintenance of 69kV Rating Transmission Line compare to NONECO. x x x.

Substation going to the Switching Station; and

- (4) Protection, metering and telecommunication equipment.

1.2.2 Single Line Diagram

Figure 1 shows the connection scheme of VMCI's BCPP to the 69 kV Victorias-Silay Line of NGCP, interconnecting the Bacolod-Silay 69 kV Line of Central Negros Electric Cooperative Inc. (CENECO) at one end, and Cadiz-VMC 69 kV Line of NONECO at the other end:

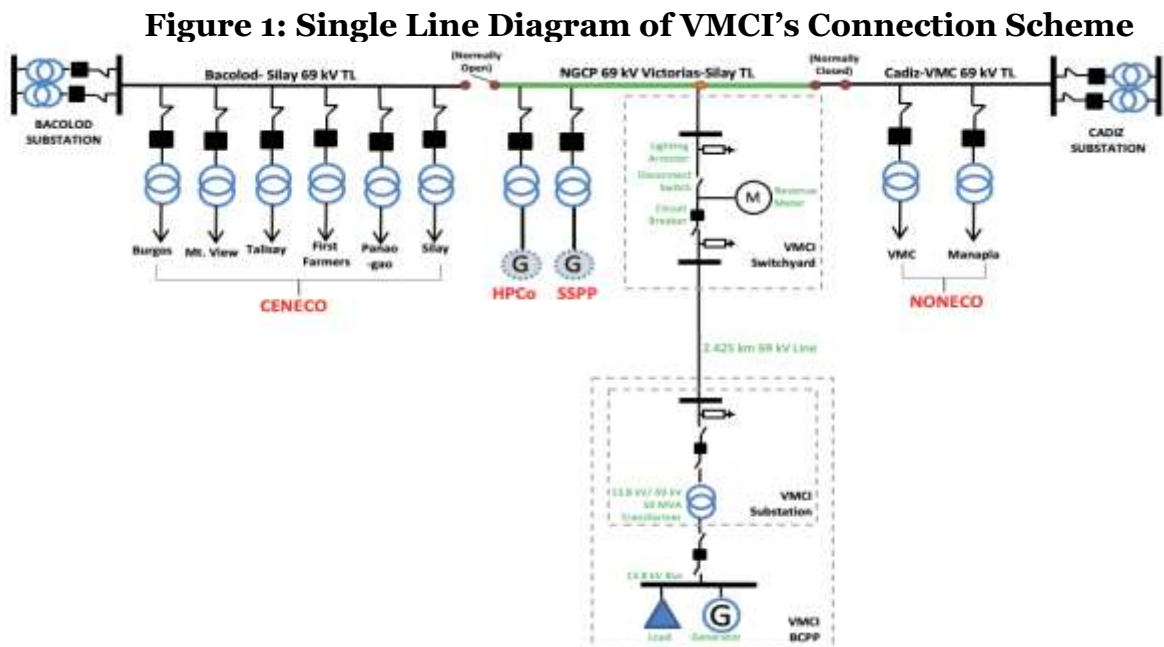


Figure 1 shows the connection of the BCPP project via a tap connection along the NGCP 69 kV Victorias-Silay line. Likewise, the diagram illustrates the major components of the subject facilities, such as, among others: (1) the 50 MVA Substation inside BCPP; (2) Switchyard near the connection point; (3) the 2.425 km 69 kV Line; and (4) Protection, metering and telecommunication equipment.

Figure 1 also shows the connection of the 25 MW Silay Solar Power Plant (SSPP) owned by Silay Solar Power, Inc. (SSPI) and the 8 MW Bagasse-Fired Biomass Power Plant of Hawaiian Philippine

Company (HPCo) to the same NGCP 69 kV Victorias-Silay line.

It is worthy to note that the configuration is a special or unique case. The line where VMCI is connected is operated by NGCP. The said line is connected at one end to the Cadiz-VMC line owned and operated by NONECO, while the other end is connected to Bacolod-Silay line owned and operated by CENECO. Thus, the power generated by VMCI could be delivered through the line of either NONECO or CENECO.

It is also worth mentioning that the Bacolod-Silay line was part of the sub-transmission lines sold to CENECO by TRANSCO under ERC Case No. 2006-001 MC,⁴⁶ while the Cadiz-VMC line was part of the sub-transmission lines sold to VMC Rural Electric Service Cooperative, Inc. (VRESCO), now NONECO, by TRANSCO under ERC Case No. 2006-149 MC⁴⁷.

The sub-transmission lines subject of the foregoing cases were sold by TRANSCO to the CENECO and NONECO, respectively, prior to the effectivity of the Commissions Resolution No. 15, Series of 2011,⁴⁸ which provides, *to wit*:

In order to avoid operational problem and diminution of service, no continuous line shall be sold in portion unless it is the end portion of the said continuous line.

1.2.3 Project Cost

Based on its *Application*, VMCI estimated the total cost of its subject project in the amount of **One Hundred Seventy-Two Million One Hundred Fifty-Four Thousand Eight Hundred and Fifty-Three Pesos (PhP172,154,853.00)**. The

⁴⁶ Entitled, "In the Matter of *Application* for the Approval of the Sale of Various Sub-transmission line/Assets within the Franchise Area of Central Negros Electric Cooperative, Inc. (CENECO)".

⁴⁷ Entitled, "In the Matter of the *Application* for the Approval of the Sale of Sub-transmission Line/Assets within the franchise area of V-M-C Rural Electric Service Cooperative, Inc.".

⁴⁸ Entitled, "A Resolution Adopting the Amended Rules for the Approval of the Sale and Transfer of TransCo's Sub-transmission Assets and the Acquisition by Qualified Consortiums".

breakdown of the submitted estimated cost is shown in the Table 1:

Table 1: Breakdown of the Estimated Project Cost

Quantity	Unit	Description	General Specification	Amount (PhP)
1	lot	Remote Switchyard/Connection Asset	69 kV Connection Asset	23,320,000.00
		Inclusive of the following:		
		Medium Voltage Equipment		
		Protection Equipment		
		Automation Equipment		
		AC Power Supply		
		DC Power Supply		
		Transportation/ Delivery of equipment		
		Design and Documentation		
		Installation		
		Testing and Commissioning		
1	lot	2.5 69 kV Transmission Line (Inclusive of Supply of Equipment, Installation, Testing and Commissioning)	69 kV Transmission Line at 90 ft. steel pole	16,700,000.00
1	lot	Equipment, Installation, Testing and Commissioning	50 MVA, 13.8 kV/69 kV Substation	121,634,853.00
1	lot	RTU and Telemetry		
		Inclusive of Supply of Equipment, Installation, Testing and Commissioning	Multi-link, D20MX, processor: 667 MHz Embedded Power, QICC II Pro, Memory: 1042 MB, of 266 MHz DDR2 RAM, DNP3 Serial and ethernet	10,500,000.00
Total (PhP)				172,154,853.00

Based on the *Transmission and Connection Asset Project Cost Breakdown and List of Relevant Dates* dated 06 January 2021 filed by VMCI, the estimated cost accounts for the Engineering, Procurement and Construction (EPC) contract cost for the construction and installation of the subject facilities. The submitted estimated cost accounts for the total actual/contracted cost of constructing the subject facilities.

In case the assets that are considered dedicated point-to-point limited transmission facilities will be required for competitive purposes, and ownership of the same is transferred to TRANSCO/NGCP, the subject costs do not necessarily constitute the fair market value that will be used as basis for payment for the subject assets by

TRANSCO/NGCP. The same is true with the assets that are not deemed to be dedicated point-to-point limited transmission facilities, and as such should be immediately transferred to TRANSCO/NGCP.

2. The legal basis of VMCI's authority to develop and own the dedicated point-to-point limited transmission facilities

As a general rule, TRANSCO or its Concessionaire, the NGCP, has the responsibility to provide grid interconnection for generating facilities pursuant to Section 8 and Section 21 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA), *to wit*:

Section 8. Creation of the National Transmission Company. – x x x. 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. x x x.

Section 21. TRANSCO Privatization, – x x x. The buyer/concessionaire shall be responsible for the improvement expansion, operation, and/or maintenance of its transmission assets and the operation of any related businesses. x x x.

However, Section 9 of the same Act provides for an exception, *to wit*:

x x x. A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the [Transmission Development Plan (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 [Energy Regulatory Commission (ERC)]:** x x x

[Emphasis and underscoring supplied.]

In the instant case, VMCI opted to avail of the exemption under Section 9 of EPIRA. In order for VMCI's proposed project to qualify for the said exemption, it must be able to comply with the parameters set forth in the above-quoted EPIRA provision,

namely: (1) the facilities are required only for the purpose of connecting to the transmission system; (2) it will be used solely by the generating facility; and (3) it is with prior approval by the Commission.

In view of the abovementioned provision, VMCI filed the instant *Application*.

2.1 Necessity of the Proposed Project to Connect VMCI's BCPP to the Visayas Grid

On 18 May 2011, the DOE issued a Certificate of Registration (COR) with No. RE-B2011-02-042 to VMCI. Thereafter, on 14 June 2016, DOE amended said COR with No. RE-B2011-02-042. As of 31 March 2017, the 40 MW BCPP of VMCI was included in the committed power project, as posted in the DOE website. The committed capacity of VMCI's BCPP will help address the power reliability requirements of the Visayas Grid.

As published by the DOE in its 2019 Power Demand and Supply Highlights, the Visayas Grid has a total existing available capacity of 3,809 MW. Meanwhile the system peak demand is 2,224 MW, respectively, as shown in Table 2, *to wit*:

Table 2: Demand Supply Scenario in Visayas

Year	Capacity (MW)		Demand (MW)
	Installed	Dependable	
2018	3,450	3,000	2,053
2019	3,809	3,306	2,224

The generated power of the BCPP is intended to be dispatched under the FIT System, net of VMCI's own use. VMCI submitted an application for FIT eligibility to the DOE for its BCPP. Subsequently, on 09 October 2019, DOE issued a Certificate of Endorsement under Feed-In Tariff System (COE-FIT) with No. B2019-08-024 to VMCI for its BCPP as a FIT-eligible plant.

Moreover, on 13 September 2017, VMCI and NGCP executed a Connection Agreement (CA) for the connection of the 40 MW BCPP of VMCI to the Visayas Grid.

As stated in the *Application*, the subject facilities are necessary for BCPP to deliver its generated power to the Visayas Grid through NGCP's 69 kV Victorias-Silay line.

For VMCI to deliver its power to the grid, the BCPP should be connected to the Visayas Grid through the development of the subject facilities.

2.2 Functions of the Subject Facilities

The second parameter required under Section 9 of EPIRA is that the subject facilities must be a dedicated point-to-point limited transmission facility or shall be used solely by the generating facility.

The Commission's Resolution No. 23, Series of 2016⁴⁹ defines a connection asset, *to wit*:

Connection Assets are those assets that are put in place primarily to connect a Customer/s to the Grid and used for purposes of Transmission Connection Services for the conveyance of electricity which **if taken out of the System, will only affect the Customer connected to it and will have minimal effect on the Grid, or other connected Customers.**

[Emphasis and underscoring supplied.]

Based on the foregoing definition, dedicated point-to-point limited facilities function similarly with connection assets.

As illustrated in *Figure 1*, the subject facilities that connect the 40 MW BCPP of VMCI to the 69 kV Victorias- Silay line of NGCP are considered as dedicated point-to-point limited transmission facilities (Connection Assets) because if these assets are removed or cut off, only VMCI's BCPP will be disconnected. These facilities are used solely by the generating facility of VMCI. Thus, VMCI should be authorized to develop and own the said assets.

⁴⁹ Entitled, "A Resolution Adopting the Amended Rules on the Definition and Boundaries of Connection Assets for Customers of Transmission Provider".

2.3 Project Status

During the ocular inspection conducted on 19 July 2018 to 20 July 2018, the Commission determined that VMCI had already started the implementation of the subject facilities.

Table 3 shows the schedule of implementation of the subject facilities:

Table 3: Schedule of Implementation

Description	Start of Construction	Completion Date
Subject Facilities	07 February 2017	December 2018

Section 9 of the EPIRA provides that:

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**: xxx

[Emphasis and underscoring supplied.]

Based on the abovementioned provision, VMCI should have first sought authorization from the Commission prior to the implementation of the subject facilities. It is worthy to note that the instant *Application* was filed on 12 October 2017.

Considering that the subject facilities were developed and constructed without prior approval by the Commission, the same will be further investigated by the Commission for purposes of determining the propriety of imposition of sanctions, if warranted.

3. Technical Capability of VMCI to Develop the Subject Facilities

3.1 System Impact Study (SIS) and Facility Study (FS)

In November 2016, NGCP conducted a System Impact Study (SIS) to determine the technical feasibility of the connection of the 40 MW BCPP of VMCI with a limited injection of 25MW to the Visayas Grid.

As earlier mentioned, VMCI's total capacity for its two (2) BCPP is 63 MW (23 MW and 40 MW, respectively). The 23MW BCPP is connected to NONECO while the 40MW is directly connected to the grid. As indicated in the amended BREOC dated 15 June 2016, out of the total 40 MW capacity of VMCI's BCPP, 25 MW is eligible for FIT and the remaining capacity will be for VMCI's own use.

The Commission notes, however, based on the COE-FIT issued by DOE on 09 October 2019, only 21.45 MW is eligible for FIT system. Nevertheless, the SIS which NGCP evaluated, indicated that 25 MW will be dispatched by VMCI to the Visayas Grid.

Based on the results of the SIS, the entry of the 40MW BCPP of VMCI, with a limited 25MW injection to the Visayas Grid, is technically feasible. The said plant may connect to the Visayas Grid but may be subject to limitations prior to the upgrading of Negros-Cebu interconnection and Cadiz Substation. The excerpts from the submitted SIS are quoted as follows:

X X X

The connection of the Project to the Visayas Grid will contribute to the already heavily loaded Negros-Cebu interconnection and may result in its overloading. However, it cannot be solely attributed to the Project but to the numerous generators in Negros and Panay. If the Project is injecting power towards Cadiz substation, outage of one transformer in the substation may result in the overloading of the remaining 50 MVA transformer. Although it seems that Cadiz substation needs another transformer even prior to the entry of the Project as it is already heavily loaded.

The bus voltage in the study area was found to be within the limitation prescribed in the Philippine Grid Code under normal and N-1 conditions upon entry of the Project.

The Project will contribute fault current but the resulting increase in the fault level at the monitored substations are still rather low and will not likely breach the interrupting capacity of the power circuit breakers.

The Project will not degrade the stability of the Visayas Grid. No stability [problem] was found upon entry of the Project by 2017. For the year 2022, unstable conditions were noted but these were already inherent even prior to the entry of the Project. Loss of the Project will not cause under frequency and will not lead to activation of automatic load dropping (ALD) relays.

Overall, this System Impact Study (SIS) has found that the 25 MW Cogeneration Biomass Power Project located in Victorias City, Negros Occidental may connect to the Visayas Grid but may be subject to limitations prior to the upgrading of Negros-Cebu interconnection and Cadiz Substation.

It is worth noting that the upgrading of Negros-Cebu Interconnection and Cadiz Substation is included in the Cebu-Negros-Panay (CNP) Project of NGCP. The said CNP Project is yet to be completed but has already been provisionally approved by the Commission on 04 September 2017 in an *Order* dated 20 June 2017 under ERC Case No. 2016-197 RC.⁵⁰

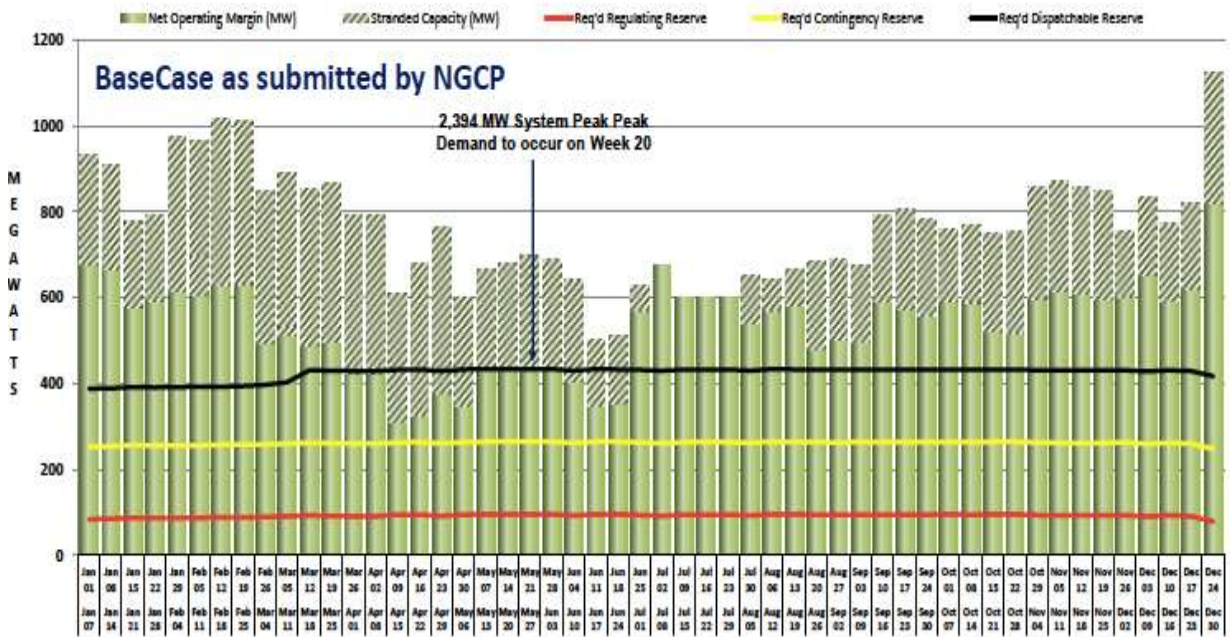
Based on the latest Transmission Project Status Report submitted by NGCP as of 28 February 2021, the overall accomplishment of NGCP for its CNP 230 kV Backbone Project Stage 3 is 76.95% and the same is estimated to be completed on 31 March 2022.

Moreover, based on the COE-FIT issued by the DOE to VMCI, the committed capacity of 21.45 MW shall be exported to the grid upon completion of the NGCP's CNP 230 kV Backbone Stage 3 Project of NGCP.

However, in the *Coordination Meeting* on 17 February 2021 organized by the Department of Energy (DOE), attended by power generators and other energy stakeholders, NGCP presented the updated power outlook of the Visayas Grid. The Power Supply Assessment for Calendar Year 2021, as presented by NGCP in the said meeting, is shown in *Figure 2*:

⁵⁰ Entitled, "In the Matter of the Application for the Approval of the Implementation of Capital Expenditure Program for Calendar Years 2017-2020, with Prayer for the Issuance of Provisional Authority".

Figure 2: Power Supply Assessment for Calendar Year 2021



As illustrated in *Figure 2*, the net operating margin was forecasted as not being sufficient to meet the required dispatchable reserve of the Visayas Grid. The forecasted System Peak Demand of 2,394 MW is based on updated DOE forecast.

In view thereof, the power coming from VMCI’s BCPP can help augment the requirements in the Visayas Grid to prevent shortages in supply.

Section 7 of Republic Act No. 9513, otherwise known as the Renewable Energy Act of 2008 (RE Act), mandates the promulgation of the Feed-In-Tariff (FIT) System rules, which would include, among others, the priority connection to the grid for electricity generated from an emerging renewable energy resources such as a wind, solar, ocean, run-of river hydropower and biomass power plants within the Philippines.⁵¹ In relation thereto, on 20 March 2015, the DOE issued Department Circular No. DC2015-03-001⁵² which provides the framework for the integration in the WESM of must dispatch and priority dispatch (collectively referred to as Preferential Dispatch Generating Units).

Under the said DOE Circular, *Priority Dispatch* is defined as giving preference to biomass power plants under the FIT

⁵¹ Section 7, RE Act.

⁵² Entitled, Promulgating the Framework for the Implementation of Must Dispatch and Priority Dispatch of Renewable Energy Resources In the Wholesale Electricity Spot Market, 20 March 2015.

System in the dispatch schedule pursuant to Section 7 of the RE Act.

The Commission notes that pursuant to the COE-FIT issued by the DOE to VMCI, the plant is a FIT-eligible plant. Thus, pursuant to the DOE Circular, the 40 MW BCPP of VMCI belongs to a priority dispatch generating unit.

Relative thereto, Section 10 of the aforesaid DOE Circular provides for the hierarchy of the dispatch prioritization of generating units, *to wit*:

Section 10. Dispatch Prioritization. Jointly and in consultation with the WESM Members, the PEMC and the NGCP shall update the Dispatch Protocol established in the WESM Rules and its Market Manuals to consider the following hierarchy of dispatch schedule and implementation:

1. Minimum stable load or P_{\min} of all Conventional Generating Units;
2. Must-Dispatch Generating Units;
3. **Priority Dispatch Generating Units**; and
4. Schedules Generating Units.

Notwithstanding the aforementioned hierarchy, the NGCP shall always consider technical parameters and limitations of the transmission facilities giving priority to the reliability and security of the Grid during its dispatch implementation. **In case the Preferential Dispatch Generating Units are connected to a common constrained transmission facility, the following hierarchy of scheduling and dispatch shall be implemented:**

- (a) Preferential Dispatch Generating Units under commissioning and testing; and
- (b) **Pro-rated sharing based on available transmission capacity and Day-Ahead Generation Forecast of all Preferential Dispatch Generating Units.**

X X X

(Emphasis and underscoring supplied.)

Based on the foregoing Section, VMCI's 40 MW BCPP, being a preferential dispatch generating unit, is given priority dispatch in the hierarchy of the dispatch prioritization of generating power plant. However, in the same Section, NGCP is

mandated to consider technical parameters and limitations of the transmission facilities giving priority to the reliability and security of the Grid during its dispatch implementation.

In view thereof, considering the potential overloading of the Visayas Grid, particularly in Negros and Panay area, where various Preferential Dispatch Generating Units are connected, NGCP must implement the proper hierarchy of dispatch scheduling and implementation, taking into consideration the stability, reliability and security of the grid.

It was clearly stated in the SIS that the connection of VMCI's BCPP will result in the overloading of the Cebu-Negros submarine line, requiring generation curtailment until the completion of the CNP project,

Consequently, due to the abovementioned projected overloading prior to the completion of the CNP project, the generated power of the VMCI's BCPP must be curtailed and be dispatched based on the hierarchy of dispatch prioritization as stated in the aforesaid DOE Circular.

In order for VMCI to operate and dispatch the generated power of its BCPP to the Visayas Grid, VMCI has to secure a Certificate of Compliance (COC) from the Commission. The subject operation, once authorized, shall be subject to curtailment and appropriate dispatch prioritization as provided in the aforesaid DOE Circular to prevent the overloading of the transmission system of NGCP.

Further, NGCP should submit to the Commission an update on the maximum penetration limit of intermittent RE-based power plants pursuant to Section 20⁵³ of the RE Act.

⁵³SECTION 20. Intermittent RE Resources. — TRANSCO or its successors-in-interest, in consultation with stakeholders, shall determine the maximum penetration limit of the Intermittent RE-based power plants to the Grid, through technical and economic analysis. Qualified and registered RE generating units with intermittent RE resources shall be considered "must dispatch" based on available energy and shall enjoy the benefit of priority dispatch. All provisions under the WESM Rules, Distribution and Grid Codes which do not allow "must dispatch" status for intermittent RE resources shall be deemed amended or modified. The PEMC and TRANSCO or its successors-in-interest shall implement technical mitigation and improvements in the system in order to ensure safety and reliability of electricity transmission.

As used in this Act, RE generating unit with intermittent RE resources refers to a RE generating unit or group of units connected to a common connection point whose RE resource is location-specific, naturally difficult to precisely predict the availability of RE resource thereby making the energy generated variable, unpredictable and irregular and the availability of the resource inherently uncontrollable, which include plants utilizing wind, solar, run-of-river hydro or ocean energy.

A Facility Study⁵⁴ (FS) was conducted for the connection of the BCPP to determine which facilities and equipment should be installed by VMCI based on the requirements of the SIS and the Philippine Grid Code (PGC).

In NGCP's *Letter*⁵⁵ dated 05 May 2017 to VMCI, NGCP reviewed the said FS and determined that the facilities for the interconnection of the BCPP are acceptable.

The SIS and FS were the basis of the technical design and specifications of the subject facilities in the instant case.

For the construction of the subject facilities, VMCI engaged the services of BussBarr Corporation for the supply, construction, and installation of the subject facilities.

As to the technical capability of BussBarr Corporation, it is an electrical engineering firm specializing in industrial facility electrical/control design, with major focus on the power distribution substation, food and beverage, pharmaceutical, malls, and bulk manufacturing environments. The company was involved in several power and electrical system projects in the Philippines. Likewise, BussBarr Corporation is a General Contractor accredited by NGCP.

The foregoing contractor engaged by VMCI is deemed to possess the technical capability and competence to construct and develop the subject facilities.

3.2 Compliance with the Technical Requirements

As a generator seeking connection to the Visayas Grid, VMCI must comply with the following standards, among others, as provided in the PGC⁵⁶:

X X X

GCR 4.4.1.1.3 The Connection Point shall be controlled by a Circuit Breaker that is capable of interrupting

⁵⁴ Annex "R" of the *Application*.

⁵⁵ Annex "R-1" of the *Application*.

⁵⁶ Resolution No. 22, Series of 2016, entitled, "A Resolution Approving the Publication of the Approved Philippine Grid Code 2016 Edition".

the maximum short circuit current at the point of connection.

- GCR 4.4.1.1.4 Disconnect switches shall also be provided and arranged to isolate the Circuit Breaker for maintenance purposes.

X X X

- GCR 4.2.9.2 At the nominal voltages below 115 kV, the Transmission Network Provider shall specify the Grounding requirements and the applicable Earth Fault Factor at the Connection Point.

X X X

- GCR 4.2.10.2 All Equipment at the Connection point shall be designed, manufactured, and tested in accordance with the quality assurance requirements of the ISO 9000 series.

X X X

- GCR 4.7.1.1 A communication system shall be established so that the Transmission Network Provider, the System Operator, and the Users can communicate with one another, as well as exchange data signals for monitoring and controlling the Grid during normal and emergency conditions.

X X X

- GRM 9.2.1.1 The metering point between the Grid and User System shall be at the Connection Point.

- GRM 9.2.1.2 The metering facility shall be located between the disconnect switch and Circuit Breaker.

X X X

In compliance with the abovementioned GCR 4.4.1.1.3 of the PGC, the connection point of VMCI located along the 69 kV Victorias-Silay transmission line of NGCP is controlled by a circuit breaker which is installed inside the Switching Station of VMCI. In addition, the connection point is equipped with disconnect switches, surge arresters, instrument transformers, protective relays and its accessories which are all compliant with the standards of PGC.

The 69 kV single-circuit transmission line, using 484.5 MCM ACSR conductors mounted in steel poles, extending from the VMCI Substation going to the VMCI Switching Station, has an approximate length of 2.425 kilometers.

Likewise, VMCI constructed a substation inside its power plant compound. The substation is equipped with 50 MVA power transformer. The said transformer is used to step up the voltage from 13.8 kV to 69 kV. Other facilities installed by VMCI include, among others, surge arresters, instrument transformers, protective relays and its accessories, which are all compliant with the requirements of NGCP.

Further, VMCI complied with the standards on equipment grounding. VMCI provided Supervisory Control and Data Acquisition (SCADA) / Remote Terminal Unit (RTU) and Telecommunication equipment for the telecommunication, control and monitoring between the substations. The said communication system is compliant with the standards of the PGC.

During the ocular inspection conducted by the Commission on the 19 July 2018 to 20 July 2018, it was confirmed that the revenue meter of VMCI's BCPP was located as near as possible to the connection point along the Victorias-Silay transmission line of NGCP. The said location of the said meter is therefore compliant with above-quoted GRM 9.2.1.2 of the PGC.

4. Operation of the dedicated point-to-point limited transmission facilities

As to the authority to operate the dedicated point-to-point limited transmission facilities, the assets should be operated by NGCP. TRANSCO or its concessionaire, NGCP, is mandated under Section 9 (c) of the EPIRA to ensure and maintain the reliability, adequacy, security, stability, and integrity of the nationwide electrical grid.

Moreover, NGCP was granted by Congress of the Philippines the exclusive franchise to operate and maintain the transmission system pursuant to Republic Act No. 9511.⁵⁷

Therefore, as a general rule, the dedicated point-to-point limited transmission facilities should be operated by NGCP because there should be an assurance that the subject facilities will be operated without an adverse effect on the reliability of the Grid.

The only exception recognized in the EPIRA is when a generation company was able to acquire prior approval from the Commission to operate such dedicated point-to-point limited facility. This exception, however, is bound by numerous strict conditions. One of which is that the generation company, applying for such authority, should be able to prove that it is capable of operating a point-to-point facility, and its operation of the said facility is for the best interest of the consumers.

The Commission noted that VMCI, in its *Application*, manifested that it intends to engage the services of NGCP for the operation and maintenance of the subject facilities. As such, no exception under the general rule is being sought by VMCI with respect to the operation, service, and maintenance of the dedicated facility.

Accordingly, the NGCP should undertake the operation, service, and maintenance of the dedicated point-to-point limited facilities involving, among others, periodic inspection of the said facilities and regular assessment of poles and wire conditions, subject to applicable charges to VMCI.

5. The Recovery of cost in case the subject facilities are required for competitive purposes and ownership of the same is transferred to TRANSCO/NGCP

⁵⁷ 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 Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes".

As previously discussed, the assets connecting VMCI's BCPP to the 69 kV Victorias-Silay Line of NGCP are considered dedicated point-to-point limited transmission facilities. However, if such assets shall be required for competitive purposes, or if the same were to be used to connect any other user to the grid, ownership of the same shall be transferred to TRANSCO/NGCP immediately. In such a case, TRANSCO/NGCP shall pay VMCI at a fair market price for the subject facilities, subject to optimization.

Considering that VMCI's BCPP is a FIT-eligible plant, the cost of the dedicated point-to-point limited facilities that is included in the approved FIT rate shall be considered once the asset is transferred to TRANSCO/NGCP. Thus, the following considerations shall be observed once those assets are to be transferred to TRANSCO/NGCP, *to wit*:

- a. Should the fair market price of the assets (subject to optimization) be higher than the facilities' cost incorporated in the determination of the FIT rate, TRANSCO/NGCP shall pay the difference between the said cost and the fair market price of the assets; or
- b. Should the fair market price of the assets (subject to optimization) be lower than the facilities' cost incorporated in the determination of the FIT rate, the asset shall be treated as Contribution in Aid of Construction (CIAC).

The Commission deems it appropriate to apply in principle, the treatment of the recovery cost as CIAC should the fair market price of the assets (subject to optimization) be lower than the facilities' cost incorporated in the determination of the FIT rate to avoid double recovery. Said CIAC was defined under ERC Case No. 2006-015 RC,⁵⁸ as follows:

Amounts paid by the Transmission Customer or Prospective Transmission Customer for the construction and/or extension of Connection Assets. The Transmission provider or Distribution Utility maintains a separate account of these amounts and the assets never appear in the rate base nor in the asset appraisal.

⁵⁸ Entitled, "In the Matter of the Approval of the Amendments/Revisions on the Rules, Terms and Conditions for Open Access Transmission Service (OATS Rules)".

Based on the abovementioned provision, TRANSCO/NGCP shall maintain a separate account for the CIAC, if applicable, and the assets should not appear in its rate base or asset appraisal.

6. Distribution Wheeling Charges

Based on *Figure 1*, the BCPP is presently connected to the 69 kV Silay-Victorias line of NGCP, which is then connected to NONECO's 69 kV Cadiz-VMC sub-transmission line. In order for BSPP to deliver its generated energy to the grid, if not fully absorbed by NONECO, the same will pass along NONECO's line. Further, in the event that the normally open (NO) disconnect switch at the CENECO side is closed, the generated energy of BCPP may also pass through the 69 kV Bacolod- Silay line which is owned by CENECO.

The Commission's Resolution No. 24, Series of 2013,⁵⁹ states that:

2.2 Flow of Fit-All Funds

X X X

For Eligible RE Plants-WESM that are connected to a DU system, any Actual RE generation, which cannot be absorbed by the DU where it is connected, shall be delivered to the Grid, subject to the payment of applicable wheeling fees by the Eligible RE Plant-WESM with the DU. For the avoidance of doubt, no wheeling charges shall be paid for actual renewable energy generation that is physically absorbed by a distribution utility, whether WESM or non-WESM.

Based on the foregoing provision, distribution wheeling charges are imposed on an eligible Renewable Energy (RE) plant for any Actual RE generation which cannot be absorbed by the Distribution Utilities (DUs) where the said plant is connected, and which generation, are delivered to the grid.

It must be noted that VMCI should not automatically be imposed distribution wheeling charge. There should be proper

⁵⁹ Entitled, "The Guidelines on the Collection of the Feed-in Tariff Allowance (FIT-All) and Disbursement of the Fit-All Fund".

accounting on the actual generation not absorbed by the DUs. In case there is an actual RE generation that cannot be absorbed by the DUs, the above-mentioned provision shall apply. In order for NONECO and CENECO to charge VMCI in such a case, it is just proper for VMCI to enter into a Distribution Wheeling Service Agreement (DWSA) with the said DUs pursuant to abovementioned provision.

It is worthy to note the same principle was applied by the Commission in ERC Case. No. 2015-101 MC⁶⁰ and 2016-006 MC,⁶¹ which resolved the application for authority to develop, own, and operate the dedicated point-to-point limited transmission facilities to connect the 8MW power plant of HPCo and, the 25 MW Power Plant of SSPI, respectively.

As shown in Figure 1, the 8 MW Power Plant of HPCO and the 25 MW Power Plant of SSPI are connected to the 69 kV Victorias-Silay line of NGCP, to which the BCPP of VMCI is also connected.

In ERC Case No. 2015-101 MC, NONECO filed a Petition for Intervention contending that since the generated power of the HPCo will pass along the 69 kV Cadiz-VMC subtransmission line owned by NONECO, NONECO is entitled to impose charges to HPCo. The Commission agreed with said contention of NONECO but only for the actual generated power not absorbed by NONECO. The Commission likewise anticipated the likelihood of the generated energy to pass through the CENECO-owned 69 kV Bacolod-Silay subtransmission line, in the event that the normally open (NO) disconnect switch at the CENECO side is closed. Thus, the Commission deemed it proper for HPCo to enter into a DWSA with NONECO and CENECO.

The same principle was then used by the Commission in resolving the Point-to-Point Application of SSPI under ERC Case No. 2016-006 MC.

⁶⁰ Entitled, “In the Matter of the Application to Develop, Own and Operate a Dedicated Point-to-Point Transmission Facilities to Connect Hawaiian – Philippine Company’s (HPCo) Bagasse-Fired Biomass Power Plant to NGCP 69 kV Silay – VMC Transmission Line, with Prayer for Provisional Authority”.

⁶¹ Entitled, “In the Matter of the Application for Authority to Develop, Own and Operate a Dedicated Point-to-Point Limited Transmission Line to Connect the 25MW Silay Solar Power Plant (SSPP) to the National Grid Corporation of the Philippines Talisay-VMC 69 kV Line, with Prayer for Provisional Authority”.

7. Payment of Permit Fee

Section 40 of Commonwealth Act No. 146⁶² provides the legal basis for the collection of permit fee, *to wit*:

The Commission is authorized and ordered to charge and collect from any public service or applicant, as the case may be, the following fees as reimbursement of its expenses in the authorization, supervision, and/or regulation of the public services:

xxx

- g) For each permit authorizing the increase of equipment, the installation of new units or authorizing the increase of capacity, or the extension of means or general extensions in the service. xxx

Based on the project cost, the total amount of permit fee is **One Million Two Hundred Ninety-One Thousand, One Hundred Sixty-One Pesos and Forty Centavos (PhP1,291,161.40)** computed as follows:

$$\frac{\text{PhP}172,154,853.00}{\text{PhP}100.00} \times \text{PhP}0.75 = \text{PhP}1,291,161.40$$

The permit fee shall be considered in the determination of the fair market price, in the event that the dedicated point-to-point limited transmission facilities are required for competitive purposes or the same were to be used connect any other user to the grid, and ownership of the same is transferred to TRANSCO/NGCP at a fair market price.

A perusal of the evidence presented herein shows that the resolution of VMCI's *Application* for authority to develop, own, operate and maintain the dedicated point-to-point limited transmission facilities to connect its 40 MW BCPP to the Visayas Grid through the NGCP 69 kV Victorias-Silay transmission will redound to the benefit of the electricity consumers in terms of continuous, of quality, reliable, and efficient power supply as mandated by Section 2 of EPIRA.

⁶² The Public Service Law.

WHEREFORE, the foregoing premises considered, the *Application* of Victorias Milling Company, Inc. (VMCI) to develop, own, operate and maintain the dedicated point-to-point limited transmission facilities to connect its 40 MW Biomass Cogeneration Power Plant (BCPP) Project to the Visayas Grid through the Concepcion 69 kV Victorias-Silay transmission line of the National Grid Corporation of the Philippines (NGCP), is hereby **RESOLVED** as follows:

1. VMCI is hereby **AUTHORIZED** to develop and own the dedicated point-to-point limited transmission facilities to connect its 40 MW BCPP to the Visayas Grid through the NGCP's 69 kV Victorias-Silay transmission line, subject to the following conditions:
 - 1.1. The 40 MW Biomass Cogeneration Power Plant of VMCI, subject to compliance with the Certificate of Compliance (COC) requirements of the Commission, shall be allowed to come on-line even before the completion of the Cebu-Negros-Panay (CNP) Project Stage 3 of the NGCP, subject to generation curtailment, and appropriate dispatch prioritization as provided in the Department of Energy (DOE) Department Circular No. DC 2015-03-001);
 - 1.1.1. VMCI is hereby **DIRECTED** to secure a Certificate of Compliance (COC) with the Commission for its 40 MW BCPP as a precondition for the operation thereof;
 - 1.1.2. NGCP is hereby **DIRECTED** to submit an update on the maximum penetration limit of intermittent RE-based power pursuant to Section 20 of Republic Act No. 9513, otherwise known as Renewable Energy Act of 2008. Curtailment of the BCPP shall also be guided by the maximum penetration limit as identified by NGCP;
 - 1.2. The authorization granted to VMCI is without prejudice to its compliance with other government agencies' requirements, rules and regulations;

- 1.3. NGCP shall operate and maintain the subject dedicated point-to-point limited facilities to ensure and maintain the reliability, adequacy, security, stability, and integrity of the nationwide electrical grid, subject to applicable charges to VMCI;
- 1.4. The metering point shall be at the connection point in accordance with the Philippine Grid Code (PGC);
- 1.5. The dedicated point-to-point limited transmission facilities shall be used solely by the generating facility;
- 1.6. If any portion of the dedicated point-to-point limited facilities is required for competitive purposes or to connect any other user, the ownership of the same shall be immediately transferred to TRANSCO/NGCP at a fair market price, but subject to optimization. Considering that the BCPP is a FIT-eligible plant, the cost of the dedicated point-to-point limited facility as incorporated in the determination of FIT rate shall be considered once the asset is transferred to TRANSCO/NGCP. Thus, the following considerations shall be observed:
 - 1.6.1. Should the fair market price of the assets (subject to optimization) be higher than the facilities' cost incorporated in the determination of the FIT rate, TRANSCO/NGCP shall pay the difference between the said cost and the fair market price of the assets; or
 - 1.6.2. Should the fair market price of the assets (subject to optimization) be lower than the facilities' cost incorporated in the determination of the FIT rate, the asset shall be treated as Contribution in Aid of Construction (CIAC). TRANSCO/ NGCP shall maintain a separate account of these amounts and the assets should not appear in the rate base or in its asset appraisal.

2. VMCI is hereby **DIRECTED** to enter into a Distribution Wheeling Service Agreement (DWSA) with Central Negros Electric Cooperative, Inc. (CENECO) and Northern Negros Electric Cooperative, Inc. (NONECO) in accordance with the Commission's Resolution No. 24, Series of 2013;
3. VMCI is hereby **DIRECTED** to submit, within **ten (10) days** from the receipt hereof, the amended Certificate of Confirmation of Commerciality (CoCoC) of its 40 MW BCPP issued by the DOE that already reflects the correct capacity that is eligible for FIT; and
4. VMCI is hereby **DIRECTED** to pay and remit to the Commission the total amount of **One Million Two Hundred Ninety-One Thousand One Hundred Sixty-One Pesos and Forty Centavos (PhP1,291,161.40)**, within fifteen (15) days from receipt hereof, as payment for the permit fee, pursuant to Section 40 (g) of Commonwealth Act No. 146, and the Commission's Revised Schedule of Fees and Charges. The permit fee computed herein shall be considered in the determination of the of the fair market price of the assets being transferred to TRANSCO/NGCP.

RELATIVE TO THE FOREGOING, VMCI is hereby **DIRECTED** to submit a *Compliance Report* showing that it has complied with all the foregoing directives of the Commission, within thirty (30) days from receipt hereof.

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FINALLY, the resolution of the instant case shall be without prejudice to VMCI's compliance with the Certificate of Compliance (COC) requirements of the Commission and other rules and regulations issued by other government agencies; and any administrative action that the Commission may undertake for any violation by VMCI.

SO ORDERED.

Pasig City, 28 April 2021.


AGNES VST DEVANADERA
Chairperson and CEO



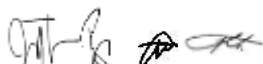

ALEXIS M. LUMBATAN
Commissioner


CATHERINE P. MACEDA
Commissioner


FLORESINDA G. BALDO-DIGAL
Commissioner


MARKO ROMJO L. FUENTES
Commissioner


LS: KJP/LSP/MCCG


ROS: JAPT/REGR/REM/LLG

ERC CASE NO. 2017-017 MC
DECISION / 28 April 2021
PAGE 55 of 55

Copy Furnished:

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4. Office of the LGU legislative body
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Province of Negros Occidental
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Province of Negros Occidental
7. National Grid Corporation of the Philippines (NGCP)
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