

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City



IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO DEVELOP, OWN AND/OR OPERATE DEDICATED POINT-TO-POINT LIMITED FACILITIES TO CONNECT THE 25 MW BIOMASS POWER PLANT TO THE VISAYAS GRID VIA THE CADIZ SUBSTATION OF THE NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP) THROUGH THE CADIZ-IPI 69 KV LINE, WITH PRAYER FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2019-015 MC

**NORTH NEGROS
BIOPOWER INC. (NNBP),
Applicant.**

Promulgated:
July 16, 2021

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ORDER

Before the Commission for resolution is the *Motion for Partial Reconsideration (of 17 December 2019 Decision)* (Motion) filed by North Negros Biopower, Inc. (NNBP) on 05 March 2020.

FACTUAL ANTECEDENTS

On 01 July 2019, NNBP filed the instant *Application* seeking the Commission's approval of its authority to develop, own, and/or operate a dedicated Point-to-Point (PTP) limited facilities to connect its 25 MW Biomass Power Plant (BPP) to the Visayas Grid via the Cadiz Substation of the National Grid Corporation of the Philippines (NGCP) through the Cadiz-Ipi 69 kV Line, with prayer for the issuance of provisional authority.

On 18 February 2020, the Commission issued a *Decision* dated 17 December 2019, approving the Application. The dispositive portion of the assailed *Decision* states, among others, *to wit*:

X X X

WHEREFORE, the foregoing premises considered, the *Application* filed by North Negros Biopower, Inc. (NNBP), for authority to develop, own and/or operate a dedicated point-to-point limited facilities to connect its 25 MW Biomass Power Plant (BPP) to the Visayas Grid of National Grid Corporation of the Philippines (NGCP) through the Cadiz-Ipi 69 kV Line of Northern Negros Electric Cooperative, Inc. (NONECO) is hereby RESOLVED as follows:

1. NNBP is hereby AUTHORIZED to develop and own a dedicated point-to-point limited facilities to connect its 25 MW BPP to the Visayas Grid of NGCP through the Cadiz-Ipi 69 kV Line of NONECO, subject to the following conditions:
 - 1.1 The said connection is for the interim period only. NNBP shall comply with the requirements of NGCP, to wit:
 - 1.1.1 The final connection scheme is via direct connection to NGCP's Cadiz Substation; and
 - 1.1.2 **The NNBP BPP must only come on line after the completion of the Cebu-Negros-Panay 230 kV Backbone Stage 3 Project of the NGCP.**

xxx.

(Emphasis and underscoring supplied.)

Subsequently, on 05 March 2020, NNBP filed the instant *Motion*, praying that the *Decision* dated 17 December 2019 be partially reconsidered and NNBP be allowed to come on-line immediately even before the completion of the Cebu-Negros-Panay (CNP Project)¹ of the NGCP.

On 04 September 2020, the Commission issued an *Order* dated 27 August 2020 directing NGCP to file its comment on NNBP's *Motion*, and for NNBP to file its reply on the said comment.

¹ ERC Case No. 2016-197 RC, 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-NGCP, Applicant."

NGCP failed to submit any comment on the said *Motion* despite having been directed by the Commission.

Subsequently, on 03 November 2020, NNBP filed a *Motion for Leave to File and Admit [Re: Attached Supplemental Motion for Partial Reconsideration with Motion to Reopen Proceedings]*, and *Supplemental Motion for Partial Reconsideration with Motion to Reopen Proceedings*, wherein it reiterated its prayer that its 25 MW BPP be allowed to come on-line even prior to the completion of the CNP Project of NGCP, and to reopen the proceedings of the instant case.

ISSUE

The issue for the Commission's resolution is whether or not the instant *Motion* should be granted.

THE COMMISSION'S RULING

After due deliberation and evaluation of all the evidence submitted and all the information gathered pursuant to its regulatory powers, the Commission resolves to **GRANT** the instant *Motion*.

DISCUSSION

NNBP timely filed the instant Motion for Partial Reconsideration

Section 1, Rule 23 of the Commission's Rules of Practice and Procedure (RPP) provides that a party adversely affected by an order on the merits, or decision of the Commission may, within fifteen (15) days from receipt of a copy thereof, file a Motion for Reconsideration.

On 18 February 2020, the Commission issued the assailed *Decision* dated 17 December 2019 resolving the *Application*. On 19 February 2020, NNBP received a copy of the said *Decision*. Pursuant to the aforementioned provision, NNBP has fifteen (15) days from the receipt of the assailed *Decision* on 17 February 2020, or until 05 March 2020 within which to file its motion for reconsideration.

The Commission notes that NNBP filed the instant *Motion* on 05 March 2020.

In view thereof, the Commission finds the instant *Motion* of NNBP as timely filed pursuant to the Commission's RPP. Therefore, the Commission hereby gives due course to the said *Motion*.

NNBP's Supplemental Motion for Partial Reconsideration with Motion to Reopen the Proceedings was filed out of time.

The Commission notes that NNBP filed its *Supplemental Motion for Partial Reconsideration with Motion to Reopen Proceedings* (Supplemental Motion) only on 03 November 2020, which was already beyond the period provided under Section 1, Rule 23 of the Commission's RPP.

In view thereof, the Commission hereby denies the said *Supplemental Motion* for being filed out of time.

The Commission's Evaluation of NNBP's Motion for Partial Reconsideration.

The Commission, in its *Decision* dated 17 December 2019, approved NNBP's Application, subject to the condition that the point-to-point limited facility project of NNBP shall only come on-line after the completion of the CNP Project of NGCP, *to wit*:

WHEREFORE, the foregoing premises considered, the Application filed by North Negros Biopower, Inc. (NNBP), for authority to develop, own and/or operate a dedicated point-to-point limited facilities to connect its 25 MW Biomass Power Plant (BPP) to the Visayas Grid of National Grid Corporation of the Philippines (NGCP) through the Cadiz-Ipi 69 kV Line of Northern Negros Electric Cooperative, Inc. (NONECO) is hereby RESOLVED as follows:

1. NNBP is hereby AUTHORIZED to develop and own a dedicated point-to-point limited facilities to connect its 25 MW BPP to the Visayas Grid of NGCP through the Cadiz-Ipi 69 kV Line of NONECO, subject to the following conditions:
 - 1.1 The said connection is for the interim period only. NNBP shall comply with the requirements of NGCP, *to wit*:

xxx

- 1.1.2 The NNBPP BPP **must only come on line after the completion of the Cebu-Negros-Panay 230 kV Backbone Stage 3 Project of the NGCP.**

xxx.

(Emphasis and underscoring supplied.)

Subsequently, NNBPP filed the instant *Motion*, wherein it sought the Commission's partial reconsideration of the condition in item 1.1.2 of the assailed *Decision* and prayed that it be allowed to come on-line even prior to the completion of the CNP Project. In the said *Motion*, NNBPP argued that the connection of its 25 MW BPP to the Visayas Grid has been found technically feasible. Accordingly, the same should not be subject to the completion of the CNP Project of NGCP.

In the assailed *Decision*, the Commission declared that the connection of NNBPP's 25 MW BPP to the Visayas Grid is technically feasible as determined by NGCP in the System Impact Study (SIS). However, to reiterate, while the NNBPP's 25 MW BPP entry to the Visayas Grid is found technically feasible, the same requires generation curtailment of NNBPP's 25 MW BPP along with other generation power plants in Panay and/or Negros, and dispatch limitation until the CNP Project of NGCP is already completed pursuant to the SIS, *to wit*:

xxx

The connection of the Project to the Visayas Grid will aggravate the overloading of the Negros-Cebu interconnection. **Thus, it is necessary to reduce the dispatch of power plants in Negros and Panay including the proposed biomass power plant until the completion of the Cebu-Negros-Panay 230 kV Backbone Project Stage 3 (CNP 3).** Other transmission facilities are sufficient to accommodate the full capacity of the Project including the 2x50 MVA Cadiz 138/69 kV Substation and the Cadiz-Victorias 69 kV line even with the full dispatch of power plants in the area except for solar power plants which are dispatched at 80% of its full capacity. If outputs of solar power plants will be beyond 80%, Cadiz Substation might be overloaded during N-1 condition. *(Emphasis supplied)*

Overall, it is recommended that the 25 MW Biomass Power Plant Project of NNBPP **shall connect to the Visayas Grid only upon completion of the Cebu-Negros-Panay 230 kV Backbone Project Stage 3.** *(Emphasis supplied)*

xxx

Notwithstanding the technical feasibility of connecting NNBP's BPP to the Visayas Grid, it is clear that there will be overloading in the Visayas Grid should the BPP and other new generating plants start to deliver its additional power to the grid. In fact, NGCP is currently implementing dispatch limitations on several power plants in Panay and Negros. Thus, the completion of the CNP Project of NGCP prior to the entry of the NNBP's BPP to the Visayas Grid is needed in order to ease the overloading of the grid and to cater to the generated power of the BPP, and other generating plants.

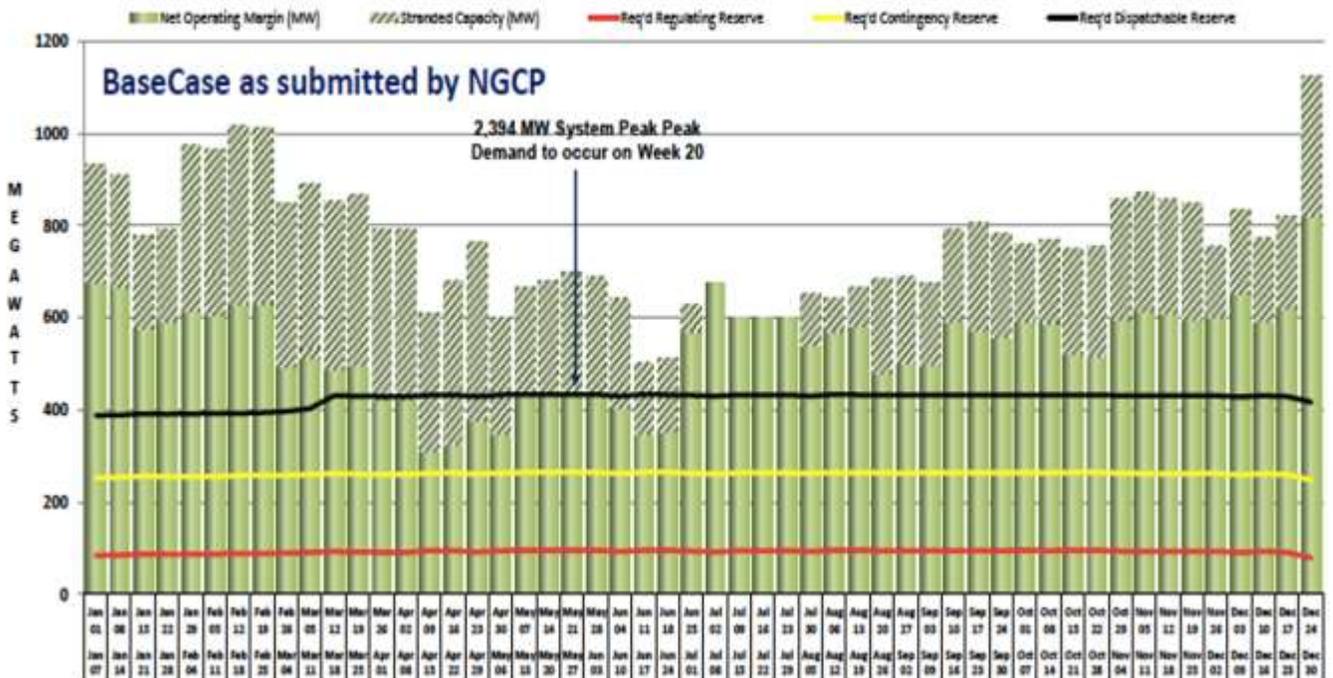
According to NGCP, based on the above SIS, the connection of NNBP's BPP would result in the overloading of the Cebu-Negros submarine cable. Thus, NGCP recommended that the entry of NNBP should only come after the completion of the CNP Project. The Commission considered the said recommendation of NGCP in resolving the *Application* of NNBP. Hence, the imposition of the such condition in the assailed *Decision*.

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 already 76.95% and the same is estimated to be completed by 31 March 2022.

In the *Coordination Meeting* organized by the Department of Energy (DOE) on 17 February 2021, and 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 1*:

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Figure 1: Power Supply Assessment for Calendar Year 2021



Based on *Figure 1*, by April of 2021, the net operating margin would not be enough to meet the required dispatchable reserve of the grid. The forecasted System Peak Demand of 2,394 MW is based on updated DOE forecast.

In view thereof, the power coming from NBNP’s 25 MW BPP can help augment the requirements in the Visayas Grid to prevent shortages in the supply.

Section 7² 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,

² Section 7. *Feed-In Tariff System*. – To accelerate the development of emerging renewable energy resources, a feed-in tariff system for electricity produced from wind, solar, ocean, run-of-river hydropower and biomass is hereby mandated. Towards this end, the ERC in consultation with the National Renewable Energy Board (NREB) created under Section 27 of this Act shall formulate and promulgate feed-in tariff system rules within one (1) year upon the effectivity of this Act which shall include, but not limited to the following:

- (a) Priority connections to the grid for electricity generated from emerging renewable energy resources such as wind, solar, ocean, run-of-river hydropower and biomass power plants within the territory of the Philippines;
- (b) The priority purchase and transmission of, and payment for, such electricity by the grid system operators;
- (c) Determine the fixed tariff to be paid to electricity produced from each type of emerging renewable energy and the mandated number of years for the application of these rates, which shall not be less than twelve (12) years.
- (d) The feed-in tariff to be set shall be applied to the emerging renewable energy to be used in compliance with the renewable portfolio standard as provided for in this Act and in accordance with the RPS rules that will be established by the DOE.

run-of river hydropower and biomass power plants within the Philippines. In relation thereto, on 20 March 2015, the DOE issued Department Circular No. DC2015-03-001³ 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 plants under the FIT system in the dispatch schedule pursuant to Section 7 of the RE Act.

The Commission notes that NNBP's 25 MW BPP was developed under the FIT system. However, the BPP of NNBP has yet to secure the Certificate of Endorsement under a FIT System (COE-FIT) from the DOE which will include the BPP in the list of FIT-eligible plants.

Relative to the foregoing, 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:

- (a) Minimum stable load or P_{\min} of all Conventional Generating Units;
- (b) Must-Dispatch Generating Units;
- (c) **Priority Dispatch Generating Units**; and
- (d) 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

³ Promulgating the framework for the implementation of must dispatch and priority dispatch of renewable energy resources in the wholesale electricity spot market.

(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, the priority dispatch provisions of Department Circular No. DC2015-03-001 shall be implemented; but NGCP, nonetheless, shall consider the 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 must be noted that Section 10 of the aforesaid DOE Circular, while providing for the hierarchy of dispatch schedule and implementation, also provides exceptions to the said hierarchy, particularly in instances where preferential dispatch generating units are connected to a common constrained transmission facility. Under such circumstances, a different hierarchy of scheduling and dispatch shall be implemented, as cited above. In the case of NNBPs 25MW BPP, the imposition of this is underscored by the fact that the SIS reported that the connection of NNBPs 25 MW BPP will result in the overloading of the Cebu-Negros submarine line, thus, requiring generation curtailment until the completion of the CNP project, *to wit*:

x x x

Upon entry of the power plant on year 2017, the results of the system simulation show that the Cebu-Negros submarine cables will be overloaded even during normal condition and the Amlan-Pondol Transmission line will be overloaded during N-1 condition. This will necessitate further curtailed generation of the power plants in Panay and/or Negros until the completion of CNP 230 kV Backbone Project (stage 3) xxx.

Consequently, due to the abovementioned projected overloading prior to the completion of the CNP Project, the generated power of the NNBPs 25 MW BPP must be curtailed, and must be dispatched based

on the hierarchy of scheduling and dispatch applicable to constrained transmission facility as provided in the aforesaid DOE Circular.

In view thereof, the Commission hereby allows NNBP to operate and dispatch the generated power of its 25 MW BPP to the Visayas Grid, even prior to the completion of the CNP project, subject to curtailment and the appropriate dispatch prioritization as provided in the aforesaid DOE Circular to prevent the overloading of the transmission system of NGCP.

Relative to the foregoing, NNBP is hereby directed to secure a Certificate of Compliance (COC) from the Commission for its 25 MW BPP. The Commission's resolution on the instant case is without prejudice to whatever decision the Commission might have on the afore-stated COC application.

Further, NGCP is hereby directed to likewise observe the maximum penetration limit of intermittent RE-based power plants pursuant to Section 20⁴ of the RE Act.

WHEREFORE, the foregoing premises considered, the *Motion for Partial Reconsideration (of 17 December 2019 Decision)* filed by North Negros Biopower, Inc. (NNBP), is hereby **GRANTED**, subject to the following conditions:

1. The 25 MW Biomass Power Plant of NNBP is hereby **ALLOWED** to come on-line even before the completion of the Cebu Negros Panay (CNP) 230 kV Backbone Project Stage 3 of the NGCP, subject to generation curtailment, and appropriate dispatch prioritization as provided in the Department of Energy's (DOE) Department Circular No. DC 2015-03-001;

⁴SECTION 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.

2. NNBP is hereby **DIRECTED** to secure a Certificate of Compliance (COC) with the Commission for the operation of its 25 MW Biomass Power Plant; and
3. NGCP is hereby **DIRECTED** to observe 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.

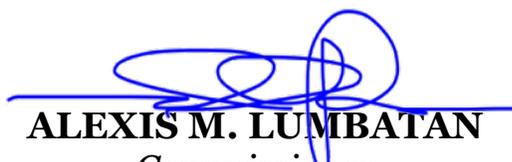
RELATIVE TO THE FOREGOING, NNBP is hereby **DIRECTED** to comply with the other conditions as set forth in the *Decision* dated 17 December 2019. Further, the resolution of the instant *Motion* shall be without prejudice to NNBP's compliance with other government agencies' requirements, rules, and regulations; and to any administrative action that the Commission may undertake for any violation by NNBP.

SO ORDERED.

Pasig City, 28 April 2021.




AGNES VST DEVANADERA
Chairperson and CEO


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