



NATIONAL POWER CORPORATION

NPB-OCS-18- 0076
MEMORANDUM

For : **THE MEMBERS
NATIONAL POWER BOARD**

From : **THE BOARD REVIEW COMMITTEE**

Subject : **BOARD REVIEW COMMITTEE (BRC) REPORT
[For the 15 March 2018 Meeting]**

Date : 19 March 2018

Hereunder are the highlights/salient points of the Board Review Committee (BRC) Meeting held on 15 March 2018, for the reference of the Members of the Board:

I. Call to Order.

There being a quorum, **Asec. Danielle Marie S. Rieza - Culangen**, Alternate/Representative of the DOF Secretary and Chairman of the NP Board, called the meeting to order.

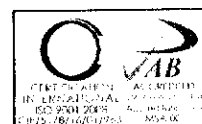
II. Preliminaries and Adoption of the Agenda.

After the prayer led by the Corporate Secretary, the BRC adopted the Agenda as indicated in the Agenda Folders previously sent to the BRC Members. It also allowed the inclusion of the Memorandum of the NPC President and CEO, requesting for the extension of the terms of [office] of current BAC members. The Corporate Secretary also informed the BRC that the Board Audit Committee will be convened right after the meeting to discuss the filling-up of two vacant positions in the Internal Audit Department.

III. Presentation and Discussion.

a. Proposed Award of Contract for the Supply and Delivery of Oil-Based Fuel to SPUG Power Plants and Barges for CY 2018

Atty. Melchor P. Ridulme, VP/Legal Counsel and Chairman of the Bids and Awards Committee, presented the above item. He underscored that under the existing Manual of Approvals, fuel-related contracts that are above Php 300 Million require the approval of the NP Board while those that are below the said threshold, are approved at the level of the NPC President and CEO. Nevertheless, those contracts



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rules, splitting of contracts is evident not only when the amount is lowered to avoid public bidding but also when its objective is to avoid the elevation of the contract to the higher levels of authority.

- The Corporate Secretary pointed out that in fairness to the Management, they really intended to disclose to the Board all fuel-related contracts and that the fact of such disclosure shall be included in the Board Resolution.
- Asec. D.M.S. Rieza-Culangen and Dir. L.C. Drapete inquired on the CY 2017 fuel requirements of NPC and asked the comparison between the CY 2017 and 2018 fuel volume and the corresponding ABC.

BRC Action : The BRC endorsed the proposal for approval of the NP Board, with the following instructions:

1. **Present during the Board (22 March 2018) the evolution of the rule(s) on splitting of contracts (for contracts below Php300 Million):**
 - **Assure the Board that no procurement law/regulation is violated [when a winning bidder's aggregate fuel contract with NPC is more than Php300 Million (but the individual/lot contract is not elevated to the Board)]**
 - **Check the latest IRR of the Procurement Law; and**
2. **Include in the presentation how ABC was computed (per lot): show the ABC in the previous years (including the actual fuel use/utilization in CY 2017.**

b. Proposed Award of Contract for the Construction of Power Facilities including Supply, Delivery, Erection/Installation, Test and Commissioning of Forty-Seven (47) Units of Modular Diesel Gensets and Electrical Equipment for Luzon SPUG Areas under Schedule 1 (Spec. No. LuzP17Z807Sc/PR No. SO-OPD17-011)

VP M.P. Ridulme presented the above item and his presentation was outlined as follows: (i) Matter for Approval; (ii) Background; (iii) Basis for the Supply, instead of Lease; (iv) Delivery Plant Sites with the Corresponding Number and Capacity of Gensets; (v) Salient Points of the Project; (vi) Background: Pre-Bid Conference; (vii) Result of Bid Opening; (viii) Result of Bid Evaluation; (ix) Post Qualification: Technical/Documents Validation; (x) Action Requested.

The highlights of the discussion are as follows:

- V.P. M.P. Ridulme emphasized that for the supply and delivery of generating sets, there are three (3) contract schedules. However, the bidding for Visayas and Mindanao schedules failed and he explained the reasons for the failures.
- Asec. D.M.S. Rieza-Culangan requested the details of the disqualification of AG Araja Construction and asked the Management to take a look at the latest GPPB rules governing the submission of "signed documents". The Management agreed to include in the Board presentation, the communication/letters pertaining to the disqualification of AG Araja Construction.
- On Asec. R.E. Delola's inquiry regarding the participation of SUWECO¹(sic), Pres. P.J. Benavidez informed that [while it participated in the bidding, no other NPPs are involved in the business of supplying generating units].
- Asec. D.M.S. Rieza-Culangan asked the Management to include in the Board presentation, the performance of SUWECO with regards to construction of power facilities.
- Pres. P.J. Benavidez showed the islands that will benefit from the installation of additional capacities. In response to Ms. M.C.G. Danao's query, he explained that NPC is open to renewable energy option for the islands only that at this time, [the costs are prohibitive considering the very low load profile in the missionary areas. He also stressed that NPC is piloting a hybrid solar-diesel power plant in Limasawa].
- Asec. R.E. Delola informed that he is heading the composite team of NEA and NPC to ensure that [electrification programs are coordinated (to avoid scenarios where power cannot be had despite availability of generating capacities because corresponding distribution lines are not in place)].

BRC Action : **The BRC endorsed the proposal for the NP Board approval, subject to the following instructions:**

- 1. Include in the presentation the reasons for the disqualification of AG Araja Construction and Development Corporation;**
- 2. Include in the presentation the actual contractual performance (previous projects with NPC) of Sunwest Construction and Development Corporation (SCDC); and**

¹ SUWECO is a New Power Provider in Catanduanes. Its 'sister' company, Sunwest Construction and Development Corporation (SCDC) participates in some procurement activities of NPC.

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3. Include in the presentation how the Schedule/Grouping was determined (i.e. why did the Management not consider clustering based on regional locations like one lot for Palawan; another lot for Northern Luzon, etc. to encourage the participation of other bidders.

c. Proposal for Compromise Agreement, re: CC No. 08-10, NPC vs. MARELCO

VP M.P. Ridulme presented the above item and cited the events that transpired since its first presentation to the BRC. He briefly discussed the background of the case and the Proposal for Settlement and Execution of Deed of Usufruct. He explained the salient/major features of the Deed of Usufruct (i.e. advantages and disadvantages) and disclosed OSG's approval of the same dated 15 April 2016.

Upon inquiry of Asec. R.E. Delola, Pres. P.J. Benavidez informed the BRC that there are no NPPs in the area and [that should the private sector come in as a result of a CSP to be undertaken by the electric cooperative, NPC shall exit the area].

BRC Action : **The BRC endorsed the proposal for the NP Board approval, subject to the following instructions:**

1. Provide a copy of the letter from OSG approving the proposed compromise agreement; and
2. Inform the Board that MARELCO is still amenable with the compromise agreement with NPC.

d. Proposed Filing of the New SAGR to Recover Incurred Excise Tax on Fuel for CY 2018, 2019 and 2020.

VP Urbano C. Mendiola, Jr., (Corporate Affairs Group), presented the above-indicated item and emphasized that the proposed SAGR hinged on the impact of the TRAIN Law on the NPC financials. VP U.C. Mendiola, Jr.'s presentation was outlined as follows: (i) Background; (ii) Impact on NPC's Fuel Cost [2018-2020]; (iii) Impact on NPC's Fuel Cost (Per Grid for CY 2018); (iv) Impact on NPC's Fuel Cost (Per Grid for CY 2019); (v) Impact on NPC's Fuel Cost (Per Grid for CY 2020); (vi) Rate Impact Based on Recovery thru SAGR; (vii) Rate Impact Based on Recovery thru GRAM; (viii) Rate Impact Based on Recovery Thru Basic UCME; (ix) Pros and Cons; (x) Recommendation.

Upon the inquiry of Asec. D.M.S. Rieza-Culangen, the Management indicated its position that the best way to recover the Excise Tax is thru the SAGR (other options are thru GRAM and UCME). For consistency, Asec. R.E. Delola requested the Management to use the results of the CY 2018 bidding of fuel requirements in calculating the excise tax.

BRC Action : **The BRC endorsed the proposal for the NP Board approval, subject to the following instructions:**

- 1. Update the figures used for fuel costs (considering the results of the bidding for the CY 2018 fuel requirements of NPC; and**
- 2. Consider consolidating the new ERC Petition with the one previously filed (concerning SAGR for SPUG Areas).**

e. Request of the NPC President and CEO for the Extension² of the Term [of office of] the BAC Members

Pres. P.J. Benavidez explained that with the impending retirement of several key officials/executives of NPC, the Management needs more time to firm up the composition of the new Bids and Awards Committee.

- Asec. D.M.S. Ricza-Culangen requested the Management to present to the Board the candidates for BAC Chairmanship (third-ranking officials).
- Pres. P.J. Benavidez said that since the SVP and COO position has not yet been filled up and has no budgetary allocation, he is looking into the possibility of designating a Senior Department Manager as BAC Chairman.
- The Corporate Secretary informed the Committee that the matter was discussed in the previous Board/BRC Meetings. Citing the similar query of DPWH, he shared that GPPB once issued a pronouncement that the "third-ranking" member is specifically based on the organization's plantilla of positions. Considering the importance of the matter, the Committee concurred with the suggestion to request seek clarification from GPPB.

BRC Action : **The BRC endorsed the proposal for the deliberation of the NP Board, with the following instructions:**

- 1. Seek the opinion of the GPPB³ on the interpretation of the "third ranking" official for purposes of appointing the Chairman of the BAC; Make representations with the GPPB that the SVP and COO position has not been filed up and has no budgetary allocation; request the allowance of a Senior Department Manager (SDM) as BAC Chairman as a matter of necessity; and**

² The President and CEO is requesting for a six-month extension per his Memorandum to the NP Board.

³ The Management was asked to provide Dir. L. C. Drapete (thru OCS) copy of the letter. He will also discuss the matter with the GPPB Executive Director.

2. Provide the Board "Options" as to who shall be the [next] BAC Chairman.

f.i. Lease Agreement Between NPC and FICELCO which Expired on 17 October 2018 [Communications regarding the Extension/Renewal of Lease Agreement covering the Marinawa Diesel Power Plant (MDPP)]:

- (1) 21 Feb. 2018 Memorandum of Ex. Dir. R. V. Angeles for the NPC Management;
- (2) 31 January 2018 Transmittal-Letter of CPGI to the Secretary of DTI; and
- (3) 28 January 2018 Letter from the Chairman of CPGI addressed to the NPC President [with attachments and copy furnished the Members of the NP Board]

VP U.C. Mendiola, Jr. emphasized that the Management is hoping that a common position is reached concerning the matter. The Corporate Secretary also indicated that CPGI is now directly writing the principal members of the NP Board, in an effort to reverse the previous decision not to extend/renew the lease-sublease agreement.

- Dir. L.C. Drapete remarked that the Board has to sustain the Management's recommendation not to renew/extend because the contract has already expired.
- Asec. R.E. Delola added that the lease contract is between NPC and FICELCO and that NPC has no contractual relationship with CPGI. He reiterated that [FICELCO should conduct a new round of CSP if necessary].
- Asec. D.M.S. Rieza-Culangen emphasized that the COA guidance requested by the Management is not related to the decision of the Board not to extend because in the first place, there is nothing to extend. She said that the guidance is sought so that the [Management will know the propriety of the previous transaction]. She reiterated that any new lease agreement should be bid out in accordance with the existing government rules.
- Pres. P.J. Benavidez also informed the BRC of the situation on the ground and the status of the facility to which Asec. D.M.S. Rieza-Culangen suggested to report the same to the Board in its next meeting.

BRC Action : The BRC endorsed the proposal for the deliberation of the NP Board, with the following instructions:

1. The Management shall prepare a letter denying the request of CPGI (the same shall be signed by the Chairman of the NP Board); NPC shall assert in the draft that it has no pending contractual ties with CPGI.

[Note: The formal stand of the Board shall be issued after its 22 March 2018 Meeting.]; and

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2. Apprise the Board of the actual situation on the ground (after October 2017 to present): inform the Board of the actions taken by the Management.

IV. Adjournment

The BRC meeting was adjourned at 10:51 AM. The BAC convened immediately thereafter.

V. BRC Members/Representatives Present

- a. **Asec. Danielle Marie S. Rieza-Culangen**
Secondary Alternate of the DOF Secretary
- b. **Asec. Redentor E. Delola**
Alternate Representative of the DOE Secretary
- c. **President Pio J. Benavidez**
Member – NPC
- d. **Dir. Lorenzo C. Drapete**
Alternate of the DBM Secretary
- e. **Ms. Marie Christine G. Danao**
Representative of NEDA Dir. R. M. Planta⁴
- f. **Dir. Asterio P. Saliot**
Representative of Usec. A. T. Cayanan, DA
- g. **Atty. Jeff Kevin C. Carbonel**
Representative of Asec. Epimaco V. Densing III⁵, DILG
- h. **Atty. Illac Bohol**
Representative of Usec. M. P. G. Luna, DENR
- i. **Atty. Patrick Mabbagu**
Corporate Secretary

Respectfully submitted.


Atty. PATRICK MABBAGU
[For the Board Review Committee]

⁴ Alternate of the NEDA Director General and Socio-Economic Planning Secretary

⁵ Alternate of the OIC-Office of the Secretary, DILG