

ANNEX A – TERMS OF REFERENCE

TERMS OF REFERENCE (TOR)

Competitive Selection Process (CSP) for a New Power Provider/s (NPP/s) of OMECO to Supply Power in Mainland Occidental Mindoro through Short-Term Power Supply Agreement (PSA)

1. INTRODUCTION

OMECO is conducting Competitive Selection Process for a New Power Provider/s (NPP/s) for Short-Term Power Supply from 26 June 2021 to 25 December 2026 and Renewable Portfolio Standards (RPS) Requirements for the Mainland Occidental Mindoro pursuant to the private sector participation in the generation sector under the Electric Power Industry Reform Act of 2001 (R.A. 9136) in Missionary Areas referred to as NPC-SPUG Areas.

This transaction has three (3) Lots that corresponds to the three (3) power supply areas in Occidental Mindoro where a Bidder can bid on any single Lot or all Lots as follows:

- Lot I – Short-Term Power Supply (2021-2026) for SAMARICA Area
- Lot II – Short-Term Power Supply (2021-2026) for Sablayan Area
- Lot III – Short-Term Power Supply (2021-2026) for MAPSA Area

The Winning Bidder in each Lot shall comply with the RPS Requirements.

Upon signing of Power Supply Agreement (PSA), the NPP/s shall submit to OMECO a Work Plan with details of Tasks including Timeline of Activities that clearly provides all works that are necessary to be able to perform its obligations as Generator in place of NPC-SPUG.

OMECO, NPC-SPUG, and the NPP/s will sign a Tripartite Phase-In Phase-Out (PIPO) Agreement so NPC-SPUG can schedule the redeployment of its remaining power generation facilities to other Missionary Areas.

This TOR is issued in compliance with Section 8.4.1 of the "Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market" issued under DOE Circular No. DC2018-02-0003, Section 2 of ERC Resolution No. 13, Series of 2015, "A Resolution Directing all Distribution Utilities to Conduct a Competitive Selection Process in the Procurement of their Supply to the Captive Market", and Department Circular No. DC2018-08-0024, Promulgating the Rules and Guidelines Governing the Establishment of the Renewable Portfolio Standards for Off-Grid Areas.



2. SUPPLY REQUIREMENTS AND CONTRACT

2.1. Supply Requirements

- 2.1.1. The Winning Bidder/s, herein referred to as NPP/s shall deliver the annual power supply requirements of OMECO from 26 June 2021 to 25 December 2026 with Dependable Capacity that will meet Single Outage Contingency reliability criteria.
- 2.1.2. Under the outage of the generating unit with the largest load, the Net Dependable Capacity that must be available for power generation in the three (3) areas (load centers) are shown in **Table 1**. The generating unit to meet Single Outage Contingency shall be installed in SAMARICA area only which shall also serve as contingency reserve for Sablayan and MAPSA area.

Table 1: Net Dependable Capacity Under Single Outage Contingency (MW)

Lot	Areas	Year					
		2021	2022	2023	2024	2025	2026
I	SAMARICA	18	19	21	22	23	24
II	SABLAYAN	5	5	5	5	5	6
III	MAPSA	7	7	8	8	9	9

- 2.1.3. For the avoidance of doubt, if from the supply in SAMARICA area is from the existing power plant in San Jose with three (3) units at 7MW maximum loading per unit, the 14MW remaining capacity shall be augmented by additional 4MW Dependable Capacity to meet the 18MW Net Dependable Capacity Under Single Outage Contingency in 2021. If power supply will come from modular units with 2MW Dependable Capacity per unit, the Total Dependable Capacity in 2021 shall be 20MW (i.e., 18MW + 2MW contingency reserve).

2.2. Renewable Portfolio Standards (RPS) Compliance

- 2.2.1. The NPP/s shall ensure that the minimum RPS requirements in **Table 2** shall be complied with. However, the NPP/s shall comply with any changes in the RPS requirements that may be issued by the DOE.

[SPACE INTENTIONALLY LEFT BLANK]

Table 2: RPS Requirement (Annual Energy, kWh)

Lot	Areas	Year					
		2021*	2022	2023	2024	2025	2026
I	SAMARICA	2,860,545	3,126,285	4,440,362	5,896,814	7,499,613	9,252,833
II	SABLAYAN	654,294	715,078	1,015,648	1,348,784	1,715,393	2,116,409
III	MAPSA	1,060,997	1,159,562	1,646,963	2,187,172	2,781,662	3,431,994

*Includes RPS Requirement of 2020

2.2.2. The NPP/s may build or subcontract RE facilities with generating capacity that meets the RPS requirements in 2026 either one time or incrementally from 2021 to 2026.

2.3. Supply Contract and Cooperation Period

2.3.1. OMECO will sign a Power Supply Agreement (PSA) with the NPP/s, for Short-Term Power Supply whose Commercial Operation Date (COD) shall be on 26 June 2021 subject to ERC approval.

2.3.2. The Short-Term Power Supply shall terminate on 25 December 2026.

2.3.3. The NPP/s shall notify OMECO in writing its committed COD three (3) months before the COD.

2.3.4. If the NPP/s will fail to deliver the requirements on COD, the NPP/s or OMECO shall arrange alternative supply for a maximum period of six (6) months only. The difference between the cost of the alternative supply and the cost of power supply under the signed PSA shall be to the account of the NPP/s who failed to deliver. OMECO has also the right to terminate the PSA.

3. BASIC TERMS

3.1. Power Plants

3.1.1. The power plant shall be completed and ready for operation on Commercial Operation Date.

3.1.2. The generating facilities and equipment of the NPP/s shall comply with all the requirements for Embedded Generators including the capabilities of generating units prescribed by the latest edition of the Philippine Distribution Code.

3.1.3. The power plant(s) shall be capable of delivering the minimum required Dependable Capacity at the Connection Point as shown in **Table 3** that will be dispatched by the System Operator.

Table 3: Guaranteed Delivered Voltage

System Voltage	Guaranteed Delivered Voltage
69 kV	67 kV to 73.7 kV
13.2 kV	13.2 kV to 14.5 kV

- 3.1.4. The generating units shall be connected to the Occidental Mindoro Grid through an isolation transformer. The impedance of the transformer shall be sized to properly coordinate the protection system of the power plant and the distribution lines of OMECO. the NPP/s shall provide OMECO a copy of the power system coordination study, which includes the appropriate impedance of the isolation transformer(s).
- 3.1.5. The generating units and the power plants must be capable of being synchronized with the Occidental Mindoro Grid. There shall be synchronizing equipment and synchronizing relay or synchronism check relay.
- 3.1.6. The generating units and the power plants must be capable of load sharing.
- 3.1.7. The generating units must be able to operate at 0.9 power factor (PF) leading to 0.85 PF lagging.
- 3.1.8. Each power plant in the three (3) locations shall be capable of black starting.
- 3.1.9. Each power plant in the three (3) locations shall be capable of operating in island mode.
- 3.1.10. The NPP/s shall install kWh meters and data loggers for all generating units and totalizer for the power plant and submit metering data as required by OMECO and/or the System Operator.
- 3.1.11. The NPP/s shall provide SCADA for its plants with Remote Terminal Unit that will be linked to System Operator's SCADA once it is in place. The NPP/s SCADA shall support fiber optic and radio communications, using at least DNP3 and IEC 60870-5-101/104 SCADA communications protocols.
- 3.1.12. The NPP/s shall provide access to and allow inspection of plant equipment by OMECO as needed. Likewise, the NPP/s shall provide access to DOE, NEA and ERC personnel in the discharge of oversight and regulatory functions.



3.2. Plant Location and Interconnection

- 3.2.1. The Single Line Diagram of the existing Occidental Mindoro Power Grid is shown in **Figure 1**.
- 3.2.2. The NPP/s shall deliver the Dependable Capacity of OMECO in three (3) areas with connection and metering points as shown in **Table 4**.

Table 4: Connection and Metering Points

LOT NO.	AREA	CONNECTION AND METERING POINT
I	SAMARICA	Pulang Lupa, Brgy. Central, San Jose (Figure 2)
		Brgy. Magbay, San Jose (Figure 3)
II	SABLAYAN	Sto. Niño, Sablayan (Figure 2 and 3)
III	MAPSA	Brgy. Tayamaan, Mamburao (Figure 2 and 3)

- 3.2.3. The NPP/s power plants shall be interconnected to the NPC's 69kV line and/or to the 13.2kV line of OMECO as illustrated in **Figure 2** (for the case where the existing plant in San Jose will supply SAMARICA) otherwise
- 3.2.4. **Figure 3** shall be applied.

[SPACE INTENTIONALLY LEFT BLANK]



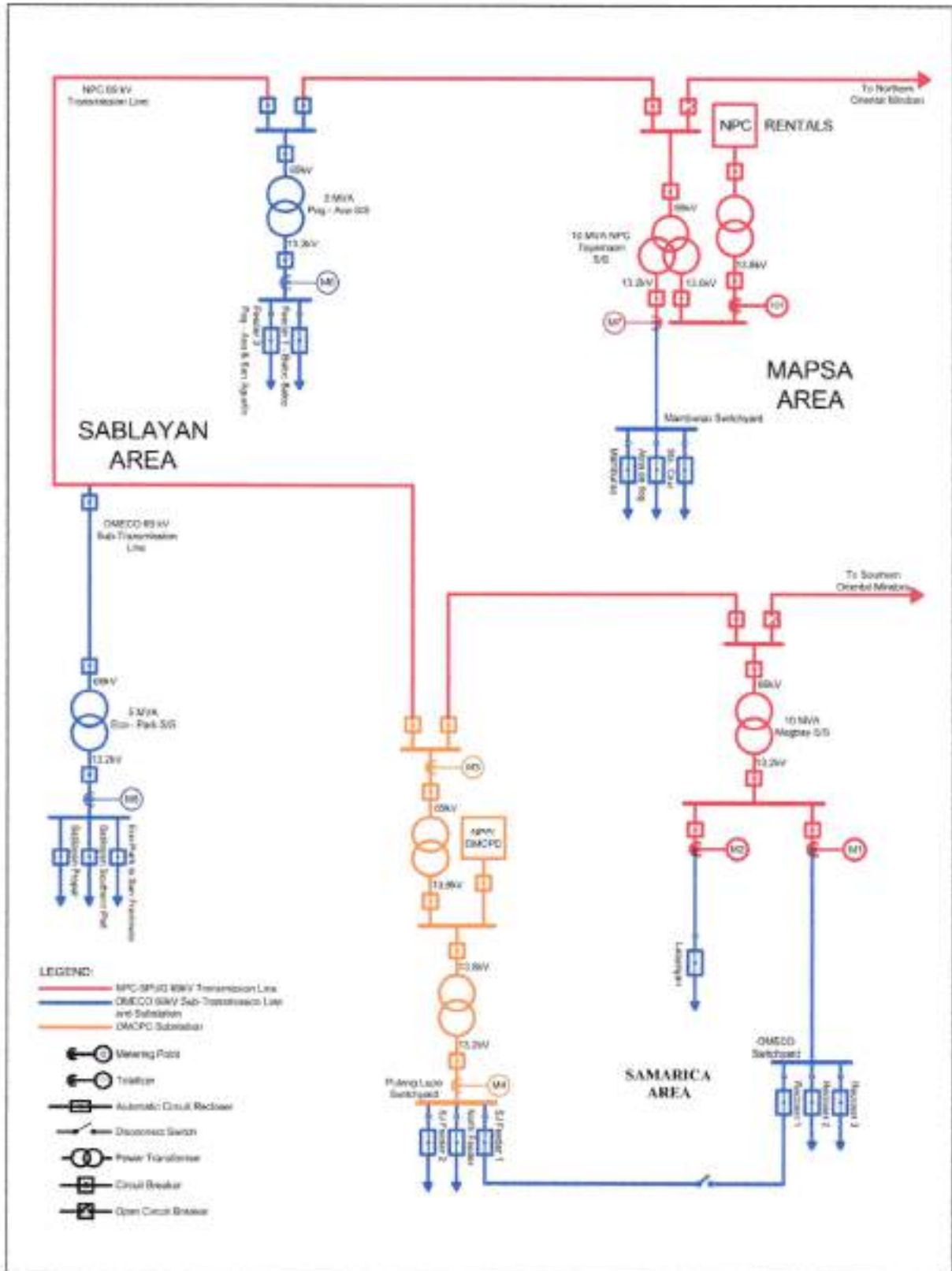


Figure 1: Single Line Diagram - Existing Occidental Mindoro Power Grid

[Handwritten signature]

[Handwritten mark]

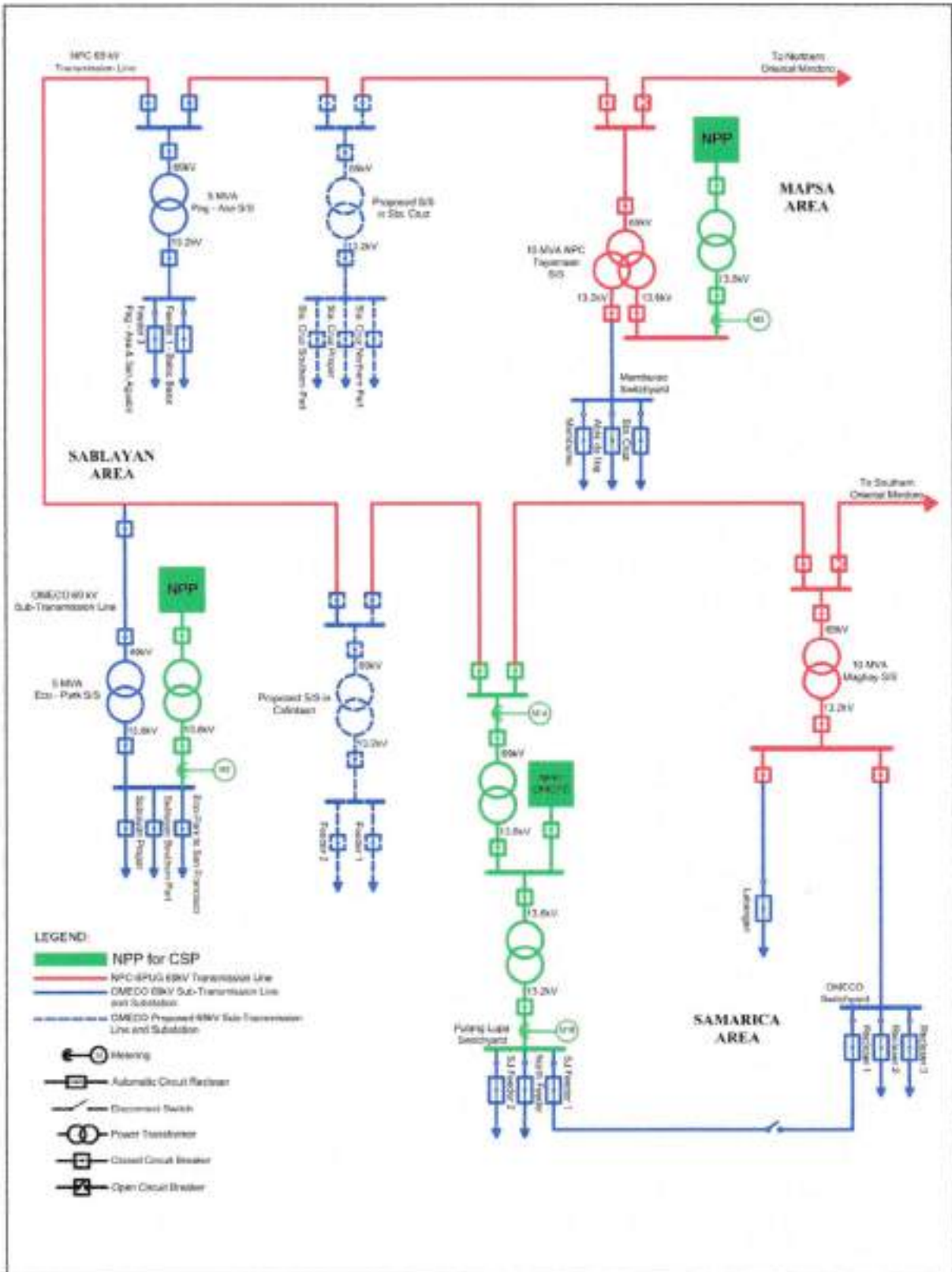


Figure 2: Interconnection of NPP Power Plants with Existing OMPC Plant at SAMARICA

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

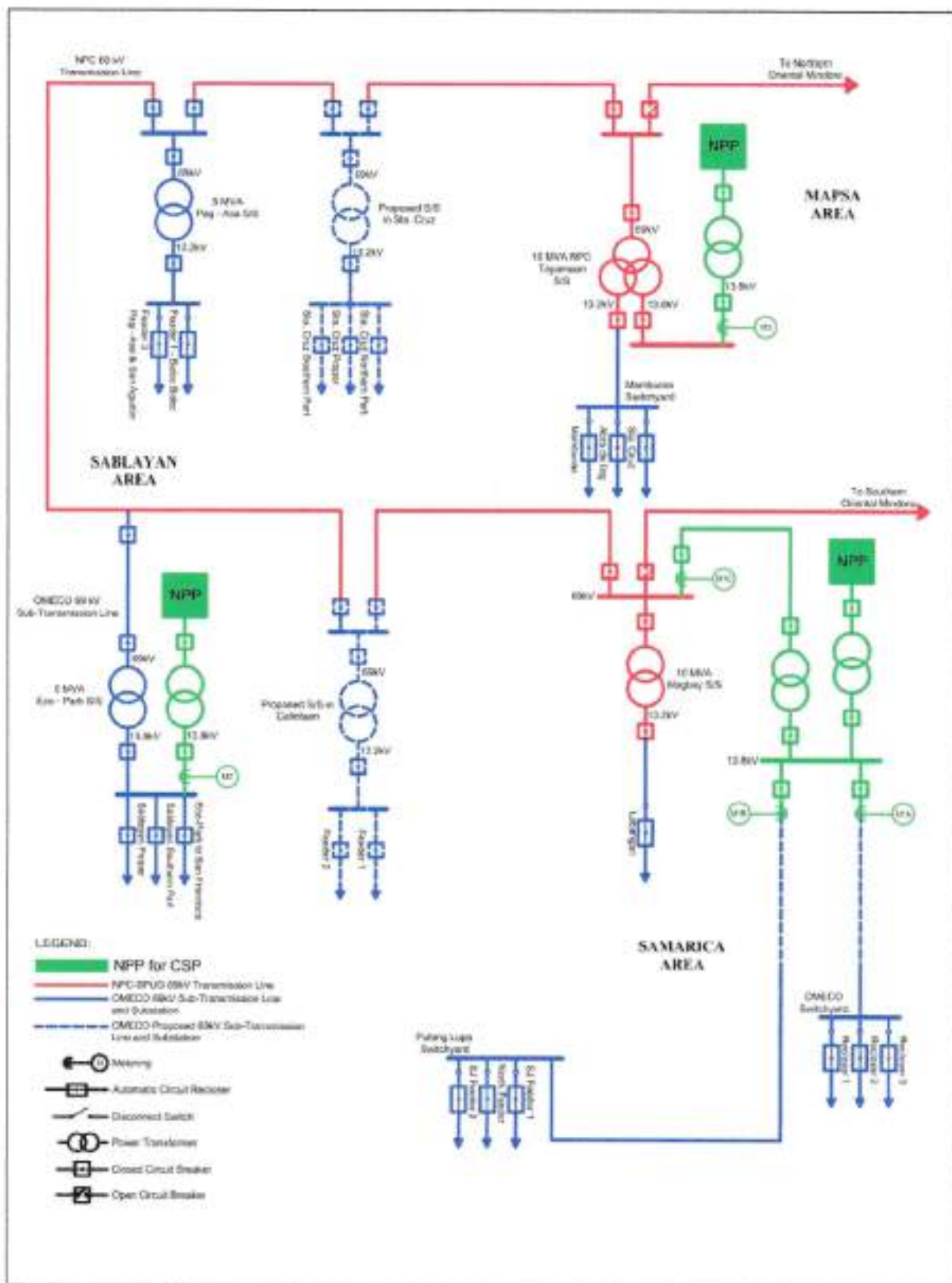


Figure 3: Interconnection of NPP Power Plants without OMCPD Plant at SAMARICA

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

- 3.2.5. The interconnection of the power plants shall comply with all the requirements for Embedded Generators and all requirements at the Connection Point prescribed by the latest edition of the Philippine Distribution Code.
- 3.2.6. The NPP/s shall provide and install the interconnection switchgears, outdoor motorized isolating and earthing switches, and lightning arresters at Pulang Lupa or Magbay S/S, Eco-Park S/S, and NPC Tayamaan S/S for the interconnection of the NPP/s power plants and OMECO distribution feeders. The NPP/s shall also provide and install sufficient storage battery and battery charger for the switchgears.
- 3.2.7. The NPP/s shall also install the Revenue Metering Equipment or Totalizer at all Connection Points.
- 3.2.8. The cost of all electrical equipment and interconnection line as well as construction/installation costs shall be borne by the NPP/s.
- 3.2.9. The operation and maintenance cost and system loss of all power plant and interconnection facilities up to the Metering Point (the Delivery Point) shall also be to the account of the NPP/s.

3.3. Outage Allowance

- 3.3.1. The NPP/s shall be allowed limited scheduled and unscheduled outages of the power plants. The NPP/s shall indicate in its Bid the proposed annual Scheduled Outage Hours and Unscheduled Outage Hours. Scheduled Outages are those outages planned by the NPP/s as approved by the System Operator prior to the Operating Year.
- 3.3.2. Unutilized outage allowance shall not be carried forward to subsequent contract year. Allowance for Scheduled Outage cannot be borrowed from the Allowance for the Unscheduled Outage and vice-versa.
- 3.3.3. Should either Scheduled Outage Hours or Unscheduled Outage Hours exceed the Allowed Outages for any year, the fixed cost components of the price shall be reduced proportionately to the undelivered capacity and shall be returned to OMECO through reduction of power rates in the succeeding year.
- 3.3.4. The NPP/s on its own account must provide Replacement Capacity when the generating unit is unavailable to produce power due to unexpected breakdown in excess of allowed Unscheduled Outages. Failure to provide replacement capacity shall be penalized by computing the undelivered energy multiplied by the penalty price of PHP21.6319/kWh

3.4. FUEL REQUIREMENTS

- 3.4.1. At least three (3) months prior to COD, the NPP/s shall secure a fuel supply contract equivalent to the cooperation period of the power supply agreement, and provide a copy thereof to OMECO.
- 3.4.2. The NPP/s shall design the power plant/s and arrange for the delivery of fuel to the power plant such that there is at least fifteen (15) days of sufficient fuel stock at any point in time. Sufficient fuel stock means there will be no plant outage, whether partial or total, due to lack of fuel.
- 3.4.3. The NPP/s shall allow inspection of fuel stores by OMECO upon request.

4. Payments and Price

4.1. Payments

- 4.1.1. Payment for power bills shall be on or before the 25th day of the following month.
- 4.1.2. All payments shall be in Philippine Pesos (PhP).

4.2. Price Components

- 4.2.1. The Price shall be broken down to the following components:
 - a) Capital Recovery Rate (CRR)
 - b) Fixed Operation and Maintenance Rate (FOMR)
 - c) Variable Operation and Maintenance Rate (VOMR), including lube oil
 - d) Fuel Rate (FR), including transport
- 4.2.2. Currencies of each price component shall only be local or PhP/kWh.
- 4.2.3. Except for Value-Added Taxes (VAT) which shall be a pass-through component of the price, all other taxes and government dues including ER 1-94 (Benefits to Host Community), shall be to the account of the NPP/s (i.e., to be internalized in the Bid Price).
- 4.2.4. CRR shall not be indexed. FOMR and VOMR shall be indexed according to monthly Philippine CPI using January 2020 values as base.
- 4.2.5. Fuel shall be indexed to the monthly average pump prices of petroleum fuel in Occidental Mindoro published by the Department of Energy in its

website or to fuel prices published by a reference market to be agreed prior to the bid submission.

4.3. Price Structure

4.3.1. OMECO shall enter into a PSA with the NPP/s with the following price structure for each power plant per technology type:

$$Fees_{month}^{TOTAL} = \sum_{PLANT} Fees_{month}^{PLANT,Tech}$$

$$Fees_{month}^{PLANT,Tech} = [FC1_{month} + FC2_{month} + VC1_{month} + VC2_{month}] * Q_{month}^{PLANT,Tech}$$

Where:

$Fees_{month}^{TOTAL}$ – Total charges for a billing month in PHP

$Fees_{month}^{PLANT,Tech}$ – Total charges for a billing month for applicable power plant technology in PHP

$Q_{month}^{PLANT,Tech}$ – Quantity in kWh delivered by the NPP/s power plant

$FC1$, $FC2$, $VC1$, and $VC2$ – are the local components of the price. The subscripts denote the value of that price for the billing month.

$FC1$ and $FC2$ – are the fixed cost components for capital recovery and fixed O&M, respectively which shall be a function of Capacity Utilization Factor (ranging from 1% to 100%) that will be calculated monthly according to:

$$CUF = \frac{Q}{CC * (H_T - H_{TO} - H_{TFM})}$$

Where:

CC – Contracted Capacity equal to the Dependable Capacity

H_T – Total number of hours of the billing month

H_{TO} – Equivalent Outage Hours for the billing month

H_{TFM} – Equivalent Hours of Outages due to Forced Majeure for the billing month

5. Defaults and Force Majeure

5.1. Events of Default

5.1.1. Events of Default shall mean as minimal or substantial violations of the terms and conditions of the PSA prejudicial to the parties. Events of

Default shall lead to early Termination of PSA, Payment of Liquidated Damages, and Forfeiture of Performance Security.

- a) Defaults for the NPP/s
 - i. Failure or inability to deliver the required energy supply on the stipulated COD;
 - ii. Bankruptcy or Insolvency. Bankruptcy or Insolvency shall mean More Liabilities than its Assets leading to the disruption or inability to do normal business operation; and
 - iii. Violation of terms and conditions of the PSA prejudicial to the OMECO.

- b) Defaults for the OMECO
 - i. Failure to pay any obligation due to the NPP/s;
 - ii. Failure to receive the stipulated supply energy for any reason attributable to its own fault; and
 - iii. Violation of any terms and conditions of the PSA prejudicial to the NPP/s.

5.2. Force Majeure

- 5.2.1. Force majeure are events beyond the control of both parties or unforeseeable circumstances that prevent parties from fulfilling a contract. Parties shall notify and give details on the Force Majeure events to be excused. Period for remedy shall be defined during the finalization of the PSA. However, prolonged Force Majeure for more than 180 days may lead to termination of the agreement.
- 5.2.2. From PSA signing, substantial delay determined as a negative slippage of 15% based on the submitted Timeline of Activities in PERT/CPM Chart that is not due to Force Majeure events shall be sufficient grounds for unilateral termination of the PSA by OMECO.
- 5.2.3. Fuel supply shortage is justifiable only if caused by Force Majeure events.
- 5.2.4. OMECO and the NPP/s shall jointly establish plans for operating the power plant during Force Majeure. Such plan shall include recovery from local or widespread electrical blackout. The NPP/s shall comply with the Emergency Procedures and provide contingency plan in the event of Force majeure.

6. QUALIFICATION AND SELECTION

6.1. Qualification of Bidder

- 6.1.1. Prospective Bidders to qualify shall have an aggregate generation portfolio of at least 5 MW regardless of technology at the time of

submission of Bid and has track record of two (2) years in power plant operation.

- 6.1.2. Prospective Bidders must have a Unrestricted Net Worth of at least 30% of the investment requirement of each power plant including the cost of point-to-point connection. The value of the Bidder's Unrestricted Net Worth shall be based on the latest Audited Financial Statements (AFS) submitted to the Bureau of Internal Revenue (BIR) for the last two (2) years. "Unrestricted Net Worth" refers to the sum of subscribed and paid up equity, including additional paid-in capital, and unrestricted retained earnings, preferred shares, perpetual shares less treasury shares of common, preferred, and perpetual shares. Unrestricted retained earnings means the amount of accumulated profits and gains realized out of the normal and continuous operations of the company after deducting therefrom distributions to stockholders and transfers to capital stock or other accounts, and which is: (i) not appropriated by the Board of Directors for corporate expansion projects or programs; (ii) not covered by a restriction for dividend declaration under a loan agreement; (iii) not required to be retained under special circumstances obtaining in the corporation such as when there is a need for a special reserve for probable contingencies (as defined in SEC Memorandum Circular No. 11-08 dated December 5, 2008); and (iv) not otherwise covered by any other legal restriction on the ability of the company to distribute or otherwise apply its equity.
- 6.1.3. Corporations, Joint Ventures, Consortia and Partnerships can join provided they comply with all the requirements such as submission of Joint Venture agreement, among others. Qualification of members of joint venture, consortium, or partnership may complement to fulfill all required qualifications in this Bid. All members of the joint venture, consortium, or partnership shall be jointly and severally liable for the Power Supply Agreement that will be entered into with OMECO.
- 6.1.4. In case the required years of experience and aggregate capacity are not met, the bidders may opt to submit a detailed plan on how it intends to operate and maintain the generating facilities in accordance with the Philippine Grid and Distribution Codes, existing industry standards and applicable Philippine Laws. The detailed plan must state how the Bidder shall operate and maintain the Generating Facilities as well as the experience and technical capability of the person, whether natural or juridical, who will operate and maintain the generating facilities. The detailed plan must contain the following:
- a. Executive Summary
 - b. Description of the Plan for the operation and maintenance of generating facilities.
 - c. Proposed table of organization including job descriptions, technical qualifications and experience of the management of technical team.
 - d. Environmental and social obligation compliance programs.

Provided that the proposed personnel in table of organization shall be committed obligation of the NPP and non fulfillment of this obligation shall be ground for the termination of the PSA.

6.2. Selection of NPP/s

6.2.1. The Bidder with the Lowest Calculated Levelized Price (LCLP) in accordance with the Evaluation Methodology specified in the Instruction to Bidders shall be selected as the Lowest Calculated Bid and shall be subjected to Post Qualification.

6.2.2. The Bidder with the next LCLP shall be subjected to post-qualification evaluation in case the Bidder with the LCLP failed the post qualification. This process shall be repeated until a qualified Bidder is selected as NPP/s.

7. OTHER TERMS AND CONDITIONS

Other terms and conditions including assignability, events of default, dispute resolution, change in law and other pertinent provisions shall be defined during the finalization of the PSA.

7.1. Assignability

7.1.1. Assignment of rights or obligations are not allowed, except when required by Lenders if the NPP/s shall construct new power plant to fulfill its obligations under the PSA, and must have a written consent of OMECO.

7.2. Dispute

7.2.1. Any Dispute that is not settled amicably shall be brought for resolution to the ERC, which is vested by law with exclusive and original jurisdiction to settle such Dispute. Any dispute not falling within the exclusive and original jurisdiction of ERC, the aggrieved party may initiate action before the court of competent jurisdiction in San Jose, Occidental Mindoro to the exclusion of any other courts or tribunals.

7.3. Change in Applicable Law

7.3.1. Any changes in applicable law, OMECO and NPP/s shall exercise their best efforts to negotiate, finalize and execute an amendment in accordance with the rules and guidelines issued by the Government.

8. LIST OF ACRONYMS

COD Commercial Operations Date

CPI Consumer Price Index

CRR	Capital Recovery Rate
CSP	Competitive Selection Process
CUF	Capacity Utilization Factor
ERC	Energy Regulatory Commission
FOMR	Fixed Operation and Maintenance Rate
FR	Fuel Rate
LCLP	Lowest Calculated Levelized Price
MAPSA	Mamburao, Paluan, Sta. Cruz, Abra de Ilog
NPC-SPUG	National Power Corporation – Small Power Utilities Group
NPP	New Power Provider
OMECO	Occidental Mindoro Electric Cooperative, Inc.
PIPO	Phase-in, Phase-out
PSA	Power Supply Agreement
SAMARICA	San Jose, Magsaysay, Rizal, Calintaan
TCGR	True Cost Generation Rate
TOR	Terms of Reference
VOMR	Variable Operation and Maintenance Rate

9. GLOSSARY

Commercial Operation Date – the date whereby the NPP/s is obligated to supply the Net Dependable Capacity which is June 26, 2021.

Cooperation Period – the period commencing on the Commercial Operation Date and will terminate on 25th of December 2026.

Dependable Capacity – the capacity of the generating unit guaranteed to be dependable and delivered at the connection point.

Force Majeure – the events beyond the control of both parties or unforeseeable circumstances that prevent parties from fulfilling a contract.

Net Dependable Capacity – the guaranteed capacity that is available at the Connection Point.

Single Outage Contingency – the generation system reliability criteria that ensure availability of power supply under the outage of largest generating unit also referred to as R-1 redundancy reliability criteria.

System Operator – the entity who is authorized to operate and control in real-time the Island Grid of Mainland Occidental Mindoro in accordance with the Philippine Distribution Code and/or other applicable codes and guidelines. The System Operator shall prepare the Annual Operating and Maintenance Program of the Island Grid of Mainland Occidental Mindoro and shall be responsible to schedule and dispatch the generating units of the NPP in accordance with the PSA and applicable codes and guidelines issued by the government.

Unrestricted Net Worth – the sum of subscribed and paid up equity, including additional paid-in capital, and unrestricted retained earnings, preferred shares, perpetual shares less treasury shares of common, preferred, and perpetual shares. Unrestricted retained earnings means the amount of accumulated profits and gains realized out of the normal and continuous operations of the company after deducting therefrom distributions to stockholders and transfers to capital stock or other accounts, and which is: (i) not appropriated by the Board of Directors for corporate expansion projects or programs; (ii) not covered by a restriction for dividend declaration under a loan agreement; (iii) not required to be retained under special circumstances obtaining in the corporation such as when there is a need for a special reserve for probable contingencies (as defined in SEC Memorandum Circular No. 11-08 dated December 5, 2008); and (iv) not otherwise covered by any other legal restriction on the ability of the company to distribute or otherwise apply its equity.

