

15-year extension sought for Malampaya concession

PRIME Infrastructure Capital, Inc. (Prime Infra) said a 15-year extension has been sought for the Malampaya gas field concession, with additional gas production expected from a new well by 2026.

Prime Infra President and Chief Executive Officer Guillaume Lucci said in an energy forum on Wednesday that the extension application has been filed with the Department of Energy (DoE).

Prime Infra, through its subsidiary Prime Energy Resources Development BV (Prime Energy) is a member of the Malampaya

consortium, which is exploiting Service Contract (SC) 38.

Prime Energy holds a 45% stake in the Malampaya project. The other members of the consortium, UC38 LLC and PNO Exploration Corp., own a 45% and 10% interest, respectively.

The Malampaya concession is set to expire by 2024.

Michael O. Sinocruz, director for Energy Policy and Planning at the DoE, said it is currently difficult to determine the level of production in the Malampaya gas field.

"We are not yet sure, we will need to see the data that they

will submit," Mr. Sinocruz told reporters.

He said that the application to extend the SC 38 concession also covers possible exploration of the area surrounding Malampaya gas field before a determination can be made on estimated reserves.

The Malampaya gas field supplies 20% of the Philippines' power requirements. The DoE has said that at least five power plants with a combined capacity of 3,453 megawatts are currently supplied by Malampaya.

The Malampaya gas field is expected to be commercially

depleted by 2027. Mr. Lucci said that the depletion only pertains to the declining pressure in the Malampaya gas field.

Mr. Sinocruz said: "depletion by 2027 does not necessarily mean no gas. What it means is that when the pressure increases, it is easier to extract gas, but the pressure decreases over time, making it costly to extract gas."

In November, Mr. Lucci said that Prime Energy is looking at additional gas fields within SC 38, with the possibility of drilling two or three more wells. — **Ashley Erika O. Jose**

Palace announces over P300 million in funding to support onion producers

THE GOVERNMENT has allocated P326.97 million to support onion production this year, with the bulk of the package going to cold storage facilities, the Presidential Communications Office said in a statement.

Some P240.575 million will go towards constructing seven cold storage facilities in Pangasinan, Nueva Vizcaya, Bataan, Nueva Ecija, and Occidental Mindoro, the Palace said.

Cold storage allows onion growers to maintain inventories in the event the crop is not sold out at the time of harvest, for release into the market as needed when the harvest is over.

The rest of the package includes P69.949 million for support services, including the provision of seed, seedlings and other inputs.

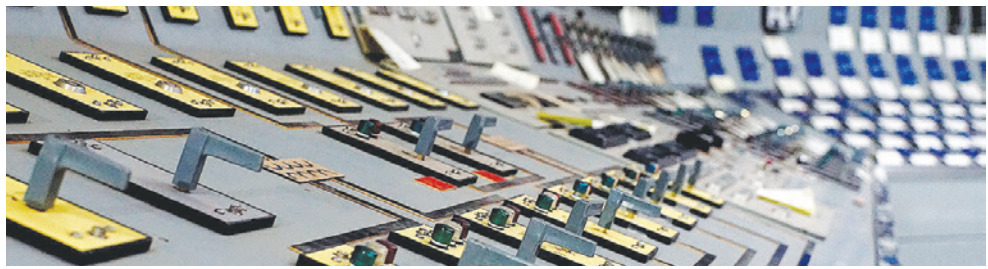
Some P3 million was allocated for irrigation network facilities and P1.9 million for extension support, education and training, it added.

Onions in the Philippines have become expensive, with retail prices peaking at P700 per kilo last month. On Tuesday, the government imposed a suggested retail price of P125 per kilogram of medium and large imported red onions for distribution in the capital region's wet markets.

Separately, 10 farmers' cooperatives and associations from the Mimaropa region (Mindoro, Marinduque, Romblon, and Palawan) received grants amounting to P40 million under a Department of Agriculture (DA) program, benefiting 7,800 members.

Under the program, known as the Sagip Sibuyas Project, organizations can use grants of up to P5 million for working capital "to cover the cost of procuring onions directly from farmers, hauling and delivery to markets and cold storage facilities, and storage rental," the Palace said.

It said the DA is helping these organizations bring their produce to market directly, to customers like fast food chains and other institutional buyers. — **Kyle Aristophere T. Atienza**



BW FILE PHOTO

China offers to participate in PHL transition to nuclear power

THE Department of Energy (DoE) said on Wednesday that China has expressed its intention to participate in the process of integrating nuclear power in the Philippine energy mix.

Michael O. Sinocruz, director for Energy Policy and Planning at the DoE, said during the Powertrends 2023 International Business Forum that the DoE received a proposal from the Chinese government for possible collaboration in the feasibility study stage of introducing nuclear power.

"We have just received a proposal from China for cooperation in nuclear power, just recently, after the President's visit," Mr. Sinocruz told reporters on Wednesday, referring to President Ferdinand R. Marcos, Jr.'s Jan. 3-5 visit to China.

He said that while the proposal is not yet detailed, "it could be for the rehabilitation of BNPP (Bataan Nuclear Power Plant), for conventional, or small modular reactors (SMRs). The proposal was on general cooperation in nuclear power."

Mr. Sinocruz said that the proposal is for government-to-government cooperation. The DoE has not discussed the proposal yet.

He said that the DoE is also planning to extend the Philippine Energy Plan until 2050 to integrate nuclear power in the country's power mix. At present, the DoE's energy plan only covers the 2020-2040 period, which mainly focuses on increasing the share of renewable energy to 35% by 2030 and 50% by 2040.

Mr. Sinocruz added that the DoE is still weighing which type of nuclear power is feasible for the Philippines. "There are several scenarios. We can include BNPP if that can still be rehabilitated, we can build new ones, either conventional or SMRs."

He said that the DoE is looking at 13 sites for conventional reactors; for SMRs, it is looking at 15 to 16 sites.

Meanwhile, the DoE also plans to conduct another survey regarding the public acceptance of nuclear energy.

Mr. Sinocruz said that for the new survey, the DoE hopes to cover the entire country, specifically the host communities being considered.

"The last survey that we did is just on general acceptance on nuclear power, and only covered 1,000 participants," he said.

Mr. Sinocruz said that the DoE is still determining a target for nuclear power's share in the energy mix.

"We haven't run the numbers because we are still discussing whether we can still increase the RE share, considering that there is a moratorium on coal," he said, adding that one thing that needs to be considered in planning is whether "we are going to have a policy on early coal retirement."

As of 2021, coal fired power plants accounted for a 57.5% share of gross power generation; renewable energy 23.4%; natural gas 17.7%; and oil 1.4%. — **Ashley Erika O. Jose**



QUIN ENGLE-INSP/FLASH

REPUBLIC OF THE PHILIPPINES
Department of Transportation
LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD
East Avenue, Quezon City

Application for Consolidation of Individual into Cooperative With Extension of Validity to Operate a PUJ-jitney Service with Consolidation of Ownership of CPC.

GARDENIA KAPIT-BISIG MULTI-PURPOSE AND TRANSPORT SERVICE COOPERATIVE, CASE NO. 2023-5239
Applicant/s.

NOTICE OF HEARING
Applicant/s is a grantee of a Certificate of Public Convenience to operate a PUJ-jitney Service issued under the following cases:

OPERATORS	NO. OF UNITS/S	CASE NUMBER	EXPIRY DATE
1. ELBERT O. RABI	1	95-56965T	March 31, 2023
2. MA. EILENE F. MONDEJAR	1	2013-0293	March 31, 2023
3. MA. VICTORIA B. GALANG	1	94-9195T	March 31, 2023
4. DARIUS SALVACION	1	2010-2692	March 31, 2023
5. ESTELITA PULA	1	92-5650	March 31, 2023
6. FERNANDO M. PORLAY	1	90-15085T	March 31, 2023
7. RAUL PRADES	1	2000-7172	March 31, 2023
8. ANANIAS L. MASAN	1	93-3057	March 31, 2023
9. VIRGILIO MADELOZO	1	2001-1029	March 31, 2023

For the transportation of passengers and freight on the route: **CUBAO (QUEZON CITY) - ANGOÑO (RIZAL)** and vice-versa with the use of **NINE (9)** unit/s. In the application filed on **JANUARY 24, 2023**, applicant/s request authority to extend the validity of the said Certificate on the same route with the use of the same number of unit.

NOTICE is hereby given that this application will be heard by this Board on **FEBRUARY 14, 2023**, at 1:00 P.M. at its Office through online hearing. The Zoom link will be sent to the email address of the Applicant.

At least **FIVE (5)** days prior to the above date, applicant/s shall publish this Notice once in one (1) daily newspaper of general circulation in Luzon.

Parties opposed to the granting of the application must file their written oppositions supported by documentary evidence on or before the above date furnishing a copy of the same to the applicant/s and may if they so, desire appear on said date and time.

This application will be acted upon by this Board on the basis of its records and documentary evidence submitted by the parties, unless the Board deems it necessary to receive additional documentary and/or oral evidence.

Witness the Honorable Atty. TEOFILO E. GUADIZ III, CESO V, Chairman this January 26, 2023.

SGD. Atty. JENNIFER LEAH P. ROJAS
Attorney IV
Hearing Officer

OPINION

Intra-group services at a glance

As tax practice evolves, corporate practices and arrangements, especially those of multinational companies, face challenge from tax authorities. Particular scrutiny has been devoted to transactions that result in minimized tax liability or shifting of profits between related companies.

One of the most common transactions among members of multinational groups is the provision of services. In 2015, Base Erosion and Profit Shifting (BEPS) final reports were released tackling transfer pricing (TP) issues categorized into 15 Action Plans. The BEPS Project aims to address and prevent tax planning strategies that exploit gaps and mismatches in tax rules to make profits somehow "disappear" for tax purposes, or to shift profits to low-tax locations even when there is minimal or no economic activity, resulting in little or no corporate tax being paid.

Action Plans 8-10 on Aligning Transfer Pricing Outcomes with Value Creation specifically covers intra-group services. The Bureau of Internal Revenue (BIR) issued Revenue Audit Memorandum Order No. 1-2019 or the Philippine TP Audit Guidelines which provide the framework and guidance for TP examinations, anchored on the provisions of Action Plans 8-10 and existing Organisation for Economic Co-operation and Development (OECD) TP Guidelines. The Philippine TP Audit Guidelines apply to several controlled transactions including intra-group services.

There are two main issues in analyzing intra-group services from a TP perspective. First, whether the intra-group services have been provided (benefit test). Second, whether the charge for such services is at arm's length.

For the first point, the determination of whether services have been rendered depends on whether the activity performed by one enterprise in favor of another has economic or commercial value to enhance the latter's commercial position. A service can be considered as having economic value if it would have been willingly paid for had it been performed by an independent party, or performed in-house for itself.

An example of intra-group services is centralized services or those services centralized in the parent company of a group, or in one or more group service centers, and made available to the group. These services generally include administrative services

such as accounting, auditing, legal, computer services, as well as customer-related service and call centers, among others.

In applying the benefit test, the Philippine TP Audit Guidelines and the OECD Guidelines provided several services which would not be considered valid services and thus, should not be remunerated. These services include shareholder and duplicative services. Shareholder services are normally performed by the parent company or regional office solely because of its ownership interest in one or more group members. These services generally cover functions related to reporting requirements of the parent company and consolidation of reports, the juridical structure of the parent company (e.g., shareholder meetings and issuance of shares), among others. On the other hand, duplicative services, as the term itself denotes, refers to activities undertaken by a group member that merely duplicates a service that another group member is already performing for itself, or that is being performed for such entity by a third-party service provider.

Anchoring on the logic of the benefit test where an economic value must be established, taxpayers must answer the question — are these the types of activities that independent enterprises would be willing to pay for or to perform for themselves?

Once it has been established that services are rendered intra-group, it is necessary to determine whether the remuneration is in accordance with the arm's length principle. This means that the charge for intra-group services should be that which would have been made and accepted between independent parties in comparable circumstances. In determining the arm's length price, the perspective of both the service provider and service recipient must be considered, especially the value of the service to the recipient and how much an independent party would be willing to pay for the same services in comparable circumstances, as well as the costs incurred by the service provider.

On the cost allocation aspect, the existing guidelines provided two methods to determine the arm's length charge: (1) direct charge method and (2) indirect charge method. The direct method can be used when the service arrangements on which the charges are based can be clearly identified. Other-

wise, an indirect charge method can be used, as in cases where it would be difficult to apply the direct charge method.

In either case, the next question would be whether the charge should have a mark-up. To answer this, one may put himself in the shoes of an independent party and consider that independent parties would normally seek to charge for such services to generate profit rather than provide the services at cost, especially if the rendered services involve high-level or technical services.

Further, the functions performed and benefits associated with the provision of the services should also be considered in determining the arm's length charge. It is worth noting that in pricing the services between members of a group, it would not be appropriate to increase the charge solely for the purpose of making sure that the associated enterprise makes a profit, especially if a market price is available.

Currently, TP audits in the Philippines are embedded in the regular tax audit. Considering this, it is important for taxpayers to keep the documentation and supporting analysis for service arrangements with related parties to defend the reasonableness and rationale of entering into service transactions with affiliates. Particularly, taxpayers must ensure that the basis for their TP policy is well-documented, including the relevant agreements, amount of cost actually spent, and supporting analysis for the mark-up or charge applied.

Given that intra-group service is one of the main transactions covered by the Philippine TP Audit Guidelines, taxpayers must address any potential issues on its TP arrangements as early as possible. As the saying goes, "Solve the problem or leave the problem. Do not live with the problem."

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.

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