



Assessment Report ENTRE RÍOS – AR MICI001/2010



**OFFICE of the
PROJECT OMBUDSPERSON**

March 2011

Assessment Report

This report is prepared in accordance with Articles 42 to 45 of the Policy Establishing the Independent Consultation and Investigation Mechanism, and its purpose is to present the work carried out during the assessment phase following the eligibility review of the case.



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Independent Consultation and Investigation Mechanism – Inter-American Development
Bank

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Executive Summary

Project: Multiphase Program for Production Support Infrastructure Development in Entre Ríos (AR-L1036)

Country: Province of Entre Ríos, Argentina

Request: This report includes the assessment of the case titled “Gran Paraná New Electrical Substation – 500/132 kV Transformer Station, Entre Ríos – Argentina”, initiated in response to a claim submitted by the Folonier family to the transitional Independent Consultation and Investigation Mechanism (ICIM) on 28 June 2010. The Request was received by the Ombudsperson on 20 September 2010.

The objective of the assessment process was: (a) to gather further information on the claim submitted to the ICIM and its possible ramifications for project implementation, and (b) to explore whether a dialogue phase should be initiated and flexible, consensus-oriented methods used to address the substance of the Request.

Primary concerns of Requesters: (i) lack of access to information; (ii) irregularities in the consultation process and the announcement of the public hearing, especially access to the most important annex of the environmental impact assessment; and (iii) violations of Argentina’s environmental laws and regulations, which coincide with Bank policies.

Stakeholders: National Electricity Regulatory Agency (ENRE), Empresa de Energía de Entre Ríos S.A. (ENERSA). Provincial government; Folonier family, area residents, Office of the Inspector of Entre Ríos.

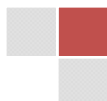
Eligibility review: The Request was declared eligible on 8 October 2010.

Assessment phase: The assessment phase covers the period from the declaration of eligibility on 8 October 2010 to 28 February 2011.

Conclusions: In view of the context, background, and willingness of the stakeholders, the ICIM team believes there is sufficient reason to proceed to the dialogue phase and seek agreements.

Role of the ICIM and next steps: The ICIM will maintain the team of local facilitators to ensure that the dialogue between the parties is not interrupted at this crucial stage. The next steps include: holding meetings to exchange information; identifying and agreeing on items for a dialogue agenda (during the information exchange meetings); strengthening the process of dialogue on this agenda; and signing any agreements and determining follow-up actions.

Annexes: The following documents are attached to this report: a list of persons interviewed, a chronological and thematic table of proceedings, and rules for dialogue.



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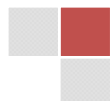


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Abbreviations

EIA	Environmental impact assessment
ENERSA	Energía de Entre Ríos – Sociedad Anónima
ENRE	Ente Nacional Regulador de la Energía [National Energy Regulatory Agency]
EPRE	Ente Provincial Regulador de Energía [Provincial Energy Regulatory Agency]
ICIM	Independent Consultation and Investigation Mechanism
IDB	Inter-American Development Bank



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1. Background

1.1 The request

The request received by the Independent Consultation and Investigation Mechanism (ICIM) poses procedural and environmental questions, including: (i) lack of access to information; (ii) irregularities in the consultation process and in the announcement for the public hearing, especially access to the most important annex of the environmental impact assessment (EIA); and (iii) violations of Argentina's environmental laws and regulations, which coincide with Bank policies. The aforementioned environmental considerations concern: (i) misclassification of the project; (ii) questioning of the plant construction site; (iii) ecological risk, considering that the area is near other already conserved, classified areas; (iv) potential health risks due to the technology to be used at the transmission plant; and (v) deficiencies in the EIA with regard to the Environmental and Social Management Plan.

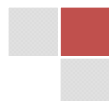
The request by the Folonier family was accepted by the Project Ombudsperson on 8 October 2010. The determination of eligibility does not imply any judgment on the terms or substance of the claim. The request was accepted so as to begin to the assessment that will aid in designing an effective dialogue and mediation process (Article 42, Policy Establishing the Independent Consultation and Investigation Mechanism, IDB).



Photos of the transformer station in an agricultural area, between two low-lying areas.

1.2 The project

The program that is the subject of the request is the **Multiphase Program for Production Support Infrastructure Development in Entre Ríos (AR-L1036)**. One of the objectives of this



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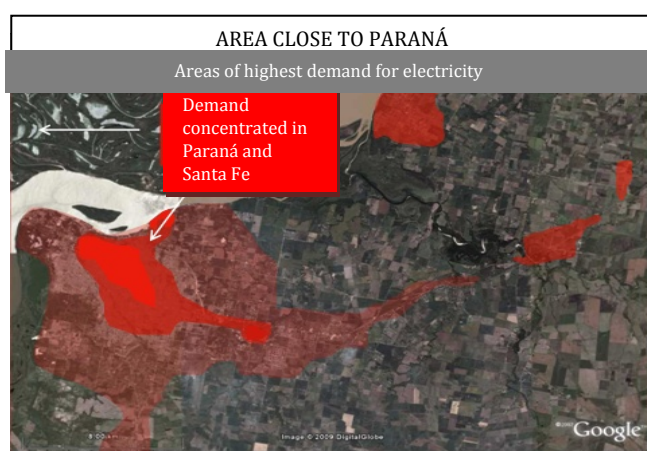
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program is to contribute to the development and competitiveness of the province of Entre Ríos. To that end, the program will sustainably increase the supply of basic economic infrastructure, ensuring the improved serviceability of important sections of the provincial road network and increasing the capacity and reliability of the electric system. The program will also strengthen the management capacity of sector agencies and promote the development of the local productive sector.

The energy infrastructure component has been given priority by the Federal Electric Power Board in the 2006-2010 Works Plan to provide a comprehensive solution to the problem of energy supply in the province of Entre Ríos, especially in the capital city and the western part of the province. This subprogram entails construction of the 500/132 kV transformer station and associated 132 kV transmission lines.



Project location in relation to the city of Paraná (greatest demand) and the Paraná River biological corridor



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2. Assessment

After the determination of eligibility, the assessment phase was opened to gather more information about: (i) the context of the project and the claim; (ii) the interests and concerns of the stakeholders—complainant, affected residents, the subexecuting agency of the project, and the provincial government; (iii) possible consequences/impacts of the project's actions or omissions; and (iv) the willingness of the parties to participate in a process aimed at seeking a greater understanding of the requesters' concerns and exploring viable solutions to the matters in dispute. This report covers the period from October 2010 to 28 February 2011.

2.1 Methodology

The following steps were taken during the assessment phase:

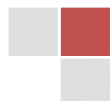
- a) A team from the ICIM consisting of the Ombudsperson and two facilitators visited the city of Paraná in December 2010. The team of facilitators conducted a second field visit in February 2011. The objective of both visits was not only to gather and review information to assess the feasibility of proceeding with a dialogue process, but also to prepare the parties for this process. The methodology for this work included gathering and reviewing information from primary and secondary sources, qualified interviews, bilateral meetings, and two workshops to help prepare the parties (see Annex 1).
- b) Mapping of stakeholders and their interests, and corresponding interviews¹
- c) Review of documentation, technical reports, legislation, records, and press clippings.
- d) Visit to the complainants' property and the project area (the property was declared an area of public interest and subject to expropriation under Law 9846, and legal possession was granted by the courts to the Province of Entre Ríos).

2.2. Legal and administrative background

The ICIM team learned about and reviewed in depth the various legal and administrative proceedings that came about as a result of the case prior to submittal of the complaint to the ICIM. At the time of the determination of eligibility, none of the proceedings between the parties was deemed an exclusion for the consultation process, as most of them had already concluded or were related to the expropriation of the complainants' property, a matter not addressed in the complaint submitted to the ICIM.²

¹ More details on the stakeholders interviewed may be found in Annex 1 to this report.

² See Annex 2 for a chronological description of these proceedings.



2.3. Concerns and interests of stakeholders

2.3.1 Complainants

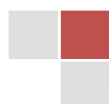
The Folonier family acknowledges the importance of expanding the province's energy capacity. In the interviews, however, they reiterated interests and concerns that they had already expressed to the executing agency and other provincial actors. These include formal aspects of the procedure that was followed, as well as substantive matters addressed by the environmental impact studies commissioned by the subexecuting agency. They are described below:

Concerns **over the procedure** by which the project was given environmental clearance:

- They believe that there was no “environmental impact assessment procedure” independent of the “environmental impact studies” commissioned by the company.
- They believe that the Bank's terms of reference for the environmental and social impact studies were not followed and, therefore, the Bank's policies were violated, with cumulative and synergistic impacts not being taken into account.
- They question the fact that the public hearings were not held prior to the environmental clearance being issued by the Office of the Secretary of the Environment, and they believe that the information on electromagnetic fields was not presented in a timely manner.
- They question the granting of the Certificate of Public Need and Expediency of the Work, and they believe that the National Electricity Regulatory Agency (ENRE) failed to thoroughly respond to the objections stated at the public hearing by the complainants and other residents.
- They are concerned about the possibility that the transformer station may cause fragmentation of natural resources and dispersion of the species comprising the protected biodiversity, in view of the fact that biological corridors run through the area.

Concerns **over the substance of the matter** regarding environmental impacts:

- They question the location of the project and the installation of the transformer station due to potential health effects caused by possible electromagnetic field pollution, as well as potential effects on the biological and tourism corridors.
- Need for additional information to clarify possible impacts that may result from the use of toxic substances needed to operate the transmission station, and from the treatment and disposal of waste generated by the transformer station.
- Need for additional technical information on cumulative and synergistic impacts.
- Need for more in-depth information and greater understanding of measures to mitigate visual impacts.



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- They believe that there has been a failure to comply with the precautionary principle of the General Law on the Environment with regard to environmental impacts³

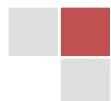
Though the claim was submitted to the ICIM by the Folonier family, other residents actively joined in the dialogue process, expressing their concern over the location of the substation, and particularly over matters related to health impacts, the environment, and the lack of information or sufficient advance knowledge on how the project may affect urban development or tourism in the area. Both the Folonier family and the participating residents have cooperated with this process and have been open to finding a solution that reflects the collective interest, as opposed to mere individual interest.

2.3.2 Empresa de Energía de Entre Ríos S.A. (ENERSA)

ENERSA is the subexecuting agency of the program for this component and, in particular, supports the program's financial-administrative operations, dealing with specific technical aspects related to implementation. As provider of an essential utility for the community of the province of Entre Ríos, ENERSA has stated the following as its primary interests and concerns:

- ENERSA considers this project to be extremely important, as further delays will create problems in the provision of electricity and will subject the population to restrictions in electrical power usage due to the exponential growth of demand.
- To proceed with the project in accordance with the agreed timetables and in compliance with local laws and regulations and with the Bank's operational policies.
- To expand energy supply capacity in the province of Entre Ríos.
- To report that the company has complied with all legal requirements for projects of this scale.
- To avoid service disruptions and economic damage caused by the failure to build the transformer station within the projected timeframe, considering not only what was stated in the preceding item, but also the costs of unserved energy.
- The company believes that a class-action lawsuit over environmental considerations would have no legal or technical basis.
- As for the health effects and possible negative impacts of the transformer station, ENERSA wishes to clarify and place on the record its compliance with the precautionary principle, and further states that the transformer station is in compliance with current Argentine legislation, even though the country's standards are more restrictive than those considered by the World Health Organization to be safe at the international level.

³ This principle states that if there is a risk of serious or irreversible damage, the "lack of information or scientific certainty" should not be used as a reason to delay the adoption of cost-effective measures to prevent the degradation of the environment.



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Thus, ENERSA states that safety conditions at the transformer station are particularly high.

During the assessment period, ENERSA displayed a high degree of professionalism, dedication, and commitment to dialogue and a strong willingness to address, to the extent possible, the concerns expressed by the residents.

2.3.3 Government of the Province of Entre Ríos

- The **Ministry of the Economy, Treasury, and Finance of Entre Ríos** is the executing agency for the program, and to this end established a Program Execution Coordination Unit to centralize and execute administrative and financial operations and coordinate actions to be carried out by other sector agencies involved.
- The **Office of the State Inspector** is responsible for defending the assets of the treasury, and thus is a legitimate party to any administrative proceeding or any action in which the interests of the State are at stake (Political Constitution, Article 139). It is responsible for legal control of State activity to ensure compliance with the provincial constitution, laws, and decrees. It is in this role that it has represented the interests of the Province in the case involving the expropriation of the Folonier family's property.
- The **Office of the Secretary of Energy** is the promoter of the project, the primary objective of which is to expand energy capacity in the province.
- The **Office of the Secretary of the Environment** is the entity that issues the project's environmental clearance certificate.

The common primary concerns expressed by the government entities are as follows:

- Supplying the western part of the province with enough energy, while avoiding interruptions in supply, which would occur if energy supply capacity is not expanded.
- Boosting the productive sector in the province through effective and efficient implementation of the project.
- Meeting the deadlines set by the Bank for execution of the loan, avoiding further costs or negative impacts.
- Reporting on compliance with applicable environmental legislation, in view of the fact that the province had no specific legislation on EIAs or public hearings.
- Minimizing and effectively managing any impacts and/or conflicts that may result from the project.

2.4 Situation analysis

In the interviews, the stakeholders were asked about their willingness to proceed to a dialogue process in accordance with rules to be mutually agreed upon. The requesting family, the



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participating residents, ENERSA, and the Bank's project team, as well as the representatives of the Government of the Province, all expressed their willingness to begin a phase of greater information and dialogue in order to seek solutions that are considered by all to be viable and effective in addressing the request.

2.5 Preparatory phase

In addition to a series of field visits, in-person and virtual meetings, and workshops held for each of the parties, opportunities were created for joint interaction, and the parties were able to identify points of information exchange and deliberation, for the purpose of setting a joint agenda of topics. Preparatory activities began in January 2011 and will be completed in March. The primary achievements of this phase were: (a) reestablishment of constructive communication between the parties; (b) agreement on rules for the dialogue; and (c) initial establishment of an agenda for building consensus (see Annex 3).

3. Conclusions

Having reviewed the context, background, and willingness of stakeholders, the ICIM team believes that there is sufficient reason to continue working on the subsequent dialogue and consultation phase. However, to clarify information under dispute and optimize conditions for consensus-building, the phase of intensive preparations of the parties should continue, in order to ensure a constructive exchange. Among the actions chosen for this purpose, the decision was made to keep the team of local facilitators and establish direct channels of communication between the parties, to ensure that they have the opportunity to maintain uninterrupted dialogue.

4. Next steps

In view of the review described above and the parties' willingness to proceed with a dialogue, the following course of action was agreed on:

1. Hold information exchange meetings between the parties, where the complainants will have the opportunity to express their concerns and the company and affiliated technical specialists will have the opportunity to respond (first half of March 2011).
2. Identify items for a dialogue agenda (during the final preparatory meetings and the first information exchange meetings).
3. Strengthen the dialogue process on the aforementioned agenda (April-May 2011).
4. Sign agreements (May-June 2011) and determine follow-up actions.

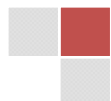


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ANNEX 1 Interviews and documents consulted in the assessment phase**1. Stakeholders interviewed:**

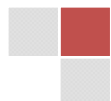
RESIDENTS	RESIDENT ADVISORS
Pablo Folonier Matías Folonier Sara Quiroga Olga Folonier Héctor Venturini Gustavo Pujol Pablo Alonso Rubén Kuhn Julia Lugin	Dr. Natalia Mateo (attorney) Irene Aguer (biologist) Ricardo Juárez (biologist)
ENERSA	TITLE
Juan Carlos Chagas	President
Silvio Ekkert	General Manager
Dr. Mónica Carmona	Manager of Legal Affairs Sector
Dr. Marcelo Morales	Counsel, Office of the Manager of Legal Affairs Sector
Carlos Fernández	Manager of Industrial Safety, Occupational Health, and Environment Sector
Mario Quiroga, National Public Accountant	Manager of Administration and Finance Area
ENERSA CONSULTANTS	
Marisa Ramírez	External consultant
Abelardo Llosa	Paul Rizzo Assoc. -EIA-related matters-
Walter Jiménez	Paul Rizzo Assoc. -matters related to electromagnetic fields-
Juan Rodrigo Walsh	Paul Rizzo Assoc. -regulatory matters-
Ana Lamas	Paul Rizzo Assoc. -regulatory matters-



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PROVINCIAL GOVERNMENT	
Daniel Rabbia	Project Execution Coordination Unit
Raúl Arroyo	Secretary of Energy
Dr. Pablo Franco	Advisor in the Office of the Secretary of Energy
Fernando Raffo	Secretary of the Environment
Dr. Rosa A.P. de Acebal	Office of the State Inspector
PROVINCIAL ENERGY REGULATORY AGENCY (EPRE)	
Francisco Taibi	Inspector
Juan Carlos Cabrera	Director of Electricity Service Regulation and Control
Dr. Graciela Lanzi	Alternate Head of Legal Department
LOCAL GOVERNMENT	
Dr. José Carlos Halle	Municipal President
Ricardo Gustavo Goñi	Secretary of the Environment
Dr. Luis Oscar Garay	City Ombudsperson

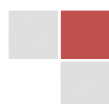


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2. Studies requested by the parties from outside professionals

Requesting party	Professional performing the study	Objective/issues	Date
ENERSA	Paul Rizzo Assoc.	Update and complementary work for the environmental and social impact assessment on the new 500/132 kV Paraná transformer station	October 2007
	Dr. Susana García - toxicology expert	Electromagnetic fields and health	March 2009
Folonier family Residents	Adrián Monjeau (coordinator) and team of collaborators Natural Resource Analysis Institute	Report on the environmental study titled “Actualización y Complementación del Estudio de Impacto Ambiental y Social de la Nueva ET 500/132 KV Paraná” [Update and complementary work for the environmental and social impact assessment on the new 500/132 kV Paraná transformer station]	2010
	Dr. Mercedes Lu – Technical advisor – Environmental Law Alliance Worldwide	Comments on the final report titled “Actualización y Complementación del Estudio de Impacto Ambiental y Social de la Nueva ET 500/132 KV Paraná” [Update and complementary work for the environmental and social impact assessment on the new 500/132 kV Paraná transformer station]	2008
	Prof. Carlos Mendoza	Survey of flora	2009
EPRE	Dr. Ponzo	Study of objections to the Certificate of Public Need and Expediency for construction of the 132 kV facility and connection of the 500/132 kV transformer station to ENERSA’s network.	June 2009



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3. Project background

- 3.1. Summary of loan proposal for the Multiphase Program for Production Support Infrastructure Development in Entre Ríos
- 3.2. Announcements of and presentations to informational meetings
- 3.3. Requests for information submitted by the Folonier family to various entities
- 3.4. Project records at the provincial Office of the Secretary of the Environment
- 3.5. ENERSA reports to the National Electricity Regulatory Agency (March 2010)
- 3.6. Technical opinion of the Assistant Director of the Environment of the Municipio of Paraná

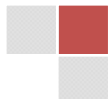
4. Legal and regulatory documents

- 4.1. Regulations of the National Electricity Regulatory Agency in Argentina: Regulations for Public Hearings, Environmental, Social, and Electrical Impact study of the 500/132 kV works
- 4.2. National environmental regulations
- 4.3. National and provincial regulations on expropriation
- 4.4. ENRE Resolution 483/09 and EPRE Resolution 147/09

5. Court filings

- 5.1. Proceedings in the environmental amparo proceeding.
- 5.2. Proceedings in the expropriation proceeding.

6. Press clippings provided by ENERSA and residents from 2008 to 2010.

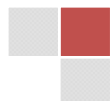


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ANNEX 2 Chronological description of legal suits and proceedings gathered and reviewed by the ICIM team

DATE	SUBJECT	ACTIVITIES UNDER THE PROJECT
2007		
September	ACCESS TO INFORMATION – INFORMAL CONSULTATIONS	Informal informational meetings held by ENERSA's consultant with resident(s) on each of the alternatives for the project.
November	ACCESS TO INFORMATION	Police report filed by Mrs. Quiroga Folonier, reporting that persons have entered her property without authorization to conduct soil studies.
2008		
Start of the year	ACCESS TO INFORMATION	First request to sell the 16-hectare lot. The Folonier family is requested to sell to the State a 16-hectare section of their property. They say they have been subjected to "pressures" to reach an urgent settlement, and that their request for environmental information on possible impacts on their property and surrounding areas, and on the reasons why their property was selected, has not been satisfied.
5 February	ENVIRONMENTAL IMPACT ASSESSMENT	ENRE's Environmental Department stated in MEMORANDUM D.AMB N° 49/08: Based on the review of alternatives that was performed in the study, it turns out that option 2 would be most appropriate from an environmental perspective. Evaluation of the submitted documentation reveals no issues that must be noted, and the selected option 2.1 is found to satisfy the requirements of the Environmental Department.
Feb/April	ACCESS TO INFORMATION	Requests for information on environmental studies to ENERSA. Mr. Folonier requests that ENERSA provide the complete report on environmental studies for the project.
2 May	ENVIRONMENTAL POLICY/ACCESS TO INFORMATION	REQUEST by Mr. Folonier via a letter to the provincial Secretary of the Environment for access to information on studies and the environmental impact assessment procedure.
19 May	ACCESS TO INFORMATION	THE SECRETARY OF THE ENVIRONMENT MAKES AVAILABLE the environmental impact studies that ENERSA commissioned from the consulting firm Paul Rizzo Associates and personally notifies the Folonier family.
23 May	ACCESS TO INFORMATION	This information described above is provided for copying.



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2 and 5 June	ACCESS TO INFORMATION	ENERSA formally makes the environmental impact study available to the Folonier family and states that the dates for the public hearing have not yet been set.
4 June	EXPROPRIATION	Provincial Law 9846 is passed, declaring a section of the Folonier family's property to be of "public interest" and subject to expropriation by the Province of Entre Ríos; this law is published in the Official Bulletin on 1 July 2008.
July	ACCESS TO INFORMATION/ EXPROPRIATION - Legal action	ENVIRONMENTAL AMPARO PROCEEDING filed by Folonier for denial of access to pertinent social and environmental information and to citizen public participation. The suspension of the effects of Law 9846 is requested.
6 August	ACCESS TO INFORMATION/ EXPROPRIATION - Legal action	Lower court REJECTS the environmental amparo proceeding.
23 August	ACCESS TO INFORMATION AND PUBLIC MEETING	OPEN MEETING called by ENERSA to present the features of the project in the area of option 2, corresponding to the area in dispute. The informational meeting was held at Salón Rancho Grande, near the location of the projected transformer station.
26 August	EXPROPRIATION	ENERSA OFFERS A COMPROMISE. ENERSA sends a letter to Folonier stating that, in accordance with the expropriation, a compromise is offered for the direct acquisition of the property, and if this compromise is accepted, an additional 10% above and beyond the assessed property value would be paid.
3 September	EXPROPRIATION	Mr. Folonier rejects the compromise.
1 October	ENVIRONMENTAL AMPARO PROCEEDING	The High Court of the Province of Entre Ríos upholds the rejection of the environmental amparo proceeding. The complainants file a special remedy with the Provincial High Court to allow them to move to the federal level.
20 October	EXPROPRIATION	The provincial government initiates the EXPROPRIATION PROCEEDING against the Folonier family and seeks to take possession of the property.
5 November	EXPROPRIATION	The Province TAKES LEGAL POSSESSION OF THE PROPERTY, pursuant to a court order.



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25 November	ENVIRONMENTAL IMPACT ASSESSMENT	THE MUNICIPALITY OF PARANÁ, via Municipal Decree 1558, endorsed by the Secretary of Planning and Infrastructure, and in view of the fact that municipal technical entities have evaluated the location proposal and the EIA, authorizes ENERSA to install a 500/132 kV transformer station on the property located in EUR District Concession number 316, on the corner of public streets 738 and 863. In other words, it evaluated the proposed location and environmental impact study and it approved option 2.1, which involves the property of the Folonier family.
18 December	EXPROPRIATION	The Folonier family COUNTERSUES and REQUESTS that the Expropriation Law be declared UNCONSTITUTIONAL.
23 December	ENVIRONMENTAL IMPACT ASSESSMENT (EIA)/ENVIRONMENTAL POLICY	APPROVAL OF THE ENVIRONMENTAL IMPACT STUDY by the provincial Office of the Secretary of the Environment, and issuance of the ENVIRONMENTAL CLEARANCE CERTIFICATE. Resolution 109.
2009		
12 February	ACCESS TO INFORMATION Amparo proceeding	THE HIGH COURT REJECTS the special remedy to allow the case to be heard by the federal court.
19 February	ENVIRONMENTAL IMPACT ASSESSMENT – Public participation	PUBLIC HEARING called by the National Electricity Regulatory Agency (ENRE) and the Provincial Energy Regulatory Agency (EPRE) to review the granting of the Certificate of Public Need and Expediency for expansion of the transportation capacity of the high-voltage electrical power system in the construction of the 500/132 kV Paraná transformer station.
	ENVIRONMENTAL IMPACT ASSESSMENT Legal action	The complainant files an AMPARO PROCEEDING AGAINST ENRE to have the public hearing declared invalid on the grounds that the right of access to public information was violated. The complainant seeks a precautionary measure to suspend the procedure of expanding the Paraná transformer station, by the entity declining to issue the Certificate of Public Need and Expediency.
31 March	ENVIRONMENTAL IMPACT ASSESSMENT Legal action	The lower court issued the precautionary measure.
29 April	ENVIRONMENTAL IMPACT ASSESSMENT	The ENRE ENVIRONMENTAL DEPARTMENT issues MEMORANDUM D.AMB 102/09 on the questions at the public hearing and states that THERE IS NO OBJECTION TO CONTINUING WITH THE PROCESS of granting the Certificate of Public Need and Expediency with regard to the environmental issues involved.



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May	ENVIRONMENTAL IMPACT ASSESSMENT Legal action	ENRE appeals the precautionary measure, requesting that it be voided.
29 June	ENVIRONMENTAL IMPACT ASSESSMENT Legal action	An appeals court REJECTS THE AMPARO PROCEEDING AND INVALIDATES THE PRECAUTIONARY MEASURE, ruling that the right to public information or public participation was not violated.
4 August	ACCESS TO INFORMATION Amparo proceeding	The ARGENTINE SUPREME COURT DISMISSES the claim submitted by Folonier on grounds of denial of the special remedy.
5 October	ENVIRONMENTAL IMPACT ASSESSMENT – Certificate of Public Need and Expediency – ENRE	ENRE RESOLUTION 483/2009 grants the Certificate of Public Need and Expediency.
14 October	ENVIRONMENTAL IMPACT ASSESSMENT Legal action	The Federal Appeals Court of Paraná rejects the appeal and rules it inappropriate to address the precautionary measure.
27 October	ENVIRONMENTAL IMPACT ASSESSMENT – Certificate of Public Need and Expediency – EPRE	EPRE Resolution 147/09 grants the Certificate of Public Need and Expediency for construction of the 132 kV facility for the 400/132 kV Paraná transformer station and associated lines. The resolution indicates to ENERSA a number of conditions under which it should move forward with the project and modifies the original route of the high-voltage 132 kV lines.
June 2010		Submittal of the case to the ICIM.
8 October		Declaration of eligibility by the Ombudsperson.



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ANNEX 3 Design of the consultation phase: Phases and critical path (5 January 2011)
Procedural rules for constructive dialogue (28 February 2011)

I. DESIGN OF THE CONSULTATION PROCESS: PHASES AND CRITICAL PATH

1.1 The process is initiated by the Independent Consultation and Investigation Mechanism (ICIM). The process will be facilitated, under the guidance of the Project Ombudsperson, by a team of two ICIM facilitators.

A. Preliminary PHASE. Eligibility under the responsibility of the Ombudsperson

B. PHASE 1. Evaluation of situation/action or design recommendations

- **Objective:** To verify the willingness of the parties to be involved in the dialogue process.
- **Activities:** Interviews/reviews of documents and reports.
- **Output:** Document with map of stakeholders and interests, and recommendation regarding viability of a dialogue process. Included in this case are preliminary process design, identification of priority issues, and proposed ground rules.

C. PHASE 2. Implementation of dialogue process

1. Preparation of parties for dialogue

- **Objective:** Generate confidence in the process. Improve working conditions for the dialogue.
- **Output:** Agreed ground rules /Best conditions for dialogue
- **Activities:**
 - Bilateral meetings and discussions with the parties
 - Gathering and exchange of information
 - Stakeholder awareness raising, by introducing basic concepts of dialogue
 - Support for parties in clarifying interests and needs
 - Agreement on ground rules
- **Estimated timetable:** Ground rules developed by 15 December 2010; parties prepared for dialogue by 20 January 2011.



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2. Formal start of dialogue process

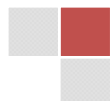
- **Objective:** Understanding of mutual perspectives and prioritization of key points, exchange of information.
- **Output:** Agenda of key items for initial deliberation/understanding.
- **Activity:** One or more information exchange meetings.
- **Estimated timetable:** from 24 January 2011 to 4 February 2011.

3. Decision-making/agreement-building meetings

- **Objective.** To deliberate, negotiate, and resolve some or all items on the agenda.
- **Output:** Record of agreements and process for following up on agreements.
- **Activity:** Facilitation of private, bilateral, or plenary meeting(s).
- **Estimated timetable:** From 5 February 2011 to 28 February 2011.

II. SCOPE AND PURPOSE OF DIALOGUE PROCESS

- 2.1 The purpose of this dialogue process is to help the stakeholders involved in the case of the installation of the Gran Paraná transformer station to work together in search of an agreement that will enable a solution or alternative that is satisfactory to the parties, with regard to matters that are currently the source of conflict between them.
- 2.2 Phase 1 of the situation assessment was previously completed by the team of the Independent Consultation and Investigation Mechanism (ICIM) to gather more information on the case and verify the commitment of the stakeholders to participate in the dialogue.
- 2.3 As a necessary step to begin this process, the participants identified in Annex 1 must sign this document of the “Rules of Dialogue,” which, once agreed upon, may be modified only with the agreement of the parties and facilitators.



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A. Characteristics and structure of dialogue process

1. General characteristics

- 2.4 Participation in the process is voluntary. The ICIM team will contact all participants or their representatives in advance to confirm their willingness to participate in the dialogue and their commitment to these basic rules under which the dialogue will be held.
- 2.5 The process will consist of interviews; efforts to prepare for the dialogue; and bilateral or general, sector-specific or multisector meetings for the exchange of information, deliberation, and/or consultation.
- 2.6 The ICIM team, consisting of two facilitators and led by the Ombudsperson, is authorized to meet with one, some, or all of the stakeholders in the process as it deems advisable. The participants may also ask the facilitators for bilateral meetings as they deem necessary.
- 2.7 The facilitators will design and lead joint meetings or individual interviews, recording the points of agreement and disagreement in the discussions, to be shared with the parties in the form of process progress reports.

2. Basic structure

- 2.8 The process will include a preparatory phase, the objective of which is to agree on an agenda and work with the stakeholders with a view toward the first joint information exchange meeting. This information exchange meeting will seek to promote greater understanding of the parties' points of view, bring greater clarity to the technical information, and attempt to improve relations.
- 2.9 To this end, the complainant before the ICIM and the representatives of designated residents (see section on roles) will prepare a list of topics regarding the points of interest, concern, and/or needs on which they are requesting dialogue. This list of topics must be specific in stating the concerns of stakeholders, translated to PowerPoint, and sent in advance to those described in these rules as primary stakeholders, so that they may prepare the material that will serve as a basis for the dialogue.



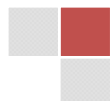
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- 2.10 The ICIM team facilitators may hold meetings with each of the stakeholders to clarify agenda items and promote basic consensus on the agenda.
- 2.11 After the end of the information exchange phase, the parties may jointly identify those agenda items that they believe should be explored in a deliberation phase aimed at reaching possible agreements.
- 2.12 The claims which have been addressed in an administrative or court ruling with the authority of material or formal, administrative, or judicial res judicata will be understood to lie outside the agenda of the dialogue process, and may only be considered for the purpose of clarifying information in order to promote agreements.
- 2.13 The parties agree that, in deliberating on each specific topic, all available information will be furnished and this information will not be used as a reason for delaying the process. The facilitators will keep a record of the important items discussed at meetings, and these items will be assembled into a report and sent to the parties to confirm agreement with these items. The meetings will not be recorded.

3. Rules of participant behavior

- 2.14 The participants agree to pursue the dialogue in a constructive, nonconfrontational manner and treat one another with respect and honesty, focusing more on interests and concerns than on demands and positions.
- 2.15 To this end, the participants agree to abide by the following rules:
- Share information needed to move forward with the dialogue, subject to agreement with the facilitators.
 - Focus solely on the fundamental considerations that have been agreed upon for this process.
 - Accept the facilitators' leadership in designing and leading the dialogue.
 - Respect others' personal integrity and beliefs.
 - Refrain from personal attacks or sarcasm.
 - Refrain from using delay tactics to avoid an undesired outcome.
 - Abide by the agreed procedure for disclosing information on the progress of the dialogue process.
 - Abide by the agreements that are reached.
- 2.16 If, for any reason, any of these rules are violated, the parties agree to refer the matter to the team of ICIM facilitators, placing a priority on dialogue for problem-solving and decision-making in this venue.



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B. Roles

1. Convener

- 2.17 The process is convened by the Independent Consultation and Investigation Mechanism (ICIM), led by its Ombudsperson.

2. Facilitators

2.18

The process will be facilitated by a team of two ICIM facilitators.
The facilitators work under the guidance of the Project Ombudsperson.
(See duties and characteristics of the facilitator's role in Appendix II).

3. Participants

- 2.19 See Appendix I for the specifications on entities and individuals participating for each category of stakeholder.

a. Primary stakeholders

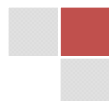
- 2.20 Primary stakeholders are those who are directly affected by any decision made during the process and, thus, who have decision-making capacity in the context of the process.

b. Secondary stakeholders

- 2.21 Secondary stakeholders are involved or interested parties who are not directly affected. They will participate for the purpose of clarifying information, providing and obtaining greater understanding on aspects of the complaint, and/or supporting an agreement satisfactory to all.

c. Technical specialists

- 2.22 The parties may propose the participation of technical experts even if they are not stakeholders.



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d. Permanent observers

- 2.23 Permanent observers are guarantors of the process. Although not primary stakeholders, they are authorized to recommend the best conditions for reaching and implementing any agreements.

3. Representatives

- 2.24 The primary stakeholders agree to participate in the previously agreed phases of the process, either themselves or through their representatives and alternate representatives. These representatives will be designated in advance, and their names will be provided in writing to the ICIM.
- 2.25 Because the success of the procedure depends largely on ensuring a degree of continuity in the dialogue process, as well as on the personal relations and trust built, the representatives of the stakeholders may not be replaced unless there is just cause and notification is provided in advance of a replacement's participation in a meeting.
- 2.26 The designated representatives will have decision-making capacity. However, these representatives will be allowed enough time to obtain the consent of the parties they represent or the counsel of their advisors or experts.
- 2.27 The parties agree that during the dialogue process they will not initiate administrative appeals or motions or legal actions of any kind that are related directly or indirectly to the project and ongoing process of construction of the 500/132 kV transformer station, and they also agree not to continue with any ongoing actions that the complainants have initiated in connection with the project during the dialogue process.

C. Information: confidentiality and publicity

- 2.28 The information provided by the interviewees, as well as that which emerges from the various information exchange or deliberation meetings, will be taken into account in preparing the minutes for the purpose of sharing concerns, needs, and agreements.
- 2.29 The stakeholders must provide relevant (public and/or private) information to justify their positions, interests, and needs. If any of the stakeholders has such information, and this information is not confidential, he or she agrees to share it and facilitate access to it for the other participants in the dialogue.



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4. Confidentiality

- 2.30 The participants agree to maintain the confidentiality of information presented as such and of the content of the discussions, unless otherwise authorized and expressly agreed to by all participants.
- 2.31 The facilitators may not transmit to the other party any information that is obtained from any of the parties in individual interviews and which they are not expressly authorized to disclose to the other party.
- 2.32 In the case of information that is not for public access, it will be understood that this information is only provided as a tool for dialogue and may not be used in a legal or administrative proceeding or released to the media without authorization of the parties.

5. Information to the media

- 2.33 At the end of the meetings or the entire process, and only if it is part of the agreement, a press release or report may be issued, in which case it must be jointly issued by all participants.
- 2.34 The parties may not unilaterally present information on the process to the media, as a way of protecting the process from distortions and misunderstandings.

D. Decision-making and agreements

- 2.35 If an agreement reached by the participants calls for carrying out activities within set periods of time, monitoring or follow-up activities by the ICIM will also be established.
- 2.36 Any agreements reached in the dialogue will be built by consensus between the parties or their representatives. Consensus does not mean unanimity:
- Once consensus is achieved with regard to the general package, it is understood to be binding on all. The parties may also decide on specific measures to enforce it.
 - If the parties reach an agreement resolving most of the issues but not all, they may draft, by mutual agreement, a document describing areas of disagreement, any lack of information that may be hindering agreement on the matter, and, if possible, a procedure for reaching agreement on such pending matters.
 - If no agreement is reached, the parties are free to exercise their rights individually or collectively.



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E. Monitoring of agreements

- 2.37 The affected stakeholders involved will agree, as part of the decision, as to how compliance with the agreements will be monitored. The ICIM Project Ombudsperson is obligated to carry out such monitoring; the parties, however, may propose another alternative.
- 2.38 The affected stakeholders agree to exercise rights, mandates, and responsibilities to ensure that the decision or recommendation takes effect.

APPENDICES to the rules of dialogue:

APENDICE I: Stakeholders in the dialogue process, with description of roles

APENDICE II: Role of the ICIM team's facilitators

APENDICE III: Timetable



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APPENDIX I: STAKEHOLDERS IN THE DIALOGUE PROCESS, WITH DESCRIPTION OF ROLES

1. Convener

The process is convened by the Independent Consultation and Investigation Mechanism (ICIM), led by its Ombudsperson, Isabel Lavadenz Paccieri.

2. Facilitators

The process will be facilitated by a team of two ICIM facilitators.

The facilitators, Dr. Graciela Tapia and Dr. Juliana Robledo, work under the guidance of the Project Ombudsperson.

(See Annex 2 for duties and features of the facilitator's role.)

3. Participants

a. Primary stakeholders

Primary stakeholders are those who are directly affected by any decision reached during the process and, thus, have decision-making capacity as part of this process.

Primary stakeholders	Description	Representatives
Ministry of Finance, Project Execution Coordination unit	Coordinating unit	Daniel Rabbia
ENERSA	The subexecuting agency for the project	Silvio Ekkert Dr. Mónica E. Carmona Dr. Marcelo Morales José María Martínez Fayó Carlos Fernández
Directly affected stakeholder	Complainant before the ICIM	Pablo Folonier, Matías Folonier
Residents of El Brete	Persons potentially directly affected by the project in matters related to health and the environment. They have supported Mr. Folonier's claim from the beginning.	Héctor Venturini Daniel Gómez Alternates: Gustavo Pujol Olga Folonier



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b. Secondary stakeholders

Secondary stakeholders are those involved or interested parties who will participate for the purpose of clarifying information, providing and receiving greater understanding on aspects of the complaint, and/or supporting an agreement that is satisfactory to all.

Provincial entities	Person/representative
Secretary of Energy	Raúl Arroyo or such person designated by him
Secretary of the Environment	Fernando Raffo or such person designated by him
Provincial Energy Regulatory Agency	Inspector: Francisco Taibi or such person designated by him

c. Technical specialists

The parties may propose the participation of technical experts even if they are not stakeholders. In this case, the experts have supported the primary and secondary stakeholders throughout project execution.

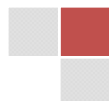
Technical representatives of the consulting firm responsible for the environmental impact assessments, Paul Rizzo Associates Inc.	Walter Jiménez, Dr. Susana García Abelardo Llosa. Distance consultation, Drs. Ana Lamas and/or Juan R. Walsh
Technical representatives of complainants	Present: Ricardo Juárez (biologist), Irene Aguer (biologist), Dr. Rubén Khun (physician) Distance consultation, team from Environmental Law Alliance Worldwide US: Mercedes Lu; Mark Cernaik; Jennifer Gleason; Elizabeth Mitchel

The parties will have the flexibility to request the presence of other technical experts or specialists as needed during the dialogue, provided that the other party and the facilitators in the process are notified.

d. Permanent observers

Permanent observers are guarantors of the process and are authorized to recommend the best conditions for reaching and implementing agreements.

Representative of the financing entity	Fernando Orduz
Office of the Inspector of the Province of Entre Ríos, as borrower	Adjunct Inspector Dr. Rosa A.P de Acebal



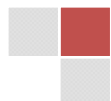
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APPENDIX II: ROLE OF THE ICIM TEAM’S FACILITATORS

The facilitator is a person who helps a group to achieve a goal, complete a task, or reach an agreement. The duties and features of the facilitator’s role include the following:

- Does not have decision-making authority on the substance of the matter.
- Is impartial in the discussion.
- Does not favor the interests or perspectives of any particular participant.
- Is responsible for designing and developing the phases of the collaborative process.
- Establishes a cooperative environment and the ground rules.
- Helps the group to set an agenda and maintain consensus on it.
- Protects individuals from verbal attacks.
- Helps to turn positions into interests, concerns, and needs.
- Responds effectively in moments of crisis or impasse.
- Helps establish appropriate, realistic timeframes.
- Clarifies, summarizes, and verifies points of consensus.



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APPENDIX III. TIMETABLE -- DRAFT

ENTRE RÍOS MEDIATION PROCESS, AR-001 (5 January 2011)

	January (weeks)			February (weeks) March					
1. Preparation of parties for dialogue									
- Consultation on rules and participants in dialogue and new process path conveyed (timetable)	X	X	X	X					
- Submittal of final rules			X	X					
- Listing of items to be clarified by the residents		X							
- Prior preparatory discussions and meetings with participants/present and/or via telephone or Skype		X	X	X	X				
Confirmation of acceptance of rules and participation in dialogue			X						
- Sending of invitation to parties				X					
Submittal of concerns of complainants to ENERSA				X					
Establishment of agenda				X					
- Design of first joint meeting					X				
2. Formal start of dialogue process									
- Preparatory workshop							X		
- Joint information exchange meeting							X		
- Joint and/or bilateral meetings to identify possible solutions							X		
- Decision-making/agreement-building meetings							X		
- Report/memo from initial meetings								X	
- Final draft of agreements								X	
- Final reports								X	



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