

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
ANCILLARY SERVICES
PROCUREMENT
AGREEMENT BETWEEN
THE NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
ENERGY DEVELOPMENT
CORPORATION (EDC),
WITH PRAYER FOR THE
ISSUANCE OF
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2017-024 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
ENERGY DEVELOPMENT
CORPORATION (EDC),
Applicants.**

D O C K E T E D
Date: JUN 16 2017
By: [Signature]

X-----X

ORDER

On 23 March 2017, the National Grid Corporation of the Philippines (NGCP) and Energy Development Corporation (EDC) filed an *Application (with Prayer for the Immediate Issuance of Provisional Authority) (Application)* seeking the Commission's approval of Ancillary Services Procurement Agreement (ASPA) dated 4 January 2017 entered into by both parties.

On 19 May 2017, the Commission issued an Order and a corresponding Notice of Public Hearing setting the *Application* for initial hearing on 14 June 2017 at 10:00 A.M. at the ERC Visayas Field Office in St. Mary's Drive, Banilad, Cebu City. However, on 29 May 2017, Applicants filed a *Manifestation and Motion to Reset Initial Hearing* praying that the 14 June 2017 be reset to a later date.

On 5 June 2017, the Commission issued an Order and a corresponding Notice of Public Hearing setting the *Application* for

initial hearing on 6 July 2017 at 10:00 A.M. at the ERC Visayas Field Office in St. Mary's Drive, Banilad, Cebu City. However, on 8 June 2017, Applicants filed a *Motion to Set Venue* praying that the 6 July 2017 public hearing be conducted near Applicant EDC's Nasulo Geothermal power plant. Thus, the instant Order.

In their Application, Applicants alleged the following:

NATURE OF THE CASE

1. This Application is for the approval of the Ancillary Services Procurement Agreement (ASPA) between the NGCP and EDC, pursuant to the Decision dated 3 October 2007 in ERC Case No. 2006-049RC, entitled: *"In the Matter of the Application for the Approval of Ancillary Services – Cost Recovery Mechanism (AS-CRM) of the Ancillary Services Procurement Plan, with Prayer for Provisional Authority."*

THE PARTIES

2. Applicant NGCP is a corporation created and existing under the laws of the Philippines, with office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City. It is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. 9136¹ (EPIRA). It holds a franchise under Republic Act No. 9511² to engage in the business of conveying or transmitting electricity through high-voltage back-bone systems of interconnected transmission lines, substations and related facilities, and for other purposes. The franchise also includes the conduct of activities necessary to support the safe and reliable operation of the transmission system.

3. Applicant EDC is a corporation organized and existing under and by virtue of the Philippine laws with principal office address at One Corporate Centre, Julia Vargas corner Meralco Avenue, Ortigas Center, Pasig City. It may be served with orders, notices, and other legal processes through its undersigned counsel. It is the owner and operator of the Nasulo Geothermal Power Plant (Nasulo), which was certified and accredited by NGCP as capable of providing Ancillary Services (AS) in the form of Regulating Reserve (RR).

3.1. EDC, as a generation company, falls within the ambit of Sections 6 of Republic Act No. 9136 or the Electric Power Industry Reform Act of 2001 (the "EPIRA").

3.2. While EDC is a co-applicant, it manifests that this joint application shall neither modify, diminish or constitute a

¹ Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for other Purposes";

²An Act Granting the National Grid Corporation of the Philippines a Franchise To Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for other Purposes;

waiver of EDC's rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

ANTECEDENT FACTS

4. Republic Act No. 9136 provides that it is the responsibility of NGCP to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for its operations and maintenance, as set forth in the Philippine Grid Code (PGC), adopted and promulgated by the Honorable Commission, and to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system³.

5. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid Ancillary Services and for developing and proposing Wheeling Charges and Ancillary Service tariffs to the ERC⁴.

6. Ancillary services (AS) as defined in Section 4b of the EPIRA "*refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act.*" These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.

7. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (ASPP) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (AS-CRM) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.

8. Pursuant to its mandate, NGCP invited and negotiated with all prospective generation companies capable of providing ancillary services, one of which is EDC. Upon conducting several tests on Nasulo, NGCP determined that its units are capable of providing RR. The copy of the Provisional Accreditation Certificate No. 2016-V0034 dated 26 October 2016 is attached as Annex "A".

9. After a series of meetings and negotiations, the Applicants executed the ASPA wherein NGCP agreed to procure and EDC agreed to supply Regulating Reserve services to NGCP for a period of five (5) years under a non-firm arrangement. Also, considering the importance of guaranteeing the availability of ancillary services to ensure and maintain the reliability, adequacy, security, stability and integrity of the Visayas Grid, the parties agreed that EDC shall already commence providing Regulating

³Section 9 (c) and (d);

⁴Section 6.3.1.2;

Reserve, in whole and in part, pending the approval, provisional or final, of the Application, and corresponding payment thereof shall be subject to the approval of the Honorable Commission. A copy of the ASPA dated 4 January 2017 is attached as Annex "B".

**NON-FIRM CONTRACTED CAPACITY RATES AND
IMPACT SIMULATION**

10. Schedule 4 of the ASPA provides for the agreed upon formula for the computation of the Ancillary Services Fees as well as the applicable maximum hourly rate for the capacity covered by the ASPA:

Non-Firm:

Ancillary Service	Applicable Rates (Maximum Hourly Rate)
Regulating Reserve	Php3.00/kW/Hr

11. NGCP respectfully submits that the rate represents a reasonable recovery of its opportunity cost in making available generation capacity to provide the procured AS.

12. The rate under the ASPA was subjected to a simulation by NGCP, as follows:

AS Type	SIMULATION for 24hr Schedule	
	P/kW- mo	P/kWh Equivalent
Regulating Reserve	2.3534	0.0052

A copy of the said rate impact simulation is attached as Annex "C."

13. Consistent with the AS-CRM, all the related and incidental expenses which NGCP will incur as a result of the procurement and operation of the ancillary services shall be recovered from all the load customers in the Visayas Grid.

**ALLEGATIONS IN SUPPORT OF THE
PRAYER FOR PROVISIONAL AUTHORITY**

14. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power (*Section 2b, EPIRA*). With this end in view, there is a need to comply with the system requirements for AS to ensure grid system reliability. As mentioned above, NGCP has the mandate to procure the required AS.

15. The current level of RR in the Visayas Grid has not yet reached the desired levels necessary for system reliability. Thus, Applicants executed this ASPA. A copy of the relevant actual data showing available level of RR and the capacity contribution of EDC in the Visayas Grid is attached as Annex "D".

16. As the demand for power in the Visayas increases, the requirements of the system to ensure stability, reliability, and security likewise increases. Ensuring the integrity of the system is essential to protect the interests of the public. The absence of system reliability and stability will certainly discourage investments and growth.

17. The importance of the Regulating Reserve to be provided by EDC to ensure and maintain the reliability, adequacy, security, stability and integrity of the Visayas Grid cannot be overemphasized. Hence, the parties agreed that EDC shall already commence providing Regulating Reserve, in whole and in part, pending the approval, provisional or final, of the Application. Recovery of the corresponding cost shall be subject to the Honorable Commission's approval similar to its Order dated 15 March 2016 issued in ERC Case No. 2009-029RC.⁵

18. Applicants respectfully submit that the immediate approval of the ASPA by this Honorable Commission is a necessity to maintain the reliability, adequacy, security, stability and integrity of the Visayas Grid. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Engr. Lisaflor Bacani-Kater, which is attached as Annex "E."

PRAYER

WHEREFORE, premises considered, Applicants respectfully pray that the Honorable Commission to:

- a) Immediately ISSUE a provisional authority to implement the subject ASPA effective on 24 February 2017;
- b) ALLOW NGCP the full and retroactive recovery of ancillary services cost for the provision of Regulating Reserve by EDC pursuant to the subject ASPA (effective on 24 February 2017);
- c) APPROVE, after notice and hearing, the subject ASPA.

Applicants pray for other just and equitable relief.

Finding the said *Application* sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **6 July 2017 at ten one o'clock in the morning (10:00 A.M.), at the Conference Room of Puro Resort, Dauin, Negros Oriental.**

⁵ In the matter of the Application for the Approval of the Ancillary Services Procurement Agreement (ASPA) between the National Transmission Corporation (TRANSCO) now National Grid Corporation of the Philippines (NGCP) and National Power Corporation (NPC), with Prayer for Provisional Authority.

Accordingly, Applicants are hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at their own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the offices of the City Mayor and the Local Government Unit (LGU) legislative body of Quezon City for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Application*, the reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the *Application* and the attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission their written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business

Managers of the newspapers where the said Notice of Public Hearing was published, and the complete issues of the said newspapers;

- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Mayor and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicants to inform of the filing of the *Application*, the reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application*, and the attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicants and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;

- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

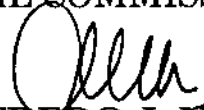
Failure of Applicants to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

Applicants must also be prepared to make an expository presentation of the instant *Application* aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the *Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 5 June 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:



ALFREDO J. NON
Officer-in-Charge of the ERC

LS: ICG/RJM/APV

COPY FURNISHED:

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8. Commission on Audit (COA)
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9. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
10. House Committee on Energy
Batasan Hills, Quezon City
11. Philippine Chamber of Commerce and Industry (PCCI)
Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City
12. National Transmission Corporation (TransCo)
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13. Regulatory Operations Service
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