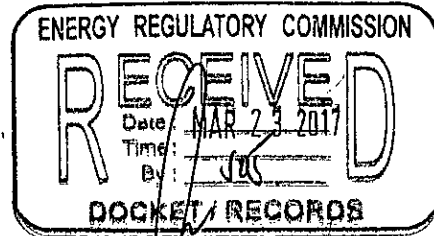


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Ortigas Center
Pasig City

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

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2017-026
ERC CASE NO. 2017-0__RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES AND ENERGY DEVELOPMENT CORPORATION,

Applicants.

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ERC COPY

APPLICATION

(With Prayer for the Immediate Issuance of a Provisional Authority)

Applicants **NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP)** and **ENERGY DEVELOPMENT CORPORATION (EDC)**, by counsel, respectfully state:

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 waiver of EDC’s rights nor expand its

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;

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

³Section 9 (c) and (d);

⁴Section 6.3.1.2;

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 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.

Quezon City and Pasig City for Pasig City, 24 February 2017.

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.

OFFICE OF THE GENERAL COUNSEL
NATIONAL GRID CORPORATION OF THE PHILIPPINES

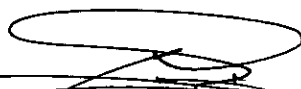
NGCP Building, Quezon Avenue corner
BIR Road, Diliman, Quezon City
Tel. No. 981-2100 (Trunk Line)

By:



LUIS MANUEL U. BUGAYONG

PTR No. 3804021 / 01.04.17 / Quezon City
IBP Lifetime No. 010191/RSM
MCLE Compliance No. V-0006616 / 02.24.15
Roll of Attorneys No. 38002
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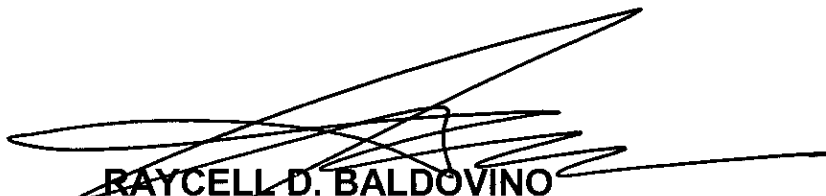
RONALD DYLAN P. CONCEPCION

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-and-

**QUIASON MAKALINTAL BAROT
TORRES IBARRA SISON & DAMASO**

Counsel for the Applicant EDC
21st Floor, Robinsons-Equitable Tower
4 ADB Avenue corner Poveda Street
1605 Ortigas Center, Pasig City
Tel. No.: (632) 631-0981

By:

MANUEL L.M. TORRES

ROLL OF ATTORNEYS NO. 25410
MCLE COMPLIANCE NO. V-0013987; 4/14/2019
PTR NO. 2516358; 1/5/2017, PASIG CITY
IBP NO. 1055297; 1/3/2017, QUEZON CITY

Miguel K. Mathay
MIGUEL K. MATHAY

ROLL OF ATTORNEYS NO. 43982
MCLE COMPLIANCE NO. V-0016470; 4/14/2019
PTR NO. 2514727; 1/4/2017, PASIG CITY
IBP NO. 1055298; 1/3/2017, RSM

Gianna Maria C. Comsti
GIANNA MARIA C. COMSTI

ROLL OF ATTORNEYS NO. 63071
MCLE COMPLIANCE NO. V-0011903; 4/14/2019
PTR NO. 2542648; 1/9/2017, PASIG CITY
IBP NO. 1057006; 1/3/2017, RSM

Cara Mariel S. Maglaya
CARA MARIEL S. MAGLAYA

ROLL OF ATTORNEYS NO. 66519
ADMITTED TO THE BAR ON JUNE 23, 2016
PTR NO. 2542652; 1/9/2017, PASIG CITY
IBP NO. 1057007; 1/3/2017, RSM

Courtesy Copy:

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NATIONAL TRANSMISSION CORPORATION
c/o Office of the President
Quezon Avenue corner BIR Road
Diliman, Quezon City

Theresa S. Alizon
THERESA S. ALIZON

**POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION**
c/o Office of the President
7th Floor, Bankmer Building, 6756 Ayala Avenue
1226 Makati City

POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION
OFFICE OF THE PRESIDENT
MAR 32 2017
BY: *CAK* TIME: *8:31*

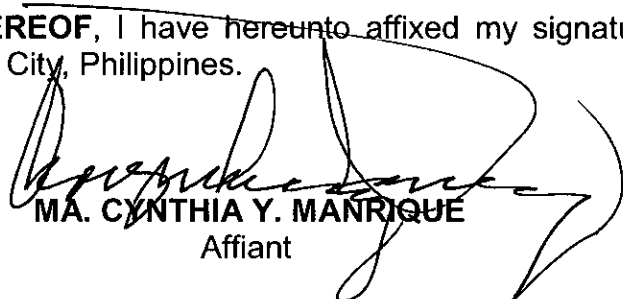
REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) S.S.

**VERIFICATION AND
CERTIFICATION OF NON-FORUM SHOPPING**

I, **MA. CYNTHIA Y. MANRIQUE**, Filipino, of legal age, single, after having been duly sworn to in accordance with law, hereby depose and say that:

1. I am presently the Head of the Revenue Regulatory Affairs Group of the National Grid Corporation of the Philippines (NGCP);
2. I am duly authorized to sign the Verification and Certification of Non-Forum Shopping in this case for and in behalf of NGCP as evidenced by the Secretary's Certificate hereto attached as **Annex "A-Verification;"**
3. I have caused the preparation of the foregoing joint Application and I have read it. I attest that the allegations therein are true and correct of my personal knowledge and based on authentic records;
4. I further attest that NGCP has not filed any similar case or action before any court, tribunal or quasi-judicial agency involving the properties subject of this case and, to the best of my knowledge, no such other case or action is pending therein; and
5. If I should thereafter learn that a similar case, action or claim other than those mentioned above, is filed or pending before any court, tribunal or quasi-judicial agency, I shall report that fact to this Honorable Office within five (5) days therefrom;

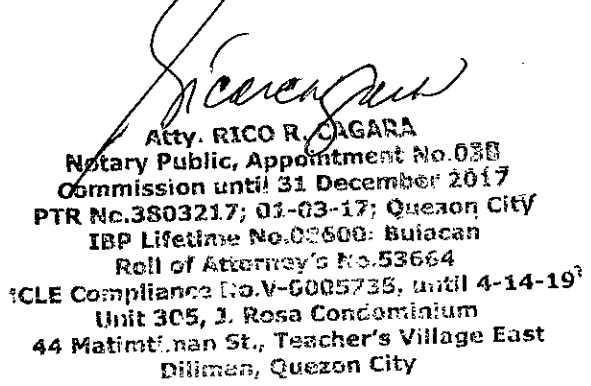
IN WITNESS WHEREOF, I have hereunto affixed my signature this 27 February 2017, in Quezon City, Philippines.



MA. CYNTHIA Y. MANRIQUE
Affiant

SUBSCRIBED AND SWORN to before me this 27 February 2017, affiant exhibited to me her Driver's License No. D09-94-048075 valid until 13 June 2018 issued at Quezon City.

Doc. No. 116 ;
Page No. 25 ;
Book No. 27 ;
Series of 2017.



Atty. RICO R. DAGARA
Notary Public, Appointment No. 038
Commission until 31 December 2017
PTR No. 3803217; 01-03-17; Quezon City
IBP Lifetime No. 02600; Buacan
Roll of Attorney's No. 53664
JCLE Compliance No. V-6005735, until 4-14-19
Unit 305, J. Rosa Condominium
44 Matimtiman St., Teacher's Village East
Diliman, Quezon City

VERIFICATION/CERTIFICATION

I, **JAY JOEL L. SORIANO**, after having been duly sworn in accordance with law, depose and say:

1. I am the Assistant Vice President of **ENERGY DEVELOPMENT CORPORATION ("EDC")**, the Co-Applicant in the above-entitled case;

2. That I have caused the preparation and filing of the foregoing Application;

3. That I have read the same and that all the allegations contained therein are true and correct of my own personal knowledge and belief and/or based on authentic records of **EDC**;

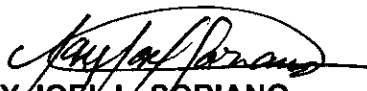
4. That **EDC** has not commenced any other action or proceeding involving the same issue/s with the Supreme Court, the Court of Appeals or any other tribunal or agency;

5. That, to the best of my knowledge, no such action or proceeding involving the same issue/s is pending with the Supreme Court, the Court of Appeals or any other tribunal or agency; and

6. That should I hereafter learn that a similar action or proceeding has been filed or is pending with the Supreme Court, the Court of Appeals or any other tribunal or agency, I hereby undertake to report such fact within five (5) days to this Honorable Commission.

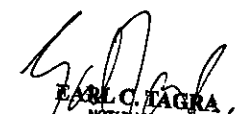
Further affiant sayeth none.

IN WITNESS WHEREOF, I have hereunto affixed my signature on this 27 FEB 2017 day of February 2017, at Pasig City, Philippines.


JAY JOEL L. SORIANO
Affiant

SUBSCRIBED AND SWORN to before me this 27 FEB 2017 day of PASIG CITY 2017 at Pasig City, Affiant, who is personally known to me, exhibited to me his Passport No. Drives License issued in Q.C., expires on Feb. 28, 2018 No. 401-90-161976.

Doc. No. 177 ;
Page No. 27 ;
Book No. 11 ;
Series of 2017. ✓


EARL C. TAGRA
NOTARY PUBLIC
FOR AND IN THE CITY OF PASIG, TAGUIG AND SAN JUAN AND IN THE MUNICIPALITY OF PATEROS UNTIL DECEMBER 31, 2017
PTR NO. 2542850; 1/9/2017; PASIG CITY
IBP NO. 1057005; 1/3/2017; RSM
MCLE COMPLIANCE NO. V-0011974; 4/14/19
ROLL NO. 62906/ APPOINTMENT NO. 27 (2016-2017)
23/F Robinsons-Equitable Tower, 4 ADB Aves. cor. Poveda St.
1605 Ortigas Center, Pasig City