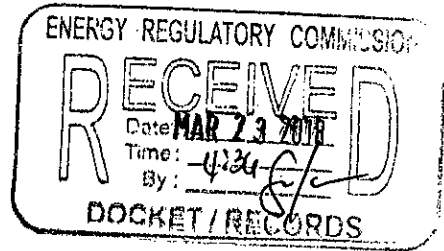


Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Ortigas Center
Pasig City

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF THE ANCILLARY SERVICES PROCUREMENT AGREEMENT BETWEEN THE NATIONAL GRID CORPORATION OF THE PHILIPPINES AND PHINMA ENERGY CORPORATION (SUBIC PLANT) WITH PRAYER FOR THE ISSUANCE OF PROVISIONAL AUTHORITY.

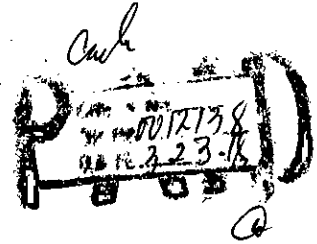
ERC COPY



ERC Case No. 2018-016 RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES AND PHINMA ENERGY CORPORATION,
Applicants.

X-----X



APPLICATION

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

Applicants **NATIONAL GRID CORPORATION OF THE PHILIPPINES** (NGCP) and **PHINMA ENERGY CORPORATION** (PHINMA Energy), 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 PHINMA Energy, 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

ERC

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 holds a franchise under Republic Act No. 9511¹ 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 PHINMA Energy is a corporation organized and existing under and by virtue of the Philippine laws with principal office address at Level 11, PHINMA Plaza, 39 Plaza Drive, Rockwell Center, Makati City. It may be served with orders, notices, and other legal processes through its undersigned counsels. It is the administrator of the diesel power generating facility located at Subic Bay Freeport Zone (the “Subic Plant”) which was certified by NGCP as capable of providing Dispatchable Reserve (DR).

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 system².

¹ An 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;

² Section 9 (c) and (d);

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 ERC³.

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 on different dates published in newspapers of general circulation a Notice of Invitation for Prospective Ancillary Services Providers, inviting all grid-connected merchant plants and independent power producers to participate in the provision of ancillary services. NGCP received several positive responses from generation companies.

9. On 21 December 2012, NGCP and PHINMA Energy (formerly known as Trans-Asia Oil and Energy Development Corporation (“TA-OIL”)) filed an application for the approval of its Ancillary Services Procurement Agreement (ASPA 2012) docketed as ERC Case No. 2012-136RC. Upon receipt of the intention from PHINMA Energy to continue providing ancillary services, NGCP commenced negotiation for the execution of a new ASPA.

10. In view of the need for PHINMA Energy to continue providing ancillary services, the Applicants on 23 December

³ 2007 PGC, Section 6.3.1.2;

2017, executed a new ASPA (ASPA 2017). NGCP agreed to procure and PHINMA Energy agreed to supply Ancillary Services in the form of: Dispatchable Reserve (DR) for five (5) years under a non-firm arrangement for up to 120MW. A copy of the *Ancillary Services Procurement Agreement between NGCP and PHINMA* dated 23 December 2017 is attached as **Annex “A”**.

11. During the period of negotiation, NGCP conducted several tests, and certified that the power plant has met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Dispatchable Reserve Service.

Thus, NGCP issued the *Accreditation Certificate* No. 2017-L001, attached as **Annex “B”** and its renewal, Accreditation Certificate No. L2018-L004, attached as Annex “B-1”.

12. At present, the Subic Plant does not have any power supply agreement with any customer.

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

13. Schedule 1 of the ASPA provides for the types of AS that can be nominated by PHINMA Energy, as follows:

Non-Firm Contracted Capacity

Dispatchable Reserve (Tertiary Reserve)

Up to 120MW

The capacity listed above is the maximum offer. However, for clarity, the basis for AS Provider’s nomination and scheduling shall be the capacity listed in its valid AS Certificate.

14. Schedule 4 of the ASPA provides for the applicable maximum hourly rate for the capacity covered by the ASPA, as follows:

Ancillary Service	Applicable Rates (Maximum Hourly Rate)
Dispatchable Reserve	Php1.25 /kW/Hr (Non-firm)

and formula in the computation of the Ancillary Services Fees as well as the Incidental Energy Cost.

15. Applicants submit that the rates represent a reasonable recovery of its opportunity cost in making available generation capacity to provide the procured AS.

AS Type	Indicative Rate Impact	
	P/kW-month	P/kWh
DR	3.9264	0.0077

A copy of the *Rate Impact Simulation for PHINMA Energy* with a brief discussion on how NGCP derived the proposed ancillary services rates is attached as **Annex "C."**

16. 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 Luzon Grid.

17. PHINMA Energy submits the copies of the following documents:

Document	Annex
<i>Certificate of Compliance</i>	"D"
<i>Certification of No Existing Power Supply Agreement</i>	"E"
<i>Articles of Incorporation</i>	"F"
<i>Latest Security Exchange Commission – General Information Sheet</i>	"G"
<i>Latest Audited Financial Statement</i>	"H"
<i>WESM Registration</i>	"I"

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

18. 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. However, the

Honorable Commission must first approve the contract before the same could be implemented.

19. On 21 December 2012, NGCP and PHINMA Energy (formerly known as Trans-Asia Oil and Energy Development Corporation (“TA-OIL”)) filed an application for the approval of its Ancillary Services Procurement Agreement (ASPA 2012) docketed as ERC Case No. 2012-136RC. In the Order dated 25 February 2013, the Honorable Commission issued an Order approving the Application. Page 9 of the Order provides: “*An initial evaluation of the instant application discloses that the ASPA entered into by and between NGCP and TA-OIL will redound to the benefit of the customers in terms of continuous, reliable, efficient and affordable power supply as mandated by the EPIRA [Section 2. Declaration of Policy – (b) “to ensure the quality, reliability, security and affordability of the supply of electric power].”* (Emphasis supplied) The parties implemented the 2012 ASPA on the July 2013 Billing Period.

20. As mentioned above, the Honorable Commission has already declared that there is a necessity for NGCP to procure the contracted ancillary services capacity of PHINMA Energy to maintain the reliability of the operation of the transmission system and electricity supply in the Luzon Grid.

21. PHINMA must continue to provide ancillary services beyond the 2012 ASPA to maintain the reliability of the power grid. Based on the current levels of available contracted AS in the Luzon Grid, the firm contracted AS have not yet met the required levels. The copy of the *Luzon AS Availability* showing the required and available levels of ancillary services in the Luzon Grid is attached as **Annex “J”**.

22. As the demand for power in the Luzon 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.

23. The importance of DR, from PHINMA Energy to ensure and maintain the reliability, adequacy, security, stability and integrity of the Luzon Grid cannot be overemphasized.

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

25. Applicants further submit that if and when the 2017 ASPA is approved by this Honorable Commission, it is hereby understood that it will only take effect, immediately upon expiration of the 2012 ASPA or on the July 2018 Billing Period.

PRAYER

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

a) Immediately **ISSUE** a provisional authority to implement the 2017 ASPA, to take effect upon expiration of the 2012 ASPA or on the July 2018 Billing Period;

b) **APPROVE**, after notice and hearing, the 2017 ASPA.

Applicants pray for other just and equitable relief.

Quezon City and Makati City for Pasig City, 15 March, 2018.

**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. 5521013 / 01.03.18 / Quezon City

IBP Lifetime No. 010191/RSM

MCLE Compliance No. V-0006616 / 02.24.15

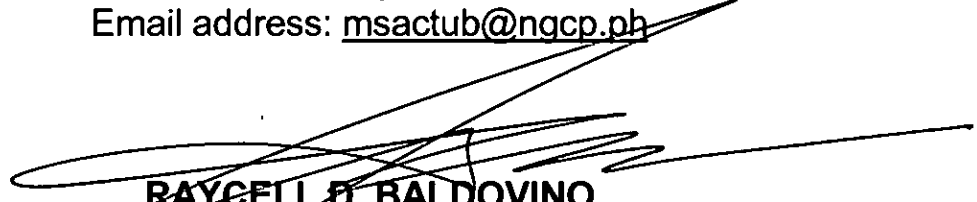
Roll of Attorneys No. 38002

Email address: lubugayong@ngcp.ph



MARK ANTHONY S. ACTUB

PTR No. 5521006 / 01.03.18 / Quezon City
MCLE Compliance No. V-0006614 / 02.24.15
IBP Lifetime No. 04514/ Misamis Oriental
Roll of Attorneys No. 45707
Email address: msactub@ngcp.ph



RAYCELL D. BALDOVINO

PTR No. 5521008 / 01.03.18 / Quezon City
MCLE Compliance No. V-0008304 / 06.03.15
IBP Lifetime No. 010195/ RSM
Roll of Attorneys No. 50672
Email address: rdbaldovino@ngcp.ph

-AND-

PHINMA ENERGY CORPORATION

Co-Applicant


Level 3, PHINMA Plaza, 39 Plaza Drive,
Rockwell Center, Makati City
Telephone Numbers 870-0100

By:



ALAN T. ASCALON

PTR No. 6619937 / 01-09-2018 / Makati City
MCLE Compliance No.V-0024676 / 01-10-2017
IBP No. 023398 / 01-09-18 / Iloilo City
Roll of Attorneys No. 46044



JOHN HENRY C. LIQUETE

PTR No. 6619938 / 01-09-2018 / Makati City
MCLE Compliance No.V-0012606 / 12-03-2015
IBP No. 023399 / 01-09-18 / RSM
Roll of Attorneys No. 58040

Courtesy Copy:

NATIONAL TRANSMISSION CORPORATION

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


MARY JOY D. GOMEZ
CORP STAFF ANALYST

NATIONAL TRANSMISSION CORPORATION

c/o Office of the General Counsel
Quezon Avenue corner BIR Road
Diliman, Quezon City



**POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION**

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

RECEIVED BY: 891418 MAR 22 P2:45

OVP-LEGAL-TRANSCO

MAR 22, 2018 02:46PM

POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION
OFFICE OF THE PRESIDENT

MICHELLE F. PINEDA
RECORDS OFFICER, OVP-LRMSG
MAR 22 2018
BY:  217

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:

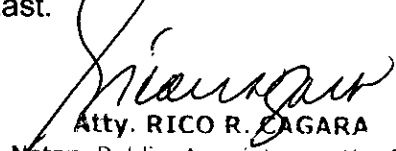
1. I am presently the Head of the Revenue Regulatory Affairs Group of the National Grid Corporation of the Philippines (NGCP);
2. I am duly authorized to sign the Verification and Certification of Non-Forum Shopping in this case for and in behalf of NGCP as evidenced by the Secretary's Certificate hereto attached as **Annex "A-Verification;"**
3. I have caused the preparation of the foregoing 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 15 March 2018, in Quezon City, Philippines.


MA. CYNTHIA Y. MANRIQUE
Affiant

SUBSCRIBED AND SWORN to before me this 15 March 2018, in Quezon City, affiant exhibited to me her Philippine Passport No. EC0371531 valid until 20 February 2019 issued by the DFA NCR North East.

Doc. No. 257 ;
Page No. 53 ;
Book No. 24 ;
Series of 2018.


Atty. RICO R. CAGARA
Notary Public, Appointment No. 077
Commission until 31 December 2019
PTR No. 5521004; 01-03-18, Quezon City
IBP Lifetime No. 08600; Bulacan
Roll of Attorney's No. 53664
MCLE Compliance No. V-0005735, until 4-14-19
Unit 305, J. Rosa Condominium
44 Matimtiman St., Teacher's Village East
Diliman, Quezon City

**VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING
(PHINMA Energy- Subic Plant)**

I, Rizalino G. Santos, Filipino, of legal age, with office address at Level 3, PHINMA Plaza, 39 Plaza Drive, Rockwell Center, Makati City, after having been duly sworn to in accordance with law, hereby depose and state that:


1. I am the Senior Vice President for Power Business of PHINMA Energy Corporation (PHINMA);
2. I have caused the preparation and filing of the foregoing Application. I have read and understood its contents and that all the allegations contained therein are true and correct, based on my own personal knowledge and based on authentic documents in my possession;
3. I hereby certify that PHINMA has not commenced any action or filed any claim involving the same issue/s in any court, tribunal, or quasi-judicial agency, and to the best of my knowledge, no such other action or claim is pending therein. Should I thereafter learn that the same or a similar action or claim has been filed or is pending, I shall report such fact to this Honorable Commission within five (5) days therefrom.

IN WITNESS WHEREOF, I have signed this Verification and Certification of Non-Forum Shopping this MAR 15 2018 at Makati City, Philippines.


RIZALINO G. SANTOS
Affiant

SUBSCRIBED AND SWORN to before me this MAR 15 2018 at Makati City, affiant exhibiting to me his Driver's License No. N02-81-076260 valid until December 27, 2022.

Doc No: 243 ;
Page No: 50 ;
Book No: 10 ;
Series of 2018.


JOEL S. LLANILLO
COMMISSION NO. M-149
NOTARY PUBLIC FOR MAKATI CITY
UNTIL DECEMBER 31, 2018
12/F THE PHINMA PLAZA, 39 PLAZA DRIVE
ROCKWELL CENTER, MAKATI CITY
ROLL NO. 53693
PTR NO. 6618385 ; 1/10/2018; MAKATI CITY
IBP NO. 974819; 9/15/14 LIFETIME; BULACAN CHAPTER
MCLE Compliance No. V-0012819, 12/9/16