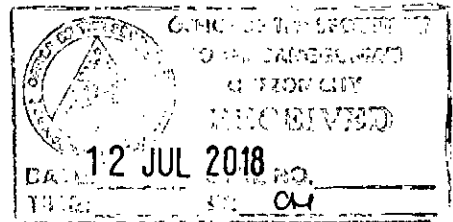


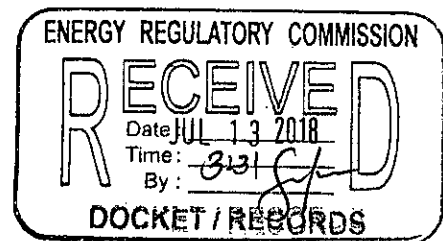
Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City

**IN THE MATTER OF THE PETITION
FOR THE APPROVAL OF THE
AVAILMENT FROM THE UNIVERSAL
CHARGE FOR MISSIONARY
ELECTIFICATION (UCME) FOR CY
2019 WITH PRAYER FOR THE
ISSUANCE OF PROVISIONAL
AUTHORITY**



ERC CASE NO. 2018-076RC

NATIONAL POWER CORPORATION,
Petitioner.
X-----X



PETITION

Petitioner **National Power Corporation**(hereafter, "NPC" for brevity),through the undersigned counsels,and unto this Honorable Commission,respectfully states that:

1. Petitioner NPC is a government owned and controlled corporation created and existing under Republic Act No. 6395 as amended ("NPC Charter"), with principal address at NPC Office Building Complex corner Quezon Avenue and BIR Road, Diliman, Quezon City where it may be served summons and other processes of the Honorable Commission.

2. Pursuant to Section 70 of Republic Act No. 9136 (Electric Power Industry Reform Act or "EPIRA"), NPC shall remain as a National-Government Owned and Controlled Corporation to perform the Missionary Electrification function through its Small Power Utilities Group (hereafter, "NPC-SPUG") and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.

3. On 22 August 2011, the Honorable Commission approved and issued Resolution No. 21 Series of 2011 entitled "*Amended Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas*" providing for the guidelines for the setting

and approval of electricity generation rates and subsidies for Missionary Electrification areas, for the fixing and availment of subsidies for Missionary Electrification areas as well as the Cash Incentives for the Renewable Energy (RE) Developers in the missionary areas from the Universal Charge for Missionary Electrification (UC-ME). The said resolution is in accordance with Chapter VII Section 15 (b) of the Republic Act No. 9153,¹ which provides for the basis in the calculation of the Cash Incentive of the Renewable Energy Developers for Missionary Electrification and ERC Resolution 7, series of 2014.²

4. Pursuant to Section 4 of Republic Act No. 6395, as amended, and Executive Order No. 86,³ issued by virtue of the authority granted to the President of the Republic of the Philippines under R.A. 7648,⁴ Petitioner NPC is duly authorized to include twelve percent (12%) return on its rate base composed of the sum of its net assets in operation plus two (2) months operating capital in the Revenue Requirement.

5. As the implementing agency for missionary electrification (ME), NPC is duty-bound to ensure the provision of the estimated ME subsidy requirements needed in the missionary areas from the Universal Charge (UC) to be collected from all electricity end-users as determined by the Energy Regulatory Commission (ERC) and as provided under Section 2(a) of the EPIRA Implementing Rules and Regulations.

6. Given the apparent energy shortage especially in small island grids in the country, and with the connection of the households in these areas to the main grid not being financially feasible due to low levels of demand, low population density and geographical constraints, it is admittedly a challenge for NPC to bring these areas to their viability level. The costs involved in the off-grid electrification are also often beyond the capacity of most of the household consumers to pay because of lack of resources and opportunity or option that the progressive or viable areas could provide or are providing. Hence, NPC has to endeavor to fully and efficiently meet its missionary electrification function in order to bring these areas to viability level. NPC believes that through the mandated UCME subsidy, the provision of electricity becomes affordable and, at the same time, spurs economic activity, in addition to the fact it facilitates delivery of basic services to the off-grid consumers. Moreover, the UCME subsidy essentially helps NPC maintain its power plants/facilities and allow

¹ Otherwise known as Renewable Act of 2008 or RE Act of 2008

² A Resolution adopting the Rules to Govern the Availment and Disbursement of Cash Incentive to Renewable Energy (RE) Developers operating in Missionary Areas

³ Fixing the Rate of Return on Rate Base of the National Power Corporation at twelve percent (12%) of the Rate Base as Defined in Section 4 of Republic Act No. 6395, as Amended

⁴ Electric Power Crises Act of 1993

the same to remain in proper and working condition, which is beneficial to the electricity consumers in the off-grid areas.

7. Hence, by and pursuant to Article V Section 2 of ERC Resolution No. 21, Series of 2011, NPC is filing this petition to seek approval from this Honorable Commission of the Missionary Electrification subsidy that would sufficiently cover the estimated requirements for areas served by NPC SPUG, New Power Providers (NPP) and Qualified Third Parties (QTPs) that have taken over in full or part the generation function of NPC-SPUG in certain missionary areas, as well as the operating costs in mini-grids including the fixed cost of transmission/substations, the cash incentive payment to RE Developers and the impact of excise tax on fuel.

AVAILMENT FROM THE UNIVERSAL CHARGE OF THE SHARE IN MISSIONARY ELECTRIFICATION (UCME) SUBSIDY FOR CY2019

8. The calculation of the total Basic UCME Subsidy as herein proposed is based on the formula as specifically provided in Article V Section 2 of ERC Resolution No. 21, Series of 2011.

9. In view of the foregoing and in compliance with the above-cited provisions of law and ERC resolutions, particularly as regards the requirement prescribed in the determination of corresponding subsidy, NPC calculated the estimated UCME requirements for the following: A) NPC SPUG Subsidy; B) Delegated SPUG areas (NPP) Subsidy; C) Qualified Third Parties (QTP) Subsidy and D) Cash Incentive of RE Developers, to wit:

ABSTRACT OF THE PROPOSED BASIC UCME SUBSIDY

10. Consistent with the NPC Missionary Electrification Plan ("MEP"), its forecasts on the demand and sales growth, scheduled generation and transmission projects and improvement in service level as well as the expansion of coverage to other missionary areas, and taking into account the afore-mentioned guidelines and provisions, NPC considered the key parameters and assumptions used in the projections in the determination of proposed UCME subsidy for the calendar year 2019, as follows:

A. Basic UCME Subsidy for NPC SPUG

11. In the calculation of NPC revenue requirements, the following accounts and costs were considered:

- a. Results of Operations for CY 2017
- b. Fuel Cost for CY 2019 – calculated based on actual 2017 fuelcost in P/kWh multiplied by the NPC projected energy sales;
- c. Excise tax on fuel based on CY 2019 projected quantity/volume multiplied with the approved Excise tax rate of P4.5/liter based on Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (the “TRAIN Law”)
- d. Other Operating Expenses for CY 2019– other operating cost as of December 2017 in P/kWh multiplied by the NPC projected energy sales;
- e. Cost of Personnel Services based on CY 2019 budget level;
- f. Depreciation as of December 2017;
- g. NPC-TCGR – based on the calculated Total Revenue requirements established in CY 2017 test period;
- h. The calculated Revenue from salesbased on the existing NPC-SPUG SAGR as of May 2018 multiplied by the projected energy sales;
- i. NPC-SPUG Projected Energy Sales, kWh for CY 2019 based on the CY 2019 NPC MEP;
- j. NPC-SPUG Projected Results of Operations for CY 2019 shows the calculatedtotal NPC projected revenue requirement for CY 2019;
- k. Philippine Electricity Sales Forecast based on the Department of Energy’s (“DOE”) Philippine Power Development Plan 2015-2030 (PDP).

The detailed breakdown of the Basic UCME Subsidy for NPC SPUG is shown in the NPC SPUG Projected Results of Operation for CY 2019, the summary of which is hereto attached as **ANNEX “A”**, which shall form an integral part of this instant petition.

12. Petitioner NPC has utilized the authorized RORB methodology using the year 2017 base rate being the most recent financial statement available during the calculation stage.

B. UCME Subsidy for Delegated NPC SPUG areas (NPP/QTP)

13. The amounts corresponding the NPPs and QTP subsidies considered were based on the following:

- a. Forecasted Energy Sales based on their submission of Forecasted generation and/or minimum off-take as provided in their respective ERC-Approved Power Supply Agreement (PSA);
- b. NPP TCGR and SAGR – TCGR calculated based on the most recent subsidy invoice paid to each NPP and QTP claims at the time of calculation with provision for excise tax in P/kWh based on the fuel consumption on the recent subsidy invoice paid to each NPP and QTP multiplied with the approved Excise tax rate. On the other hand, the SAGR considered is based on the NPC SPUG existing effective rate as of May 2018;

The detailed breakdown of the NPP and QTP Subsidy requirement for CY 2019 and its supporting documents are attached herewith as **ANNEXES "B", "B-1" to "B-36"**, which shall form an integral part of this instant petition.

C. UCME Subsidy for the Cash Generation-Based Incentive for Renewable Energy (RE) Developer in the Off-grid

14. The renewable energy cash incentive (RE-CI), on the other hand, is based on the following:

- a. Total Projected Off-grid Energy Sales – sum of the NPC SPUG and NPP/QTP Projected Energy Sales;
- b. Blended TCGR – calculated based on the average of the NPC SPUG cost of generation and NPP true cost of generation;
- c. SAGR – based on the NPC SPUG SAGR as of May 2018;

d. Cash Incentive Rate – equivalent to 50% of the calculated UCME Subsidy Rate;

The calculation of the proposed amount required for RED-CI is shown in the attached **ANNEX “C”**. Likewise, attached as **ANNEXES “C-1” to “C-17”** are the submitted CI claims of RE Developers which shall likewise form an integral part of this instant petition.

PROPOSED BASIC UCME SUBSIDY PER COMPONENT

15. Based on the results of the calculation made, the total proposed UCME Subsidy requirement for the missionary electrification will amount to **PhP17.805Bn** for CY 2019 inclusive of the Cash Incentive for Renewable Energy as shown in Table 1 below.

Table 1. Proposed UCME Requirement and Proposed UCME Subsidy rate for CY 2019

Item	Particulars	Proposed UCME for CY 2019	Impact to UCME P/kWh
	Total Cost of Service	11,031,917,594.55	0.1207
	Fuel Cost	5,557,575,590.97	0.0608
	Basic	4,701,746,759.86	0.0514
	Excise Tax on Fuel	855,828,831.11	0.0094
	Fixed Cost	5,474,342,003.58	0.0599
	Return on Rate Base	1,432,312,853.78	0.0157
	Total Revenue Requirement	12,464,230,448.33	0.1363
	Less:		
	Revenue from Sales	3,066,958,631.38	0.0335
1	TOTAL ME Subsidy for NPC-SPUG	9,397,271,816.95	0.1028
	NPP True Cost of Generation	14,659,812,258.87	0.1604
	Less: Revenue from SAGR charged to DUs	6,667,727,466.72	0.0729
2	TOTAL ME Subsidy for New Power Providers (NPPs)	7,992,084,792.16	0.0874
	QTP True Cost of Generation	347,497,326.51	0.0038
	Less: Revenue from SAGR charged to DUs	156,744,494.02	0.0017
3	TOTAL ME Subsidy for Qualified Third Party (QTPs)	190,752,832.49	0.0021
	UCME for NPC/NPP/QTP	17,580,109,441.60	0.1923
4	Renewable Energy Developer Cash Incentive	224,708,646.78	0.0025
5	TOTAL UCME, PhP	17,804,818,088.38	
6	Philippine Forecasted Energy Sales, kWh	91,414,712,438.19	
7	Rate Impact on UCME, P/kWh		0.1948

16. The Philippine Electricity Sales Forecast under DOE’s Power Development Plan (PDP) for CY 2019 was utilized to determine the proposed UCME charges of **PhP0.1948/kWh**.

IMPLICATIONS OF UCME SUBSIDY AND THE PROPOSED RATES

17. The proposed basic UCME for CY 2019 of **PhP0.1948/kWh** (inclusive of Cash Incentive to RE Developer of **PhP0.0025/kWh**), purposely to finance the operation for the year will result to an increase of PhP0.0768/kWh in UCME from provisionally approved basic UCME rate of PhP0.1163/kWh for NPC-SPUG and NPPs/QTPs and for RED-CI of PhP0.0017/kWh. Table 2 below shows the rate calculation of the Proposed Subsidy amount and the corresponding rates in P/kWh:

TABLE 2. Proposed CY 2019 UCME & Rates

PARTICULARS	NPC	NPPs	QTPs	REDCI	TOTAL
Revenue Requirement, PhP	12,464,230,448.33	14,659,812,258.87	347,497,326.51		27,471,540,033.72
Less:					
Revenue from Sales	3,066,958,631.38	6,667,727,466.72	156,744,494.02		9,891,430,592.12
UCME (NPC-SPUG, NPP/QTP)	9,397,271,816.95	7,992,084,792.16	190,752,832.49		17,580,109,441.60
Add: Renewable Energy Developer Cash Incentive (REDCI)				224,708,646.78	224,708,646.78
TOTAL UCME SUBSIDY CY 2019	9,397,271,816.95	7,992,084,792.16	190,752,832.49	224,708,646.78	17,804,818,088.38
Rate Impact on UCME, P/kWh	0.1028	0.0874	0.0021	0.0025	0.1948

18. The UCME Subsidy for the Cash Incentive will be remitted to Power Assets Sector Assets and Liabilities Management Corporation (“PSALM”) since it is mandated to directly disburse the same to eligible RE Developer under Article IV, Section 2 of Resolution 21, series of 2011. Hence, the Proposed UCME Subsidy Requirement that will be managed by NPC is Net of Cash Incentive.

19. The proposed UCME rate considered the commitment of NPC insuring that:

- a. the required volume of fuel will be timely paid to NPC suppliers to avoid non-delivery of fuel supply;
- b. the payment of NPPs & QTPs subsidy are timely made; and
- c. the missionary electrification functions in SPUG areas are fulfilled through continues operation of existing generating units and implement power development plans for each islands/grid.

- d. The provision of CI amount for payment to RE Developers, as mandated.

20. The National Power Board approved the filling of this instant petition as evidenced by the Secretary Certificate dated 2 July 2019, hereto attached as **ANNEX "D"**.

21. The proposed UCME for CY 2019 is based on the following pertinent documents attached herewith and correspondingly marked, as follows:

- | | |
|------------------|---|
| Annex "E" | Results of Operations for CY 2017 |
| Annex "F" | Condensed Statement of Financial Position as of December 31, 2017 and Condensed Statement of Financial Performance, 31 December 2017. |
| Annex "G" | Projected Philippines Electricity Sales Forecast(PDP 2015-2030) |
| Annex "H" | NPC-SPUG Projected Gross Generation and Energy Sales for CY 2019 with Projected Fuel Volume and Increase in Operating hours |
| Annex "I" | NPC SPUG Projected Results of Operations for CY 2019 |
| Annex "J" | Electric Plant in Service as of December 2017 |
| Annex "K" | NPC-SPUG Effective Rate as of May 2018 |

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR THE ISSUANCE OF A PROVISIONAL AUTHORITY

22. The issuance of a provisional authority under the instant petition is appropriate based on the following justifications:

- a. The proposed Basic UCME rate of **Php0.1948/kWh** inclusive of RE Cash Incentive for CY 2019 is necessary in order to cover the required subsidy requirements and at the same time, maintain a reliable and stable funding source for its operating

costs requirements including a sufficient subsidy for payment to NPPs/QTPs and RE Developers.

- b. There is a need to meet the customer's electricity requirements through the implementation of the proposed improvement of NPC's generation function aimed to provide a sustainable development in the off-grid areas and be able to connect electricity to the unserved communities in the far-flung areas including those areas whose electric services were waived by the Electric Cooperatives. The same can be done by bringing the gap between cost and revenue closer.
- c. The lack of funds from the UCME Subsidy and from supposedly transitory funds which can be sourced thru loans will definitely affect flexibility in NPC's funding and operation. Be it recalled that the Department of Justice (DOJ) issued an opinion which suspended NPC's authority to borrow funds or enter into a loan agreement.
- d. The need to fulfill NPC's commitment to provide efficient operation of its plants consistent with the specific programs in the missionary areas that NPC is currently serving. NPC operates numerous small power plants. Electricity in Small Islands and Isolated Grids (SIIGs) is relatively very expensive.

23. The issuance of a provisional authority is authorized under Section 3 Rule 14 of the Rules of Practice and Procedure. Likewise, the authority of the Honorable Commission to issue a provisional authority is confirmed by the Supreme Court in the case of ***Freedom from Debt Coalition, et. al. vs. ERC, et. al.***,⁵ when it held that "the power to approve provisional rate increases is included among the powers transferred to the ERC by virtue of Section 44 since the grant of that authority is not inconsistent with the EPIRA; rather, it is in full harmony with the thrust of the law which is to strengthen the ERC as the new regulatory body."

24. NPC-SPUG is thus imploring the kind consideration of this Honorable Commission and respectfully prays for the issuance of a provisional authority under the foregoing premises.

⁵

G.R. No. 161113, 15 June 2004

COMPLIANCE

25. In support of this petition and in compliance with Rule 6 of the ERC Rules of Practice and Procedures under ERC Resolution No. 38, Series of 2006 as well as Section 4(e) Rule 3 of the EPIRA Implementing Rules and Regulations, Petitioner NPC attaches and submits the following:

- a. Proof of Publication of the Petition once in a newspaper of general circulation hereto attached as **ANNEX "L"**.
- b. Proof of service of this Petition to the Legislative Bodies of the Local Government Units where NPC principally operate, hereto attached as **ANNEX "M"**

PRAYER

WHEREFORE, premises considered, petitioner NPC, respectfully prays **THAT**:

- a. Pending the hearing on the merits, an Order be issued granting **PROVISIONAL APPROVAL** to the proposed Basic UCME for CY 2019 amounting to **PhP17,804,818,088.38** or equivalent rate of **PhP0.1948/kWh**.
- b. The approval of the proposed Basic UCME for CY 2019 be on a per item basis as identified in **Table 2**, to wit:

	ABSOLUTE AMOUNT	P/kWh
NPC	9,397,271,816.95	0.1028
NPP	7,992,084,792.16	0.0874
QTP	190,752,832.49	0.0021
REDCI	224,708,646.78	0.0025
TOTAL UCME	17,804,818,088.38	0.1948

- c. After the hearing on the merits, the instant petition be **GRANTED** by the Honorable Commission.

Other just and equitable reliefs are likewise prayed for.

Quezon City for Pasig City, July 2018.

FOR THE SOLICITOR GENERAL



MELCHOR P. RIDULME

Vice President

Office of the General Counsel

Special Attorney-OSG

Roll of Attorneys No. 37784

PTR No. 5567664; 01/05/2018; Quezon City

IBP OR No. 01748; Lifetime; Ilocos Sur Chapter

MCLE Compliance No. V-0004048



DELFIN L. BUENAFE II

Department Manager

Legal Services Department

Special Attorney-OSG

Roll of Attorneys No. 48636

PTR No. 33865011; 01/09/2017; Quezon City

IBP OR No. 012829; Lifetime; Quezon City Chapter

MCLE Compliance No. V-0015579; 03/07/2016



MAY ROSE C. PINTOR

Corporate Attorney

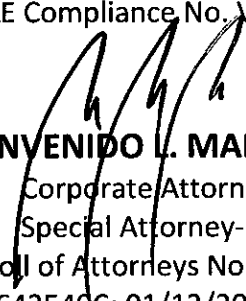
Special Attorney-OSG

Roll of Attorneys No. 47811

PTR No. 5567665; 01/05/2018; Quezon City

IBP OR No. 03387; Lifetime; Cebu City Chapter

MCLE Compliance No. V-0004045



BIENVENIDO L. MABULAC II

Corporate Attorney B

Special Attorney-OSG

Roll of Attorneys No. 64522

PTR No. 5643540C; 01/12/2018; Quezon City

IBP OR No. 1044693; 01/19/2018; CALMANA Chapter

MCLE Compliance No. V-0015579; 03/07/2016

Counsel for National Power Corporation

Office of the Legal Counsel

National Power Corporation

BIR Road cor. Quezon Avenue

Diliman, Quezon City

Tel. No. 02-921-9670

Republic of the Philippines)
Quezon City)S.S.

VERIFICATION AND CERTIFICATION

I, **PIO J. BENAVIDEZ**, of legal age, Filipino, with office address at NPC Office Building Complex Quezon Avenue corner BIR Road, Diliman, 1100 Quezon City, after being duly sworn hereby affirm and state that:

1. I am the President of National Power Corporation, the petitioner herein; I caused the preparation of this Petition, I have read the same and understood the allegations contained therein, and affirm that the contents thereof are true and correct based on authentic records at my disposal and on information of my own personal knowledge;
2. I am duly authorized by the Board of Directors to certify that petitioner NPC has not heretofore commenced any other action or proceeding involving the same issues before the Supreme Court, Court of Appeals or any other judicial, quasi-judicial or administrative tribunal. A copy of Resolution No. 2001-134 is attached as required by Rule 3, Section 4 of the Rules of Practice and Procedure.
3. To the best of my knowledge and belief, no such similar action or proceeding is pending before the Supreme Court, Court of Appeals, or any other tribunal or agency.
4. If I should hereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, I undertake to report such fact within five (5) days therefrom to the Honorable Commission.

IN WITNESS WHEREOF I have hereunto affixed my signature this ay of July 11, 2018 here at Quezon City.

PIO J. BENAVIDEZ
Affiant *att*

SUBSCRIBED AND SWORN TO before me this 11 day of July 2018 here at Quezon City, affiant exhibiting to me his NPC identification Card No. ^{APW1502281}_____ which is competent proof of his identity.

Doc. No. 110 ;
Page No. 23 ;
Book No. 11 ;
Series of 2018.

ATTY. RODOLFO M. DE SUZMAN, JR.
Notary Public for Quezon City
Commission No. NP-190 (2018-2019)
Commission Expires on December 31, 2019
IBP No. 025364; 01/10/18; RSM
PTR No. 5611536; 01/09/18; Quezon City
Roll No. 44291
MCLE Compliance No. V-4055; 10/07/14; Pasig City
4th Floor NPC Office Building
Quezon Ave. cor. BIR Road
Diliman, Quezon City