

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 1590 ENERGY CORPORATION (1590 EC), WITH PRAYER FOR THE ISSUANCE OF PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2017-017 RC**

**NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP) and 1590 ENERGY CORP. (1590 EC),**

**Applicants.**

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**D O C K E T E D**

Date: AUG 31 2017

By: [Signature]

**ORDER**

For the Commission's consideration is the prayer for issuance of provisional authority included in the Application dated 31 January 2017 filed by National Grid Corporation of the Philippines (NGCP) and 1590 Energy Corporation (1590 EC) on 9 March 2017.

**THE FACTS**

Relative to their prayer for issuance of provisional authority, Applicants alleged the following:

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

15. As mentioned above, the Honorable Commission has already declared that there is a necessity for NGCP to procure the contracted ancillary services capacity of 1590 EC to maintain the reliability of the operation of the transmission system and electricity supply in the Luzon Grid.

16. 1590 EC must provide DR to maintain the reliability of the power grid. Based on the current levels of available contracted AS in the Luzon Grid, the contracted AS have not yet met the required levels of the ASPP. The copies of the relevant actual data and its corresponding graphical presentations showing the required and available levels of AS in the Luzon Grid are attached as Annex "D."

17. NGCP must be guaranteed that there are available AS on a daily basis to assure reliability of the grid. There is no assurance that the non-firm capacities would be available when needed. NGCP cannot gamble on this chance. As the grid operator, the contracted capacity of 1590 EC, especially its firm capacities, are greatly needed.

18. Also, 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.

19. 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 "E."

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On 22 March 2017, the Commission issued an Order and a Notice of Public Hearing setting the case for initial hearing for the purpose of determination of compliance with jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on 8 June 2017 at three o'clock in the afternoon (3:00 P.M.), at the ERC Hearing Room, 15<sup>th</sup> Floor, Pacific Center, San Miguel Avenue, Pasig City.

On 11 May 2017, applicant NGCP filed a *Manifestation* of even date, informing the Commission that its co-applicant 1590 EC's

Buang Diesel Power Plant has successfully demonstrated its capacity to provide Dispatchable Reserve, attaching therein as proof, Accreditation Certificate No. 2017-L003 dated 15 April 2017 issued by NGCP.

### **THE ISSUE**

The issue for the Commission's resolution is whether NGCP and 1590 EC have satisfied the requirements provided by law for the grant of provisional authority.

### **THE COMMISSION'S RULING**

The Commission grants provisional authority to Applicants.

#### **I. THE LAW EMPOWERS THE COMMISSION TO GRANT PROVISIONAL AUTHORITY IN THE INSTANT CASE.**

Section 4(e), Rule 3 of the Implementing Rules and Regulations of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA IRR) empowers the Commission to issue provisional authority, to wit:

#### **SECTION 4. Responsibilities of the ERC. —**

(e) Any application or petition for rate adjustment or for any relief affecting the consumers must be verified, and accompanied with an acknowledgment of receipt of a copy thereof by the LGU Legislative Body of the locality where the applicant or petitioner principally operates together with the certification of the notice of publication thereof in a newspaper of general circulation in the same locality.

The ERC may grant provisionally or deny the relief prayed for not later than seventy-five (75) calendar days from the filing of the application or petition, based on the same and the supporting documents attached thereto and such comments or pleadings the consumers or the LGU concerned may have filed within thirty (30) calendar days from receipt of a copy of the application or petition or from the publication thereof as the case may be.

Thereafter, the ERC shall conduct a formal hearing on the application or petition, giving proper notices to all parties concerned, with at least one public hearing in the affected locality, and shall decide the matter on the merits not later than twelve (12) months from the issuance of the aforementioned provisional order.

This Section 4(e) shall not apply to those applications or petitions already filed as of 26 December 2001 in compliance with Section 36 of the Act.

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The above provision was upheld by the Supreme Court in the landmark case of *Freedom from Debt Coalition (FDC) vs. Energy Regulatory Commission (ERC)*<sup>1</sup> (FDC Case). The Court, speaking through Justice Tinga, traced the origin and development of the Commission's authority to grant provisional rates, to wit:

Historically, therefore, in this jurisdiction, at least beginning with the Public Service Act in 1936, the regulatory bodies concerned have exercised the power to grant provisional rate adjustments only because there was a statutory grant of such power.

The foregoing recital establishes the following salient points: (1) Section 16(c) of the Public Service Act authorizing the approval of provisional rate increases has never been repealed and as such continues to be in full force and effect up to the present; (2) The BOPW had the power to grant provisional rate increases on the basis of the provision of the Integrated Reorganization Plan that the pertinent powers of the PSC were transferred to it; (3) The applicability clause found in Section 44 of the EPIRA is the same as or similar to the applicability clauses contained in Sections 11 and 21 of P.D. No. 1206 and Section 14 of E.O. No. 172; and, (4) The applicability clause or transfer of power provision is sufficient to effect the transfer of powers from a regulatory agency to its successor.

**All told, the provisions of the Public Service Act and E.O. No. 172 which relate to the power of the regulatory body to approve provisional rates continue to have full force and effect, and the power was transferred to the ERC by virtue of Section 80 in relation to Section 44 of the EPIRA.** Said provisions are not inconsistent with the EPIRA except the directives therein dispensing with the need for prior hearing. They are deemed modified to the extent that the EPIRA imposes a publication requirement and, through the IRR, assures the customers affected the opportunity to oppose or comment on the application for provisional rate adjustment before it is acted upon by the ERC.

**Indeed, both the letter and spirit of the law require that the authority of the ERC to grant provisional power rate adjustments should be upheld. The law is so clear that it cannot be misread.**

[Emphasis supplied.]

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<sup>1</sup> G.R. No. 161113, 15 June 2004.

The Supreme Court expounded further on the Commission's power to grant provisional authority in the case of *National Association of Electricity Consumers for Reforms vs. ERC*<sup>2</sup> (NASECORE Case). The Court emphasized therein that Section 4(e), Rule 3 of the EPIRA IRR does not make a distinction as to which applications or petitions are subject of the Commission's power to grant provisional authority.

The instant Application seeks the Commission's approval of the Ancillary Services Procurement Agreement (ASPA) entered into between NGCP and SNAP-BI. The costs associated with Applicants' ASPA will ultimately be charged to the consuming public. As such, the Commission is empowered to grant provisional approval in the instant Application.

**II. APPLICANTS HAVE  
SATISFIED THE DUE  
PROCESS  
REQUIREMENTS FOR  
THE GRANT OF  
PROVISIONAL  
AUTHORITY.**

In the same NASECORE Case, the Supreme Court reiterated the procedural requisites before the Commission may grant provisional authority under Section 4(e), Rule 3, EPIRA IRR, to wit:

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- (1) The applicant must file with the ERC a verified application/petition for rate adjustment. It must indicate that a copy thereof was received by the legislative body of the LGU concerned. It must also include a certification of the notice of publication thereof in a newspaper of general circulation in the same locality.
- (2) Within 30 days from receipt of the application/petition or the publication thereof, any consumer affected by the proposed rate adjustment or the LGU concerned may file its comment on the application/petition, as well as on the motion for provisional rate adjustment.
- (3) If such comment is filed, the ERC must consider it in its action on the motion for provisional rate adjustment, together with the documents submitted by the applicant in support of its application/petition. If no such comment is filed within the 30-day period, then and only then may the

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<sup>2</sup> G.R. No. 163935, 02 February 2006.

ERC resolve the provisional rate adjustment on the basis of the documents submitted by the applicant.

- (4) However, the ERC need not conduct a hearing on the motion for provisional rate adjustment. It is sufficient that it consider the written comment, if there is any.
- (5) The ERC must resolve the motion for provisional rate adjustment within 75 days from the filing of the application/petition.
- (6) Thereafter, the ERC must conduct a full-blown hearing on the application/petition not later than 30 days from the date of issuance of the provisional order. Effectively, this provision limits the lifetime of the provisional order to only 12 months.

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NGCP and 1590 EC attached the following documents to their Application:

- a) Verification and Certification of Non-Forum Shopping dated 31 January 2017 executed by Ma. Cynthia Y. Manrique of NGCP;
- b) Verification and Certification of Non-Forum Shopping dated 31 January 2017 executed by Theo C. Sunico of 1590 EC;
- c) Affidavit of Service dated 28 February 2017 executed by Alberto I. Mapa attesting to his service of a copy of the Application to the Office of *Sangguniang Panlungsod* of Quezon City on 23 February 2017;
- d) Affidavit of Service dated 21 February 2017 executed by Jennifer G. Pardiñez attesting to her service of a copy of the Application to the Office of *Sangguniang Panlungsod* of San Fernando City, La Union on 8 February 2017;
- e) Affidavit of Service dated 21 February 2017 executed by Jennifer G. Pardiñez attesting to her service of a copy of the Application to the Office of the *Sangguniang Panlalawigan* of La Union on 8 February 2017;
- f) Affidavit of Service dated 23 February 2017 executed by Gliceria E. Empleo attesting to her

service of a copy of the Application to the Office of the *Sangguniang Panlungsod* of Biñan City and *Sangguniang Panlalawigan* of Laguna on 23 February 2017;

- g) Affidavit of Service dated 7 march executed by Genevive Calub Ganaden attesting to her service of a copy of the Application to the Office of the *Sangguniang Bayan* of the Municipality of Bauang, La Union on 6 March 2017;
- h) Affidavit of Service dated 6 march executed by George Ballos Tansengco attesting to his service of a copy of the Application to the Office of the *Sangguniang Panlungsod* of Makati City on 1 March 2017;
- i) Affidavit of Publication dated 24 February 2017 executed by Edwin L. Monforte of BusinessWorld attesting to the publication of the Application on the 24 February issue of the newspaper.

No Comment was received by the Commission within the thirty (30) day period within which the same may be filed, or until 8 April 2017. Thus, the prayer for provisional authority is being resolved on the basis of the documents submitted by Applicants. Likewise, the instant Order granting provisional authority is being issued within the seventy-five (75) day reglementary period which is set to end today, 23 May 2017.

In light of these circumstances, the Commission has determined that the procedural requirements for the issuance of a provisional authority as outlined by the Supreme Court in the NASECORE Case have been complied with.

**III. APPLICANTS HAVE  
SATISFACTORILY  
PROVEN THE  
NECESSITY FOR THE  
GRANT OF  
PROVISIONAL  
AUTHORITY.**

NGCP and 1590 EC anchored their prayer for issuance of a provisional authority on the ground that the current levels of available Ancillary Services in the Luzon Grid are significantly

insufficient to meet the levels required to ensure reliability of the grid system.

Applicants further alleged that as the demand for power in the Luzon Grid increases, the requirements of the system to ensure stability, reliability, and security likewise increases. Thus, ensuring the integrity of the system is essential as a matter of public interest.

NGCP and 1590 EC likewise stressed that absence of system reliability and stability will discourage investments and growth. In support of their allegations, NGCP provided an illustration of the available level for Dispatchable Reserve Ancillary Service in Luzon Grid for the period January 2016 to December 2016, to wit:

MONTH	DISPATCHABLE RESERVE			
	SCHEDULED (MW)	REQUIRED (MW)	AVAILABILITY (%)	DEFICIENCY (%)
January	415	436	95.26	4.74
February	509	546	93.25	6.75
March	486	512	94.98	5.02
April	508	556	91.35	8.65
May	482	526	91.71	8.29
June	453	577	78.52	21.48
July	242	525	46.21	53.79
August	242	559	43.25	56.75
September	437	478	91.26	8.74
October	328	427	76.80	23.20
November	335	441	76.05	23.95
December	379	413	91.77	8.23

As can be seen from the tables above, significant deficiencies remain in the available levels of Dispatchable Reserve in the country's main grid for the period January 2016 to December 2016.

Thus, the Commission finds merit in Applicants' allegations. The factual milieu surrounding the Application satisfies the substantial requirements for the grant of provisional authority.

**IV. THE PROVISIONAL  
AUTHORITY FOR THE  
IMPLEMENTATION OF  
APPLICANTS' ASPA,  
PENDING FINAL  
EVALUATION OF THE  
APPLICATION, WILL**



**REDOUND TO THE  
BENEFIT OF  
CONSUMERS.**

Under Republic Act No. 9136, otherwise known as the *Electric Power Industry Reform Act of 2001* (2001 EPIRA), Applicant NGCP, as TransCo's winning concessionaire, is mandated to ensure and maintain the reliability, adequacy, security, stability, and integrity of the nationwide electrical grid. NGCP is likewise tasked to adequately serve generation companies, distribution utilities, and suppliers requiring transmission services and Ancillary Services through the transmission system.

Section 4 (b) of the 2001 EPIRA defines Ancillary Services as services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system. Such services are essential in ensuring not only the reliability in the operation of the transmission system as a whole, but also in the supply of electricity throughout the Luzon, Visayas, and Mindanao Grids.

On 9 March 2006, the Commission issued an Order in ERC Case No. 2002-253<sup>3</sup>, approving TransCo's proposed Ancillary Services Procurement Plan (ASPP). In the same Order, the Commission directed TransCo to file a separate application for the approval of the Ancillary Services-Cost Recovery Mechanism (AS-CRM).

In consonance with this directive, on 11 September 2006, Transco filed an Application under ERC Case No. 2006-049 RC<sup>4</sup> seeking the Commission's approval of its proposed mechanism to recover costs accruing from procurement of Ancillary Services. On 3 October 2007, the Commission issued a Decision in the said case approving the AS-CRM to be used by TransCo to recover the cost of its Ancillary Services. In the same Decision, the Commission provided the following conditions for TransCo's recovery of Ancillary Services charges:

- a) The cost of procuring the ancillary services under the ASPP shall be recovered 100% from load customers but only until

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<sup>3</sup> Entitled "Application for the Approval of the Proposed Rules, Terms and Conditions for Open Access Transmission Service (OATS) and Proposed Rates, Terms and Conditions of Ancillary Services."

<sup>4</sup> Entitled "In The Matter Of The Application For The Approval Of The Ancillary Services-Cost Recovery Mechanism (AS-CRM) Of The Ancillary Services Procurement Plan (Aspp) With Prayer For Provisional Authority."

such time that such ancillary services are already traded in the Wholesale Electricity Spot Market; and

- b) All contracts for the procurement of ancillary services shall be submitted to the Commission for approval.

The instant Application seeks the approval of the ASPA entered into by NGCP, as TransCo's winning concessionaire, and 1590 EC last 5 January 2017. In their ASPA, 1590 EC agreed to provide NGCP with Ancillary Services, in particular, 1590 EC committed to make available power from its Bauang Diesel Power Plant located in Bauang, La Union, for NGCP to meet its Dispatchable Reserve requirements.

Dispatchable Reserve (DR) is a type of Ancillary Service which refers to the generating capacity that is not scheduled for Regular Energy Supply, Regulating Reserve, or Contingency Reserve. It also refers to interruptible loads not scheduled for Contingency Reserve, and that are readily available for dispatch in order to replenish the Contingency Reserve.

DR is called into service whenever a generating unit trips or a loss of a single transmission interconnection occurs. This type of Ancillary Service can be provided by Qualified Generators that are not connected to the Grid but have fast start capabilities and can ramp up their output to meet the required DR levels within thirty minutes.

The term of the ASPA entered into by Applicants is for a period of five (5) years, subject to annual performance evaluation. Applicants further agreed to both firm and non-firm schemes where the non-firm capacity to be delivered by the 1590 EC to NGCP will be up to 190 MW at a rate of PhP 1.25/kW/Hr.

In justifying their agreed rate, Applicants provided the following derivation:

ANCILLARY SERVICE	APPLICABLE RATE
Dispatchable Reserve	PhP1.25/kW/Hr

Incidental Energy Cost:

Cost of Incidental Energy (IE) shall be computed using the formula below:

$$IE = [(G \times CP) + VOMP + \text{Actual Fuel Cost}] - REV_{WESM}$$

Where, IE shall be paid by NGCP if it is greater than zero:

G = Summation of energy generated or dispatched in a particular interval hour due to Non-Firm Contracted Capacity, in kWh

CP = Capacity payment through WESM and shall be computed based on the Weighted average of capacity scheduled and nominated price

VOMP = Variable Operation and Maintenance Payment

$$VOMP = [VOM * (PCPI_a / PCPI_b)] * G^5$$

Where:

VOM = Variable O&M Fee rate equivalent to PhPo.40/kWh

PCPI<sub>a</sub> = equivalent to the Philippine Consumer Price Index (table 2006=100 summary for Monthly CPI for all Income Households – All Items) of the anniversary month of the contract, as published in the [www.census.gov.ph](http://www.census.gov.ph) or its substitute or replacement agency, as the case maybe.

PCPI<sub>b</sub> = equivalent to the Philippine Consumer Price Index (table 2006=100 summary for Monthly CPI for all Income Households – All Items) for the month the contract was signed, as published in the [www.census.gov.ph](http://www.census.gov.ph) or its substitute or replacement agency, as the case maybe.

G = Summation of energy generated or dispatched in a particular

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<sup>5</sup> ROS notes that the formula for VOMP is the same as the formula under the IPSA except for the variable "G". Under the IPSA, "G" is represented as "AE" or Associated Energy.

interval hour due to Non-Firm  
Contracted Capacity, in kWh

$$\text{Actual Fuel Cost} = \text{Fuel Payment} + \text{LFO Payment} + \text{LO Payment}$$

Where:

$$\text{Fuel Payment (FP)} = \text{HFO Price} * \text{HFO consumption rate} * G^6$$

HFO Price = actual Heavy Fuel Oil net delivered price, in PhP/liter, based on "weighted average" inventory price;

HFO consumption rate = 0.2438 liter/kWh or the actual consumption rate, whichever is lower;

G = Summation of energy generated or dispatched in a particular interval hour due to Non-Firm Contracted Capacity, in kWh

$$\text{LFO Payment} = \text{LFO Price} * \text{LFO consumption rate} * n * \text{TEU}$$

LFO Price = actual Light Fuel Oil net delivered price, in PhP/liter, based on "weighted average" inventory price;

LFO consumption rate = 200 liters per engine per instance of Start-up and Shutdown;

TEU = Total number of engine used;

n = number of start-up and shutdowns.

$$\text{LO Payment} = \text{LO Price} * \text{LO consumption rate} * G$$

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<sup>6</sup> ROS notes that the formula for VOMP is the same as the formula under the IPISA except for the variable "G". Under the IPISA, "G" is represented as "AE" or Associated Energy.

LO Price= actual Lube Oil net delivered price, in PhP/liter, based on “weighted average” inventory price;

LO consumption rate = 0.0022 liter/kWh or the actual consumption rate, whichever is lower;

G = Summation of energy generated or dispatched in a particular interval hour due to Non-Firm Contracted Capacity, in kWh

REV<sub>WESM</sub> = Summation of WESM revenue in a particular interval hour based on Final Ex-post market clearing price of the AS Provider’s Trading Node arising from G above.

NGCP alleged that its end goal in deriving the ASPA Rate is to lower cost to its consumers. Ancillary Services are pass-through costs and are revenue neutral for NGCP. However, NGCP alleged that it felt it was proper for it to procure the Ancillary Services at the lowest possible cost for the benefit of its consumer.

NGCP further alleged that in deriving the appropriate ASPA Rate, it considered a number of methodologies such as the New Build Methodology, the Opportunity Cost Methodology, and the Comparative Revenue Methodology. Ultimately, NGCP needed to entice generators to sign and commit their capacity.

NGCP emphasized that under its 2013 Application<sup>7</sup> for approval of the ASPA it entered into with San Roque Power Corporation (SRPC), its proposed rates were based on the New Build Methodology. The said Methodology takes into consideration the cost to NGCP of building of a new hydroelectric plant dam type that could provide all Ancillary Services.

A hydroelectric plant was chosen because of its capability to provide all three types of Ancillary Services: Regulating Reserve, Contingency Reserve, and Dispatchable Reserve. It is also the desirable type of technology in view of its minimal fuel costs. Under its 2013 Application, NGCP further used the cost of San Roque Power

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<sup>7</sup> Filed under ERC Case No. 2013-009 RC, entitled “*In the Matter of the Application for Approval of the Ancillary Services Procurement Agreement Between the National Grid Corporation of the Philippines and San Roque Power Corporation, with Prayer for the Issuance of Provisional Authority.*”

DISPATCHABLE RESERVE ANCILLARY SERVICE PROVIDER	RATE
SN Aboitiz Power-Benguet Inc. (SNAP-BI) Binga Hydroelectric Power Plant	PhP1.25/kW/Hr (Non-Firm)
San Roque Hydroelectric Power Plant	PhP1.50/kW/Hr (Non-Firm)
PAN-ASIA Limay Diesel	PhP1.12/ kW/Hr (Non-Firm)
SN Aboitiz Power-Magat Inc. (SNAP-MI) Magat Hydroelectric Power Plant	PhP1.25/kW/Hr (Non-Firm)
SN Aboitiz Power-Benguet Inc. (SNAP-BI) Ambuklao Hydroelectric Power Plant	PhP1.25/kW/Hr (Non-Firm)

The above data shows that the proposed DR rate of 1590 EC approximates the DR Rate of SN Aboitiz Power for its Binga HEPP, Magat HEPP, and Ambuklao HEPP. PAN-ASIA offered a lower DR rate; however, based on historical data, PAN-ASIA is not often scheduled for DR since it functions best as Regulating Reserve (RR) especially during times that the hydroelectric plants are not available. Thus, the PhP1.50/kWh of San Roque Hydroelectric Power Plant is the more appropriate amount to be considered as ceiling rate for DR Ancillary Service.

Further examination of the ASPA subject of the instant Application reveals that 1590 EC is under obligation to deliver NGCP's procured Ancillary Services capacity of up to 190 MW on a non-firm basis. This means that 1590 EC has the right to decide whether or not it would nominate any capacity to be made available to NGCP for Ancillary Service. On the other hand, NGCP has the option to schedule or not schedule the capacity nominated without any corresponding penalty or payment.

Thus, only in the instance where 1590 EC nominates a certain capacity from its power plant, and NGCP schedules the said capacity nominated, can that capacity be relied upon and tapped by NGCP as DR to address the needs of the grid.

The Commission also looked into the capability of 1590 EC's Bauang Diesel Power Plant (DPP) to provide NGCP's required Ancillary Service. According to Applicants, the Bauang DPP of 1590 EC has 21 generating units, with a total rated capacity of 212.80 MW.

The Bauang DPP is likewise equipped with a standby 260 kW Diesel Blackstart Generator Set with Certificate of Compliance (COC) No. 13-09-GXT 9-0009L issued by the Commission on 30 September 2013, and valid until 8 July 2018. The said COC indicates that the power plant has a 25 year asset life.

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Thus, only in the instance where 1590 EC nominates a certain capacity from its power plant, and NGCP schedules the said capacity nominated, can that capacity be relied upon and tapped by NGCP as DR to address the needs of the grid.

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Further, Applicants' submissions reveal that 1590 EC has a Power Supply Agreement (PSA) Manila Electric Company filed under ERC Case No. 2016-010 RC<sup>9</sup>. 1590 EC's PSA with MERALCO is for the following capacity:

CAPACITY	TRADING INTERVAL	PERIOD
170 MW (firm Contract Capacity)	1000H - 2100H Mondays to Saturdays	February 26 – July 25, 2016
Up to 170 MW (non-firm)	1000H- 2100H Mondays to Saturdays	July 26, 2016 – February 25, 2017

Aside from its PSA with MERALCO, 1590 EC also currently sells its generated capacity in the Wholesale Electricity Spot Market (WESM). 1590 EC further alleged that its PSA with MERALCO is still effective until 25 February 2018 on a non-firm basis in accordance with Article 1.1.2<sup>10</sup> of 1590 EC and MERALCO's PSA.

Further, based on the 2014 and 2015 Audited Financial Statements of 1590 EC, the following revenues were reported owing to several PSAs entered into by 1590 EC:

BUYER	2014 (PHP IN MILLIONS)	2015 (PHP IN MILLIONS)
MERALCO	1,359.4	1,324.6
Trans-Asia Oil	168.6	-
VECO	-	147.4
CEDC	-	45
PELCO II	-	60.3

Applicants NGCP and 1590 EC likewise attached to their Application Bauang DPP's Ancillary Services Certification Accreditation No. 2017-L003 issued by NGCP on 15 April 2017. The said document certifies that Bauang HEPP has successfully proven its capability to DR of 190 MW. The said plant was further certified to have met and complied with the Standard Ancillary Services

<sup>9</sup> Entitled, "In the Matter of the Application for the Approval of the Interim Power Supply Agreements between Manila Electric Company (MERALCO) and 1590 Energy Corporation (1590EC), with Prayer for Provisional Authority," and granted Provisional Authority on 5 April 2016.

<sup>10</sup> "The Term shall be automatically extended for an additional period of one (1) year under the same terms and conditions set forth in this Agreement, unless terminated by either Party by sending written notice to the other Party ninety (90) days prior to the expiration of the Term. In no case shall the automatic extension of this Agreement exceed two (2) years."



Technical Requirements of System Operations during the actual testing of the said plant.

The EPIRA mandates the Commission to exercise regulatory oversight in NGCP's performance of its responsibility to construct, install, finance, improve, expand, rehabilitate, and repair the nationwide transmission system and the grid. The Commission's initial evaluation of the instant Application disclosed that the contracted Ancillary Service subject of the SPA between NGCP and 1590 EC is essential to augment the deficiency of Ancillary Reserve capacity that is crucial in maintaining the reliability not only in the operation of the transmission system, but also in the reliability of the supply of electricity in the Luzon Grid.

**IN VIEW OF THE FOREGOING**, Applicants NGCP and 1590 EC are **GRANTED PROVISIONAL AUTHORITY** to implement their Ancillary Services Procurement Agreement (ASPA), subject to the following conditions:

1. Applicants are **DIRECTED** to observe the following procedures and the corresponding rates applicable:

1590 EC shall nominate the corresponding price, in per kW capacity per hour, for the Ancillary Service capacity to NGCP. In the event that the said nominated capacity is scheduled for Ancillary Service (AS), the pricing shall be as follows:

- a. Scheduled capacity without energy dispatched:

NGCP shall pay 1590 EC the corresponding nominated price of the scheduled capacity. Provided, however, that the nominated price shall in no case exceed the following Fixed Fee Rate, without any minimum cost:

ANCILLARY SERVICE	APPLICABLE RATE (MAXIMUM HOURLY RATE)
	NON-FIRM
Dispatchable Reserve	PhP1.25/kW/hr

b. Scheduled capacity with energy dispatched

The ASPA Rate shall be recovered through settlement on the Wholesale Electricity Spot Market (WESM). Thus, in this case, the Ancillary capacity is free of charges as the cost is recovered through the WESM.

1590 EC shall be entitled to a Monthly Minimum Incidental Energy Cost based on actual dispatch and the cost of generation computed using the formula provided under Schedule 4 of the ASPA.

Further, in the event that revenue from WESM exceeds the calculated Monthly Minimum Incidental Energy Cost, the excess shall be used to off-set any positive amount determined within the relevant period or to the immediately succeeding billing month.


2. NGCP is DIRECTED to optimize the economic and technical dispatch of the available Ancillary Service capacity wherein it shall schedule a mix of hourly Ancillary Service capacity at least cost for a reserve needed to maintain power quality, security, reliability, and integrity of the grid;
3. NGCP is DIRECTED to strictly observe the approved Ancillary Services-Cost Recovery Mechanism (AS-CRM) in passing on to its customers the costs related to the Ancillary Services to be provided by 1590 EC.
4. NGCP is DIRECTED to submit the monthly computation of Ancillary Service Rates that it passed on to its customers, with supporting documents on or before the 5<sup>th</sup> day of every month; and
5. The above recommended interim rates shall be effective on the next billing cycle of NGCP from receipt of the Order. In the event that the final rates are higher than the amount granted herein, the resulting additional charges shall be collected by 1590 EC from NGCP and the latter shall pass it on to its customers. On the other hand, if the final rates are lower than the amount granted herein, the amount

corresponding to the reduction shall be refunded by 1590 EC to NGCP and the latter shall pass it on to its customers.

**SO ORDERED.**

Pasig City, 23 May 2017.

**JOSE VICENTE B. SALAZAR\***  
*Chairman and CEO*

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

  
**GLORIA VICTORIA C. YAP-TARUC**  
*Commissioner*

  
**JOSEFINA PATRICIA A. MAGPALE-ASIRIT**  
*Commissioner*

(On Leave)  
**GERONIMO D. STA. ANA**  
*Commissioner*

LS: IGG/RFM/ APV

ROS: NVR/ AJMO/ FJD

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\* On preventive suspension as per Order of the Office of the President (OP-DC Case No. 17-D-094) dated 2 May 2017 and received 4 May 2017.

\*\* Designated as Officer-in-Charge of ERC as per Memorandum from the Executive Secretary dated 4 May 2017 and received 4 May 2017.

5. Office of the Mayor  
Quezon City
6. Office of the Local Government Unit (LGU) legislative body  
Quezon City
7. Office of the Solicitor General (OSG)  
134 Amorsolo Street, Legaspi Village  
Makati City
8. Commission on Audit (COA)  
Commonwealth Avenue  
Quezon City
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,  
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12. National Transmission Corporation (TransCo)  
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13. Regulatory Operations Service  
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