

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
GREEN CORE
GEOTHERMAL, INC.
(GCGI), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2017-025 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
GREEN CORE
GEOTHERMAL, INC.
(GCGI),**

Applicants.

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D O C K E T E D
Date: SEP 18 2017
By: [Signature]

ORDER

For the Commission's consideration is the prayer for issuance of provisional authority included in the Application dated 24 February 2017 filed by National Grid Corporation of the Philippines (NGCP) and Green Core Geothermal, Inc. (GCGI) on 23 March 2017, seeking the Commission's approval of the Ancillary Services Procurement Agreement (ASPA) dated 4 January 2017 entered into by both parties.

THE FACTUAL AND PROCEDURAL ANTECEDENTS

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.

15. The current levels of available contracted AS 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 GCGI 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 GCGI to ensure and maintain the reliability, adequacy, security, stability and integrity of the Visayas Grid cannot be overemphasized. Hence, the parties agreed that GCGI 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.¹

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."

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THE ISSUE

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

THE COMMISSION'S RULING

¹ 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.

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)*² (FDC Case). The Court, speaking through Justice Tinga, traced the origin and development of the Commission's authority to grant provisional rates, to wit:

² G.R. No. 161113, 15 June 2004.

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.]

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*³ (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 GCGI. The costs associated with Applicants' ASPA will ultimately be charged to the consuming public. As such, the

³ G.R. No. 163935, 02 February 2006.

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 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 GCGI attached the following documents to their Application:

- a) Verification and Certification of Non-Forum Shopping dated 27 February 2017 executed by Ma. Cynthia Y. Manrique of NGCP;
- b) Verification and Certification of Non-Forum Shopping dated 27 February 2017 executed by Nestor H. Vasay;
- c) Affidavit of Service dated 2 March 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 even date;
- d) Affidavit of Service dated 2 March 2017 executed by Ma. Relly A. Cabatuan attesting to her service of a copy of the Application to the Offices of *Sangguniang Panlungsod* of Cebu City and *Sangguniang Panlalawigan* of Cebu Province on even date;
- e) Affidavit of Service dated 14 March 2017 executed by Pacita P. Nuique attesting to his service of a copy of the Application to the Office of *Sangguniang Panlungsod* of Valencia City on even date;
- f) Affidavit of Service dated 14 March 2017 executed by Pacita P. Nuique attesting to his service of a copy of the Application to the Office of *Sangguniang Panlalawigan* of Negros Oriental on even date;
- g) Affidavit of Publication dated 10 March 2017 executed by Jenny J. Namang of Business Mirror attesting to the publication of the Application on the 10 March 2017 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 1 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, 6 June 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 GCGI anchored their prayer for issuance of a provisional authority on the ground that the current levels of available Ancillary Services (AS) in the Visayas Grid are significantly insufficient to meet the levels required to ensure reliability of the grid system.

Applicants further alleged that the current levels of available contracted AS in the Visayas Grid have not yet met the required levels under the Ancillary Services Procurement Plan (ASPP), particularly on the Regulating Reserve (RR) and Contingency Reserve (CR). NGCP currently has no contracted capacity for RR and very low levels of contracted capacity for CR.

Both Applicants also alleged that the entry of GCGI as an additional AS provider ensures competition between and among AS providers which will ultimately initiate a downward pressure on current prices.

NGCP and GCGI likewise stressed that absence of system reliability and stability will discourage investments and growth. In support of their allegations, NGCP provided the following illustration of the available level of AS for the Visayas Grid during the period January 2016 to December 2016:

MONTH	REGULATING RESERVE (RR)			
	SCHEDULED (MW)	REQUIRED (MW)	AVAILABILITY (%)	DEFICIENCY (%)
January	0	50	0	100
February	0	51	0	100
March	0	49	0	100

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April	0	58	0	100
May	0	61	0	100
June	0	60	0	100
July	0	57	0	100
August	0	59	0	100
September	0	59	0	100
October	0	58	0	100
November	0	60	0	100
December	0	57	0	100

MONTH	CONTINGENCY RESERVE (CR)			
	SCHEDULED (MW)	REQUIRED (MW)	AVAILABILITY (%)	DEFICIENCY (%)
January	3	120	2.78	97.22
February	3	106	2.95	97.05
March	3	99	2.71	97.29
April	4	105	3.49	96.51
May	4	102	3.97	96.03
June	4	106	3.60	96.40
July	3	109	3.20	96.80
August	3	103	2.60	97.40
September	2	102	2.36	97.64
October	2	96	1.66	98.34
November	2	103	1.56	98.44
December	2	96	1.66	98.34

MONTH	DISPATCHABLE RESERVE (DR)			
	SCHEDULED (MW)	REQUIRED (MW)	AVAILABILITY (%)	DEFICIENCY (%)
January	84	96	87.65	12.35
February	101	106	94.85	5.15
March	82	99	82.49	17.51
April	92	105	87.15	12.85
May	86	100	85.94	14.06
June	81	101	80.41	19.59
July	84	96	88.09	11.91
August	78	91	86.30	13.70
September	83	92	89.97	10.03
October	78	88	88.85	11.15
November	75	84	89.22	10.78
December	84	91	91.76	8.24

As can be seen from the tables above, significant deficiencies remain in the available levels of RR, CR, and DR in the Visayas 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. 2002-2534, 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).

⁴ 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."

In consonance with this directive, on 11 September 2006, Transco filed an Application under ERC Case No. 2006-049 RC⁵ 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 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 GCGI last 4 January 2017. In their ASPA, GCGI agreed to provide NGCP with Ancillary Services, in particular, GCGI committed to make available power from its Palinpinon Geothermal Power Plant II (Palinpinon GPP II) located in Valencia City, Negros Oriental, for NGCP to meet its Regulating Reserve requirements. The power to be delivered by GCGI will come from Palinpinon GPP II's Okoy 5 and Sogongon 1 and Sogongon 2 generating units.

Regulating Reserve (RR), also called load following and frequency regulating reserve, refers to the generating capacity that is allocated exclusively to cover inter and intra-hour variations in demand, also known as load behaviors. RR is likewise used to address variations from generation schedules and hourly forecasts.

During normal system conditions, loads and generator outputs vary from time to time. This behavior results in imbalance between supply and demand which is characterized by small deviations in system frequency. The Philippine Grid Code (PGC) requires that under normal conditions the frequency should remain within +/- 0.6 Hz of the standard 60.0 Hz in order to ensure quality of supply and security of the Grid. RR ensures that this standard is observed.

⁵ 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."

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 a non-firm scheme where GCGI will deliver 30 MW to NGCP at a rate of PhP3.00/kW/Hr.

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

ANCILLARY SERVICE	NON-FIRM	
	PHP/kW/HR	MW
Okoy 5 (RR)	3.00	Up to 10 MW
Sogongon Units 1 & 2 (RR)		Up to 10 MW
Sogongon Units 1 & 2 (RR)		Up to 10 MW
TOTAL		Up to 30 MW

Ancillary Services Fee:

$$\text{Ancillary Services Fee (PhP)} = (\text{ARN} \times \text{CCN}) + \text{IE}$$

Wherein:

ARN = Applicable Rates for Non-Firm Contracted Capacity, in PhP/kW/Hr

Non-Firm Contracted Capacity RR - the lower of:

- i. The nominated price in PhP/kW/Hr; and
- ii. PhP3.00/kW/Hr

CCN = Sum of the Undispatched portion of the Non-Firm Contracted Capacity (scheduled by NGCP), in kW/Hr

IE = Incidental Energy, in PhP

Where, if IE is less than zero (0), then IE shall be equal to zero (0)

Incidental Energy:

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

$$\text{IE} = G \times (\text{CP} + \text{VOM} + \text{FC}) - \text{REV}_{\text{WESM}}$$

Wherein:

- G** = Summation of energy generated or dispatched per interval due to the Non-Firm Contracted Capacity scheduled by NGCP, in kWh
- CP** = Capacity payment for the dispatch portion of the Non-Firm Contracted Capacity (scheduled by NGCP) and shall be computed based on the Weighted average of the hourly dispatched portion of the Non-Firm Contracted Capacity scheduled and the nominated price
- VOM** = Variable Operation and Maintenance Cost (PhPo.5565/kWh)
- FC** = Fuel Cost arising from G and shall be computed based on the Weighted average of the hourly dispatched portion of the Non-Firm Contracted Capacity scheduled and the Fuel Cost corresponding to the Unit, as specified in the Fuel Cost Table below.
- REV_{WESM}** = Summation of WESM trading amount per interval based on the Final Ex-ante and Ex-post nodal price of the AS Provider's Trading Node arising from G.

Fuel Cost table:

PGPP II FUEL COST FOR OKOY 5, SOGONGON UNIT 1, SOGONGON UNIT 2	
LOAD (kWh)	FUEL COST PhP/kWh
10,000.00	-
11,000.00	11.31
12,000.00	5.65
13,000.00	3.77
14,000.00	2.83
15,000.00	2.26
16,000.00	1.88
17,000.00	1.58
18,000.00	1.35
19,000.00	1.18
20,000.00	1.04

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 believed that the procurement of the Ancillary Services should be 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 Application⁶ 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 Plant as benchmark based on the following assumptions: a) it was built fairly recently (2003) compared to Magat (1983) or CBK (1950-1982); b) it has a large capacity at 411 MW; and c) the plant is certified for all three Ancillary Services.

The following assumptions were thus used by NGCP to project the cost of building a similar power plant, pursuant to the New Build Methodology:

San Roque Build Cost: US\$ 1.17 bn⁷
Installed Capacity: 411 MW
Actual Build Cost: US\$2.89/MW
Range: +/- 15%
New Build Cost Range: US\$ 2.17-3.33mn per MW
WACC: 15%
Plant Life: 25 years
Estimated Capital Cost: PhP 1.57 – PhP 2.41/kWh

⁶ 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.*”

⁷ http://www.eca-watch.org/problems/asia_pacific/philippines/sanroqueproject.html.

Based on the actual build cost to construct a hydroelectric power plant, and applying a range of plus or minus 15%, a return on capital of 15%, and with a projected plant life of 25 years, Applicant NGCP thus arrived at its estimated cost range of PhP1.57/kWh to PhP2.41/kWh. These same assumptions were used by NGCP in determining the ASPA Rate it offered to GCGI

The Commission likewise compared the rates in the instant ASPA with the previously approved ASPA Rates of NGCP. The table below shows the different ASPA Rates entered into by NGCP with various generation companies:

REGULATING RESERVE ANCILLARY SERVICE PROVIDER	RATE
ERC Case No. 2017-016 RC SN Aboitiz Power-Benguet Inc. (SNAP-BI) Binga Hydroelectric Power Plant (HEPP)	PhP3.00 /kW/Hr (Non-Firm)
ERC Case No. 2013-009 RC San Roque Hydroelectric Power Plant (HEPP)	PhP3.00 /kW/Hr (Non-Firm)
ERC Case No. 2016-165 RC SN Aboitiz Power-Benguet Inc. (SNAP-BI) Ambuklao Hydroelectric Power Plant (HEPP)	PhP3.00 /kW/Hr (Non-Firm)
ERC Case No. 2016-164 RC SN Aboitiz Power-Magat Inc. (SNAP-MI) Magat Hydroelectric Power Plant(HEPP)	PhP3.00/kW/Hr (Non-Firm)

The above data shows that the proposed RR Rate of GCGI approximates the rates for SNAP for its Binga HEPP, Magat HEPP, and Ambuklao HEPP.

Further examination of the ASPA subject of the instant Application reveals that GCGI is under obligation to deliver NGCP's procured Ancillary Services capacity of up to 30MW under a non-firm scheme. Under this scheme, GCGI 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 GCGI 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 RR to address the needs of the grid.

The Commission also looked into the capability of GCGI's Palinpinon GPP II's Okoy 5 and Sogongon 1 and Sogongon 2 generating units. Okoy 5 has 1 generating unit with a rated capacity of 20.0MW while Sogongon Units 1 and 2 have a rated capacity of 20.0 MW per unit.

GCGI submitted the Certificate of Compliance (COC) No. 10-11-GXT 2861-13419V issued by the Commission on 8 November 2010 for the Palinpinon GPP I & II. Both Okoy 5 and Sogongon Units 1 and 2 were included in the Palinpinon GPP II's COC. GCGI has filed with the Commission on 4 May 2015 the application for the renewal of the said COC of Palinpinon GPP I & II. On 3 May 2017, the Commission approved the extension of the Provisional Authority to Operate (PAO) of GCGI for the said plants pending the publication of the 2017 Resolution of the Market Share Limitation (MSL).

Further examination by the Commission of the submissions of both parties reveal that with GCGI's takeover of the Palinpinon and Tongonan power plants effective 23 October 2009 from the Power Sector Assets and Liabilities Management (PSALM), GCGI also assumes responsibility over the National Power Corporation (NPC)'s twelve (12) existing Power Supply Contracts with various Distribution Utilities. Notwithstanding these obligations, under the instant ASPA entered into by GCGI with NGCP, GCGI ensures that Okoy 5 and Sogongon Units 1 and 2 have the available capacity to provide the contracted non-firm RR of up to 30MW.

GCGI also submitted the provisional Accreditation Certificate No. 2016-v0003 issued by NGCP on 26 October 2016. The said certification attests that the Okoy 5 and Sogongon Unit 1 have successfully demonstrated their capability to provide the Regulating Reserve Ancillary Service of 10.0MW each under the Free Governor Mode (FGM) as mandated by the Grid Code under the Test Requirements Section 6.10.1.

The said units were further certified to have partially met and complied with the Standard Ancillary Services Technical Requirements of the System Operations during the actual testing of the said plant. The said provisional certificate requires Okoy 5 and Sogongon Unit 1 to shift to Automatic Generation Control (AGC) within one year from said issuance of certificate and thereafter to undergo annual AS certification test and must comply the Standard Ancillary Services Technical Requirements.

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 GCGI 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:

GCGI 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 GCGI 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
Regulating Reserve	PhP3.00/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.

GCGI 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 GCGI.
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 5th day of every month; and
5. NGCP and GCGI's prayer for full and retroactive recovery of Ancillary Services Cost for Regulating Reserve is DENIED.
6. The above provisional 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 GCGI 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 GCGI to NGCP and the latter shall pass it on to its customers.

SO ORDERED.

Pasig City, 6 June 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



GERONIMO D. STA. ANA
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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.

5. Office of the Mayor
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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,
McKinley Town Center, Fort Bonifacio, Taguig City
12. National Transmission Corporation (TransCo)
Quezon Avenue corner BIR Road
13. Regulatory Operations Service
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