

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



**IN THE MATTER OF THE  
JOINT APPLICATION FOR  
APPROVAL OF THE  
ANCILLARY SERVICES  
PROCUREMENT  
AGREEMENT BETWEEN THE  
NATIONAL GRID  
CORPORATION OF THE  
PHILIPPINES AND THERMA  
MARINE, INC. (FOR MOBILE  
1), AND APPROVAL OF THE  
INCIDENTAL ENERGY  
SUPPLY AGREEMENT  
TEMPLATE, WITH PRAYER  
FOR ISSUANCE OF  
PROVISIONAL AUTHORITY,**

**ERC CASE NO. 2017-075 RC**

**NATIONAL GRID  
CORPORATION OF THE  
PHILIPPINES AND THERMA  
MARINE, INC.,**

**Applicants.**

**x -----x**

**D O C K E T E D**  
Date: OCT 20 2017  
By: [Signature]

**O R D E R**

On 18 August 2017, the National Grid Corporation of the Philippines (NGCP) and Therma Marine, Inc. (TMI) filed an Application seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA) and of their Incidental Energy Supply Agreement Template (IESAT), with prayer for the issuance of a provisional authority.

In their Application, NGCP and TMI alleged the following:

**NATURE OF THE CASE**

1. This Application is for the approval of the Ancillary Services Procurement Agreement (ASPA) between the NGCP and

TMI, pursuant to the Decision dated 3 October 2007 in ERC Case No. 2006-049RC, entitled: *“In the Matter of the Application for the Approval of Ancillary Services – Cost Recovery Mechanism (AS-CRM) of the Ancillary Services Procurement Plan, with Prayer for Provisional Authority” and approval of the accompanying “Incidental Energy Supply Agreement” template.*

### **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. 9511<sup>1</sup> 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 TMI is a generation company duly organized and existing under the laws of the Republic of Philippine with office address in Barangay Nasipit, Agusan del Norte. It owns and operates a 100MW Power Barge (Mobile 1) in Barangay San Roque, Maco, Compostela Valley, which has been certified and accredited by NGCP to be capable of providing Contingency Reserve (“CR”) and Dispatchable Reserve (“DR”). The copies of the Securities and Exchange Commission Certificate of Filing of the Amended Articles of Incorporation, Amended Articles of Incorporation, General Information Sheet, and the Honorable Commission’s issued Certificate of Compliance for Mobile 1, are attached hereto as **Annexes “A”, “B”, “C” and “D”**, respectively.

### **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 system<sup>2</sup>.
5. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed

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<sup>1</sup> 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.

<sup>2</sup>Section 9 (c) and (d).

to supply the required Grid Ancillary Services and for developing and proposing Wheeling Charges and Ancillary Service tariffs to the ERC<sup>3</sup>.

6. Ancillary services (AS) as defined in Section 4b of the EPIRA, “refer to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act.” These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.
7. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (ASPP) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (AS-CRM) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
8. Pursuant to its mandate, NGCP invited and negotiated with all prospective generation companies capable of providing ancillary services, one of which is TMI.
9. On 16 November 2016, NGCP issued *Accreditation Certificate No. 2016-M011 for TMI-Mobile 1*, certifying that the power plant has met and complied with the Standard Ancillary Services Technical Requirements of the ASPP. The copy of the Accreditation Certificate No. 2016-M011 for TMI-Mobile 1, dated 16 November 2016 is attached as **Annex “E”**.
10. Consequently, on 31 July 2017, NGCP and TMI entered into an Ancillary Services Procurement Agreement (“ASPA”) for TMI to provide the Mindanao Grid, on a non-firm basis for:
  - a. Contingency Reserve
    - i. 48MW, less Pmin for Mobile 1 Unit 1; and
    - ii. 48MW, less Pmin for Mobile 1 Unit 2.
  - b. Dispatchable Reserve
    - i. Up to 48MW for Mobile 1 Unit 1; and
    - ii. Up to 48MW for Mobile 1 Unit 2.

A copy of the ASPA is attached as **Annex “F.”**

#### **CONTRACTED CAPACITY RATES AND IMPACT SIMULATION**

11. Schedule 4 of the ASPA provides for the agreed upon formula for the computation of the ancillary fees as well as the

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<sup>3</sup>Section 6.3.1.2 of 2007 Philippine Grid Code.

applicable maximum hourly rate for the ancillary services covered by the ASPA:

Non-Firm:

<b>Ancillary Service</b>	<b>Applicable Rates (Maximum Hourly Rate)</b>
Contingency Reserve (Primary Reserve)	Php2.25/kW/Hr
Dispatchable Reserve (Tertiary Reserve)	Php1.25/kW/Hr

12. It is respectfully submitted that the rates represent reasonable recovery of opportunity cost in making available generation capacity to provide the procured AS.
13. The rate under the ASPA were subjected to a simulation with the following results:

<b>Ancillary Services</b>	<b>Indicative Rate Impact</b>	
	<b>P/kW-mo</b>	<b>P/kWh</b>
Contingency Reserve (Primary Reserve)	16.2556	0.0345
Dispatchable Reserve (Tertiary Reserve)	24.0824	0.0511

A copy of the rate impact simulation is attached as **Annex "G."**

14. Until such time when the Wholesale Electricity Spot Market (WESM), or any similar market, is in commercial operation in Mindanao, TMI's load customers shall pay for the Incidental Energy Fee.
15. Under the accompanying IESA template, TMI shall supply Incidental Energy to TMI's customers when it has been dispatched for ancillary services. TMI's customers shall pay the corresponding Incidental Energy Fee relative to Contingency or Dispatchable Reserves computed as follows:

**Incidental Energy Fee**

$$\text{Incidental Energy Fee (IEF)} = (G \times (\text{Fuel} + \text{VOM}))$$

$$G = \sum_{j=1}^n \sum_{i=1}^{\text{intervals}} \text{Energy}_{ij}$$

$$\text{Fuel} = \text{HFR} + \text{LOR} + \text{related actual fuel cost, in Php/kWh}$$

$$\text{HFR} = \text{HFCR} \times \text{Actual HF cost per liter, in Php/kWh}$$

$$\text{LOR} = \text{LOCR} \times \text{Actual LO cost per liter, in Php/kWh}$$

$$\text{VOM} = 0.15245 \frac{\text{Php}}{\text{kWh}} \times \text{IF}_v + \text{SSC}$$

$\text{IF}_v$  = Inflation factor for VOM

$$= \frac{0.06897 + 0.10982 \times \left(\frac{\text{PCPI}_m}{\text{PCPI}_b}\right) + 0.13370 \times \left(\frac{\text{UCPI}_m}{\text{UCPI}_b}\right) \times \left(\frac{\text{KPI}_m}{\text{KPI}_b}\right) + 0.22917 \times \left(\frac{\text{ECPI}_m}{\text{ECPI}_b}\right) + 0.45834 \times \left(\frac{\text{JCPI}_m}{\text{JCPI}_b}\right)}{\left(\frac{\text{PCPI}_m}{\text{PCPI}_b}\right) \left(\frac{\text{UCPI}_m}{\text{UCPI}_b}\right) \left(\frac{\text{KPI}_m}{\text{KPI}_b}\right) \left(\frac{\text{ECPI}_m}{\text{ECPI}_b}\right) \left(\frac{\text{JCPI}_m}{\text{JCPI}_b}\right)}$$

$\text{SSC}$  = start-up fees applicable to DR, in Php/ kWh, for the current billing period

$$= \frac{s \times [(V_{\text{HFO}} \times \text{Actual HF cost per liter}) + (V_{\text{lube}} \times \text{Actual LO cost per liter})]}{\text{Total Energy}}$$

Where:

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

$n$  = the number of days in the billing month.

Fuel = fuel oil, lube oil and related fuel rates, in Php/kWh.

= The monthly actual cost per liter of fuel oil, lube oil and related fuel shall be calculated based on the “first in, first out” procedure using the data of actual monthly invoices of deliveries, inventories and consumption.

HFR = Heavy fuel oil rate in Php/kWh

LOR = Lube oil rate in Php/kWh

HFCR= Heavy fuel oil consumption rate of 0.23580 liters/kWh or actual, whichever is lower.

LOCR= Lube oil consumption rate of 0.00240 liters/kWh or actual, whichever is lower.

PCPI<sub>m</sub> = Philippine CPI of the current billing month

PCPI<sub>b</sub> = Philippine CPI of 126.4 as of June 2011

UCPI<sub>m</sub> = US CPI of the current billing month

UCPI<sub>b</sub> = US CPI of 225.722 as of June 2011

ECPI<sub>m</sub> = EURO CPI of the current billing month

ECPI<sub>b</sub> = EURO CPI of 96.050 as of June 2011 [2015=100]

JCPI<sub>m</sub> = Japan CPI of the current billing month

JCPIb	=	Japan CPI of 96.4 as of June 2011 [2015=100]
PUXm	=	Peso to US Dollar exchange rate at the end of the current billing month
PUXb	=	Peso to US Dollar exchange rate of 44.8210 PHP/USD as of 17 May 2010
PEXm	=	Peso to EURO exchange rate at the end of the current billing month
PEXb	=	Peso to EURO exchange rate of 55.4032 PHP/EURO as of 17 May 2010
PYXm	=	Peso to Yen exchange rate at the end of the current billing month
PYXb	=	Peso to Yen exchange rate of 0.4851 PHP/JPY as of 17 May 2010
S	=	total number of start-ups for the current billing month based on customers' dispatch instructions.
VHFO	=	200 liters per engine per start-up/shutdown cycle.
VLube	=	10 liters per engine per start-up/shutdown cycle.

Total Energy = total energy delivered to all customers of Supplier for the current Billing Period.

Notes:

- a. If the CPI of current billing month is not published and available within two days from the end of the billing period, the most recent available published index shall be used.
- b. If the source of any of the foregoing indices is no longer available or is not been published or available for a prolonged period, the replacement index shall be selected by Service Provider.
- c. If any of the foregoing indices are re-based during the duration of this Agreement, Service Provider has the option to apply a corresponding adjustment to the inflation formula to conform with the rebasing of the subject indices.

A copy of the IESA template is attached herein as **Annex "H"**.

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 Mindanao Grid.

**ALLEGATIONS IN SUPPORT OF THE  
PRAYER FOR PROVISIONAL AUTHORITY**

17. 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. As the demand for power in the Mindanao 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.
18. Based on the current levels of available contracted AS in the Mindanao Grid, the CR and DR have not yet met the required levels. The copies of the Mindanao CR Availability and Mindanao DR Availability showing the required and available levels of CR and DR are attached as **Annexes "I" and "I-1"**, respectively.
19. Applicants respectfully submit that the immediate approval of the ASPA and IESA template by this Honorable Commission is a necessity to ensure the 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 "J"** and TMI submits a copy of the Judicial Affidavit of Mr. Benedick Salvador as **Annex "K"**.

**PRAYER**

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

- a) Immediately **ISSUE** a provisional authority to implement the subject ASPA and immediately **ISSUE** a provisional authority to implement the subject IESA template; and
- b) **APPROVE**, after notice and hearing, the subject ASPA and the IESA template.

Applicants pray for other just and equitable relief under the premises.

On 25 September 2017, the National Association of Electricity Consumers for Reforms, Inc. (NASECORE) filed an *Omnibus Petition for Intervention* to the instant Application.

Finding the said Application to be sufficient in substance with the required fees having been paid, the same is hereby set for the determination of the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **07 December 2017 (Thursday) at ten o'clock in the morning (10:00 A.M.) at Big 8 Hotel, National Highway, Visayan Village, Tagum City, Davao del Norte.**

Accordingly, NGCP and TMI are hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this Order and the attached Notice of Public Hearing the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected franchise area for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected franchise area, by any other means available and appropriate;
- 4) Furnish with copies of this Order and the attached Notice of Public Hearing, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish with copies of the Application and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission their written compliance with the aforementioned



jurisdictional requirements attaching therewith, methodically arranged, and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by Applicants to inform of the filing of the Application, their reasons therefore, and of the scheduled hearing thereon, the consumers within the affected franchise area;
- 4) The evidence of receipt of copies of this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the Application and its attachments by all those making requests therefor, if any; and
- 6) Such other proofs of compliance with the requirements of the Commission.

Applicants, NASECORE, and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-trial Conference, their respective Pre-trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;

- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-trial Brief.

Failure of Applicants to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

Applicants must also be prepared to make an expository presentation of the instant Application, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the Application is all about and the reasons and justifications being cited in support thereof.

**SO ORDERED.**

Pasig City, 18 October 2017.

FOR AND BY AUTHORITY  
OF THE COMMISSION:



**ALFREDO J. NON**  
*OIC Chairman & CEO*

Copy furnished:

1. Attys. Luis Manuel Bugayong, et. al.  
Counsels for NGCP  
NGCP Bldg., Quezon Ave. cor.  
BIR Rd., Quezon City
2. Attys. Lew Carlo Lopez, et. al.  
Counsels for TMI  
16/F, NAC Tower  
32<sup>nd</sup> St., Bonifacio Global, Taguig City
3. Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village, Makati City
4. Commission on Audit  
Commonwealth Ave., Quezon City
5. The Senate Committee on Energy  
GSIS Building, Roxas Boulevard, Pasay City
6. The House Committee on Energy  
Batasan Hills, Quezon City
7. TRANSCO  
Quezon Ave., cor. BIR Rd., Quezon City
8. PSALM  
7/F, Bankmer Bldg.,  
6756 Ayala Ave., Makati City
9. Office of the City Mayor  
Quezon City
10. Office of the LGU legislative body  
Quezon City
11. Office of the Municipal Mayor  
Nasipit, Agusan del Norte
12. Office of the LGU legislative body  
Nasipit, Agusan del Norte
13. Office of the Municipal Mayor  
Maco, Compostela Valley
14. Office of the LGU legislative body  
Maco, Compostela Valley
15. Office of the City Mayor  
Tagum City, Davao del Norte
16. Office of the LGU Legislative Body  
Tagum City, Davao del Norte
17. Office of the Governor  
Province of Agusan del Norte
18. Office of the LGU legislative body  
Province of Agusan del Norte
19. Office of the Governor  
Province of Compostela Valley
20. Office of the LGU legislative body  
Province of Compostela Valley

21. Office of the Governor  
Province of Davao del Norte
22. Office of the LGU legislative body  
Province of Davao del Norte
23. Atty. Rafael Antonio Acebedo  
Executive Director, NASECORE  
#85 Independencia St., Tacloban City