

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 AND CEBU
ENERGY DEVELOPMENT
CORPORATION, WITH
PRAYER FOR THE
ISSUANCE OF
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2017 -089 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
CEBU ENERGY
DEVELOPMENT
CORPORATION (CEDC),
Applicant.**

D O C K E T E D
Date: JAN 04 2018
By: [Signature]

X-----X

ORDER

On 12 October 2017, National Grid Corporation of the Philippines (NGCP) and Cebu Energy Development Corporation (CEDC) filed an *Application* dated 27 September 2017 (Application) seeking the Commission's approval of the Ancillary Services Procurement Agreement (ASPA) with prayer for the issuance of provisional authority.

NGCP and CEDC alleged the following in its *Application*:

NATURE OF THE CASE

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

THE PARTIES

2. Applicant NGCP is a corporation created and existing under the laws of the Philippines, with office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City. It holds a franchise under Republic Act No. 9511¹ to engage in the business of conveying or transmitting electricity through high-voltage back-bone systems of interconnected transmission lines, substations and related facilities, and for other purposes. The franchise also includes the conduct of activities necessary to support the safe and reliable operation of the transmission system.
3. Applicant CEDC is a corporation organized and existing under and by virtue of the Philippine laws with principal office address at Barangay Daanlungsod, Toledo City, Cebu. It may be served with orders, notices, and other legal processes through its undersigned counsel. It is the owner and operator of the 3x82MW CFB Coal-Fired Power Plant (Power Plant) in Barangay Daanlungsod, Toledo City, Cebu which was certified and accredited by NGCP as capable of providing Contingency Reserve (CR).

ANTECEDENT FACTS

4. Republic Act No. 9136 provides that it is the responsibility of NGCP to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for its operations and maintenance, as set forth in the Philippine Grid Code (PGC), adopted and promulgated by the Honorable Commission; and to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system².
5. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid Ancillary Services and for developing and proposing Wheeling Charges and Ancillary Service tariffs to the ERC³.
6. Ancillary services (AS) as defined in Section 4b of the EPIRA “*refer to those services that are necessary to support the transmission of capacity and energy from resources to*

¹ An Act Granting the National Grid Corporation of the Philippines a Franchise To Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for other Purposes;

² Section 9 (c) and (d);

³ 2007 PGC, Section 6.3.1.2;

loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act. These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.

7. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (ASPP) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (AS-CRM) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
8. Pursuant to its mandate, NGCP on different dates published in newspapers of general circulation a Notice of Invitation for Prospective Ancillary Services Providers, inviting all grid-connected merchant plants and independent power producers to participate in the provision of ancillary services. NGCP received several positive responses from generation companies. Upon receipt of the intention from CEDC to provide ancillary services, NGCP commenced negotiation for the execution of an ASPA.
9. NGCP agreed to procure and CEDC agreed to provide Ancillary Services in the form of CR for a period of five (5) years under firm and non-firm arrangements. A copy of the *Ancillary Services Procurement Agreement between NGCP and CEDC* dated 14 September 2017 is attached as **Annex "A"**.
10. During the period of negotiation, NGCP conducted several tests on Units 1, 2 and 3 of CEDC Power Plant, and certified that the units have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Contingency Reserve Service (Manual Mode: U1 = 10.0MW; U2 = 10.0MW; U3 = 10.0MW)

Thus, NGCP issued the *Ancillary Services Certification with Accreditation No. 2016-V0011*, attached as **Annex "B"**.

CONTRACTED CAPACITY RATES AND IMPACT SIMULATION

11. Schedule 1 of the ASPA provides for the AS to be provided under the ASPA:
 - A. Firm Contracted Capacity:

Contingency Reserve (Primary Reserve) at 30MW (0800H – 2400H)
 - B. Non-Firm Contracted Capacity:

Contingency Reserve (Primary Reserve) up to 10MW per unit (0100-0700H)

The capacities listed above are the maximum that can be offered. However, for clarity, the basis for AS Provider's nomination and scheduling shall be the capacities listed in its valid AS Certificates.

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

Firm Contracted Rate:

Contingency Reserve: PhP1.50/kW/Hr

Non-Firm Contracted Rate:

Contingency Reserve: PhP2.25/kW/Hr

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

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

AS Type	Indicative Rate Impact	
	P/kW-month	P/kWh
CR	18.0004	0.0378

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

14. 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 Visayas Grid.
15. CEDC submits the copies of the following documents:

Document	Annex
<i>Certificate of Compliance</i>	"D"
<i>Summary of Existing Power Supply Agreement</i>	"E"
<i>Articles of Incorporation</i>	"F"
<i>Latest Security Exchange Commission – General Information Sheet</i>	"G"
<i>Latest Audited Financial Statement</i>	"H"
<i>WESM Registration</i>	"I"

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

16. 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.
17. Based on the current levels of available contracted AS in the Visayas Grid, the contracted AS have not yet met the required levels of the ASPP. A copy of the relevant actual data and its corresponding graphical presentations showing the available CR and the contribution of CEDC in the Visayas Grid, entitled: *Visayas CR Availability* is attached as **Annex "J"**
18. 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 CEDC, especially its firm capacities, are greatly needed.
19. Also, 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.
20. 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. Lizaflor Bacani-Kater*, which is attached 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;
- b) **APPROVE**, after notice and hearing, the subject ASPA.

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

Finding the said *Application* sufficient in substance with the required fees having been paid, the same is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **22 February 2018 (Thursday) at ten o'clock in the morning (10:00 A.M.) at Days Hotel Toledo, Seafront, Barangay Poblacion, Cebu.**

Accordingly, NGCP and CEDC 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 their 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 Governors, 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 Governors, 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*, its reasons therefor, 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 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:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefore; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form 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.

NGCP and CEDC 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, 19 December 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO


LS: KJP/LSI/SPV

COPY FURNISHED:

1. Office of the General Counsel of NGCP
Counsel for NGCP
NGCP Building, Quezon Avenue corner BIR Road,
Diliman, Quezon City
2. Office of the General Counsel of CEDC
c/o Global Business Power Corporation
Counsel for CEDC
22/F, GT Tower International,
6813 Ayala Avenue corner H.V. de la Costa Street, Makati City
3. National Grid Corporation of the Philippines (NGCP)
NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City
4. Cebu Energy Development Corporation (CEDC)
Barangay Daanlungsod, Toledo City, Cebu

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5. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City, Metro Manila
6. Commission on Audit
Commonwealth Avenue, Quezon City, Metro Manila
7. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City, Metro Manila
8. House Committee on Energy
Batasan Hills, Quezon City, Metro Manila
9. Office of the Provincial Governor
Province of Cebu
10. Office of the Sangguniang Panlalawigan
Province of Cebu
11. Office of the City Mayor
Toledo City, Cebu
12. Office of the Sangguniang Panlungsod
Toledo City, Cebu