

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),
Applicants.**

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DOCKETED
Date: APR 03 2018
By: [Signature]

ORDER

For the Commission's consideration is the prayer for issuance of provisional authority included in the Application filed on 12 October 2017 by National Grid Corporation of the Philippines (NGCP) and Cebu Energy Development Corporation (CEDC) dated 27 September 2017 (Application).

THE FACTS

Relative to their prayer for issuance of provisional authority, Applicants NGCP and CEDC 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

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CEDC, pursuant to the Decision dated 3 October 2007 in ERC Case No. 2006-049 RC, 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).

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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"**

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;

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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"**

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THE ISSUE

The issue for the Commission's resolution is whether NGCP and CEDC 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 receipt of a copy thereof by the LGU Legislative Body of

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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:

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

² G.R. No. 161113, 15 June 2004.

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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 instant *Application* seeks the Commission's approval of the Ancillary Services Procurement Agreement (ASPA) entered into between NGCP and CEDC. The costs associated with Applicants' ASPA will ultimately be charged to the consuming public. As such, the Commission has the legal duty to determine the propriety of granting provisional approval consistent with prevailing laws and jurisprudence.

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

In the case of *National Association of Electricity Consumers for Reforms vs. ERC*³ (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

³ G.R. No. 163935, 02 February 2006.

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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 CEDC attached the following documents to their Application:

- a) Verification and Certification of Non-Forum Shopping dated 03 October 2017 executed by Ma. Cynthia Y. Manrique of NGCP;
- b) Verification and Certification of Non-Forum Shopping dated 03 October 2017 executed by Jaime T. Azurin of CEDC;
- c) Affidavit of Service dated 05 October 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 05 October 2017 executed by Dale S. Bantilan attesting to his service of a copy of the Application to the Offices of *Sangguniang Panlungsod* and *Sangguniang Panlalawigan* of Cebu on even date;
- e) Affidavit of Service dated 05 October 2017 executed by Herminigildo B. Inguillo, Jr. attesting to his service of a copy of the Application to the Offices of *Sangguniang Panlungsod* of Makati City on even date;
- f) Affidavit of Publication dated 06 October 2017 executed by Teresita Z. Sorsogon of *Daily Tribune* attesting to the publication of the Application on the 06 October 2017 issue of the newspaper; and

- g) Copy of the 06 October 2017 issue of Daily Tribune where the Application was published.

No Comment was received by the Commission within the thirty (30) day period within which the same may be filed, or until 12 November 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.

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.**

In their Application, NGCP and CEDC prayed for the issuance of a provisional authority to implement the subject ASPA to maintain the present reliability and security of the grid. Based on the current levels of available contracted AS in the Visayas Grid, the non-firm contracted AS have not yet met the required levels of the ASPP. The entry of CEDC as an additional AS service provider ensures competition between and among AS service providers which will ultimately initiate a downward pressure to current prices.

In connection therewith, Applicants further allege that as the demand for power in Visayas increases, the requirements of the system to ensure stability, reliability and security likewise increase. Therefore, as alleged by Applicants, there is a need to ensure the integrity of the system since it is essential to protect the interests of the public.

NGCP and CEDC likewise stressed that absence of system reliability and stability discourages investments and growth, thus, necessitates the immediate issuance of Provisional Approval of the subject ASPA to maintain the reliability and security of the Grid.

In support of the allegation, an illustration of the available level of CR in the Visayas Grid for the period July 2016 to June 2017 was provided by NGCP, *to wit*:

Month	Contingency Reserve			
	Average Scheduled (MW)	Average Required (MW)	Availability (%)	Deficiency (%)
July 2016	3	106	3.20	96.80
August 2016	3	100	2.60	97.40
September 2016	2	102	2.36	97.64
October 2016	2	93	1.66	98.34
November 2016	2	103	1.56	98.44
December 2016	2	93	1.66	98.34
January 2017	2	92	2.54	97.46
February 2017	3	114	2.95	97.05
March 2017	2	81	2.05	97.95
April 2017	1	96	0.73	99.27
May 2017	1	105	0.82	99.18
June 2017	2	109	1.44	98.56

As can be seen from the table above, there is a deficiency in the available levels of CR in the Visayas Grid for the period July 2016 to June 2017.

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 the National Transmission Corporation's (TRANSCO) winning concessionaire, is mandated to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical

grid and to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or 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 29 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).

In consonance with this directive, on 12 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 03 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 (WESM); 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 CEDC on 14 September 2017. CEDC will supply Contingency Reserve (CR) to

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."

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."

NGCP for a period of five (5) years under a firm and non-firm arrangement. CR refers to the synchronized generation capacity from Qualified Generating Units and Qualified Interruptible Loads allocated to cover the loss or failure of a synchronized generating unit or a transmission line or the power import from a single circuit interconnection in order to maintain the balance between generation and load on a real time basis.

The salient features of the ASPA between NGCP and CEDC are the following:

1. The term of the ASPA shall be for a period of five (5) years subject to Annual Performance Evaluation of the provider;
2. The daily declaration of the available capacity; and
3. With the following Firm and Non-Firm CR capacities and rates under Schedule 1:

Type of AS	Contracted Capacity (MW)	Applicable Rates (Maximum Hourly Rate)
Contingency Reserve (Firm)	30MW (0800H to 2400H)	PhP1.50/kW/Hr
Contingency Reserve (Non-Firm)	up to 10MW per unit (0100-0700H)	PhP2.25/kW/Hr

In the Judicial Affidavit executed by NGCP's Engr. Lisaflor Bacani-Kater, Division Head of the Special Accounts Portfolio, Network Access and Customer Account Division, Revenue and Regulatory Affairs, it was stated that the current levels of available contracted firm AS in the Visayas Grid, and firm contracted AS have not yet met the required levels of the ASPP. NGCP guaranteed that there are available AS on a daily basis to assure reliability of the grid. The immediate approval of the ASPA between NGCP and CEDC will improve the availability of AS in the Visayas Grid and significantly lower the AS cost to the benefit of the consumers.

Under Schedule 4 of the ASPA, CEDC and NGCP proposed the following rates for the CR Firm and Non-firm Contracted Capacity and the Incidental Energy in case of dispatch:

Ancillary Service	Applicable rate
Dispatchable Reserve	PhP1.25/kW/Hr

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Incidental Energy Cost:

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

$$IE = G \times (AR + \text{Variable Costs}) - REV_{WESM}$$

Note that IE shall be paid if it is greater than zero, and REV_{WESM} is positive. If REV_{WESM} is negative due to negative bids in the market, then REV_{WESM} shall be considered ZERO in the computation of IE.

Where:

G = Summation of energy generated or dispatched due to Firm and Non-Firm Contracted Capacity, in kWh

AR = Applicable Rate per AS type

Variable Costs = Actual fuel costs + Variable O&M costs

$$\begin{aligned} & \text{Actual Fuel Cost} \\ & = \left(\frac{CFC + TC}{1,000} \right) \times \text{Consumption Rate} \times \text{Current FOREX} \end{aligned}$$

$$\text{Current Fuel Cost (CFC)} = \left(\text{Base Coal Price} \times \frac{\text{Newcastle}_C}{\text{Newcastle}_B} \right)$$

Base Coal Price = 53.22 USD per MT

Newcastle_C = Preceding quarter's average coal price for 6,700cal/kg ADB per the Global Coal Newcastle Physical Trading Index

Newcastle_B = 63.44 USD per MT

Transport Cost (TC) = Cost of freight, insurance, brokerage, taxes, and other costs in USD per MT

Consumption Rate = 0.70 kg/kWh, escalated at a rate of 1.5% per year or actual, whichever is lower

O&M Cost = Peso O&M Charge + Dollar O&M Charge

Peso O&M Charge = Base Peso O&M Charge x PCPI_C/PCPI_B

Dollar O&M Charge = Base Dollar O&MCharge x
USCPIc/USCPIb x Forex

Base Peso O&M Charge = PHP 0.3871/kWh

Base Dollar O&M Charge = USD 0.04810/kWh (at 80% Load
Factor) or USD 0.010145/kWh

PCPIc = Philippine Consumer Price Index (CPI) for all items
for the Current month as published by the National
Statistics Coordination Board

PCPIb = 158.8 (as of May 2009)

USCPIc = US Currency Price Index (CPI) for all items for the
Current Month as published by the U.S. Bureau of
Labor Statistics

USCPIb = 213.856 (as of May 2009)

Current Forex = Average Peso-US Dollar exchange rate for
the month PhP/US\$ for the current month as
published by the Bangko Sentral ng Pilipinas
(BSP)

Base Forex = PhP47.4128/US\$ (as of May 2009)

REV_{WESM} = Summation of WESM revenue based on Final
Ex-Post market clearing price of the AS
Provider's trading Node arising from G above.

NGCP's end goal in establishing the ASPA rates is to lower cost to consumers. Ancillary Services are pass-through costs and are revenue neutral for NGCP. However, as the counter party for the ASPA, NGCP felt it was proper that it procure the ASPA at the lowest possible rate for the benefit of the consumer.

NGCP further alleged that in deriving the appropriate rates, 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 the generators to sign and commit their capacity, for as long as the rate fell within NGCP's benchmark range.

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 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 (RR), Contingency Reserve (CR), and Dispatchable Reserve (DR). 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:

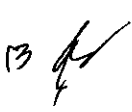
San Roque Build Cost	:	US\$ 1.17 bn ⁷
Installed Capacity	:	411 MW
Actual Build Cost	:	US\$2.89/MW
Range	:	+/- 15%
New Build Cost Range	:	US\$ 2.17-3.33mn per MW
WACC	:	15%
Plant Life	:	25 years
Estimated Capital Cost	:	PhP 1.57 – PhP 2.41/kWh

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 estimated the cost range to be between PhP1.57/kWh to PhP2.41/kWh. The same assumptions were used by NGCP in determining the ASPA rate it offered to CEDC.

Effect to the consumer was the primary concern. The rates NGCP is proposing are much cheaper than the current structure.

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

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NGCP's analysis indicates that for the same amount of reserves (same quantity), the new rates can be 30% to 40% less.

Reserve	Old Rate (2011 Actual)		Proposed 2013 ASPA Rate		
	Quantity (GWh)	Cost (PhPMn)	Quantity (GWh)	New Rate	Cost (PhPMn)
Regulating	1,459	2,428	1,459	2.50	3,647
Contingency	1,396	5,734	1,396	2.25	3,141
Dispatchable	1,502	6,046	1,502	1.25	1,877
Total Cost		14,208			8,666
Billing Determinant	49,121 GWh		49,121 GWh		
Cost to Consumer	0.29 / kWh		0.18 / kWh		

The CEDC's Coal Fired Power Plant with a total rated capacity of 251.10 MW under COC No. 15-02-GN-53-16751V issued on 16 February 2015 and reflects a 20 year life of the asset. CEDC has a total net dependable capacity of 221.10 MW, 185 MW of which is currently contracted to serve bilateral contract agreements under the following Power Supply Agreements (PSA's), with the remainder of 36.01 MW as un-contracted capacity:

Customer	Contract Demand (MW)	Minimum Contracted Capacity	Load Factor	Period of Cooperation	Date of Signing
(BEZ)	4	2,160,000 kWh	75%	15 years	4-Aug-10
BOHECO I	14	10,080,000 kWh	100%	15 years	01-June-10
CEBECO I	11	7,920,000 kWh	100%	15 years	10-Sep-10
CEBECO II	18	12,960,000 kWh	100%	15 years	15-Sep-10
MECO	15	8,640,000 kWh	80%	15 years	15-03-10
PEZA-MEZ I	18	12,960,000 kWh	100%	10 years	01-Sep-10
VECO	105	68,040,000 kWh	90%	25 years	10-Oct-09

In the Accreditation Certificate No. 2016-V0011 issued by NGCP dated 21 September 2016 with an expiry date extended to 20 March 2018, CEDC has successfully proven its capability to provide the CR Service of 10.0MW/unit for CEDC Units 1, 2 & 3. The said plant was further certified to have met and complied with the Standard Ancillary Services Technical Requirements of the System Operations during the actual testing of the said plant.

Under the non-firm basis, CEDC has the right or option not to nominate any capacity for ancillary service even if it is available while NGCP may or may not schedule the capacity nominated without any corresponding penalty or payment. This allows NGCP the flexibility to evaluate or decide for optimum ancillary service considering the prevailing economic and technical circumstances.

In determining the reasonableness of the proposed rates for issuance of provisional authority, the Commission used the comparison of the proposed maximum rate with that of the previously approved ASPA rate, to wit:

AS	CEDC	SNAP-BI Binga HEPP (ERC Case No. 2017-016 RC)	SRPC San Roque HEPP (ERC Case No. 2013-009 RC)	SNAP-BI Ambuklao HEPP (ERC Case No. 2016-165 RC)	SNAP-MI Magat HEPP (ERC Case No. 2016-164 RC)	Thermal Luzon Inc. (ERC Case No. 2013-052 RC)
CR	PhP1.50/kW /Hr		PhP1.50/kW/Hr (Firm)	PhP1.50/kW/Hr (Firm)	PhP1.50/kW/Hr (Firm)	PhP1.50/kW/Hr (Firm)
	PhP2.25/kW /Hr	PhP2.25/kW/Hr (Non-Firm)	PhP2.25/kW/Hr (Non-Firm)	PhP2.25/kW/Hr (Non-Firm)	PhP2.25/kW/Hr (Non-Firm)	PhP2.25/kW/Hr (Non-Firm)

The above table shows that the proposed CR rate of CEDC approximates the provisionally approved Non-Firm rate of SN Aboitiz-Benguet, Inc. (SNAP-BI) for its Binga HEPP and provisionally approved Firm and Non-Firm ASPA rates of San Roque Power Corporation HEPP, SNAP-BI for its Ambuklao HEPP, SN-Aboitiz-Magat, Inc. (SNAP-MI) for its Magat HEPP and Thermal Luzon Inc. Pagbilao Coal-Fired Power Plant.

The Commission observed that the proposed CR rates of CEDC, is at the same level with the AS rates approved for hydroelectric power plants. However, it may not be an appropriate and reasonable benchmark considering the difference in technology. Further, in terms of O&M, a hydro plant has a lower O&M compared to a coal plant. It should be noted that Thermal Luzon Inc., may be a more appropriate benchmark considering that this power plant is of the same technology as CEDC.

Applicants CEDC and NGCP subjected the rates under the ASPA to a simulation which resulted to a rate impact of PhP18.0004/kW/month or an equivalent of PhP0.0378/kWh.

The ASPA subject of the instant case is governed by the Open Access Transmission Service (OATS) Rules, the Philippine Grid Code (PGC), and other relevant issuances, orders, rules and regulations as promulgated by proper government agencies and authorities. However, with the approval of the 2016 PGC on 05 October 2016, there is a need to amend the ASPP to harmonize with the provisions of the 2016 PGC. The 2016 PGC adopted the latest international standards and practices in the operation of ancillary services. Also, in the 2016 PGC, the current types of reserves and order of priority, provides the respective modes and frequency controls that must be reflected in the ASPP. Thus, the NGCP filed with the Commission on

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31 March 2017 the petition seeking the approval of its proposed amended ASPP under ERC Case No. 2017-005 RM.

Pending approval of the amended ASPP and other relevant rules, the subject ASPA would be allowed to continue using the current type of AS under the existing ASPP and 2001 PGC (Amendment 1). However, the Commission during the transition period adopts the following provision as proposed by NGCP in the amended ASPP, to wit:

All approved and existing ASPA shall remain in full force and effect until the termination date, unless the accredited power plant of the AS Provider cannot comply with the technical requirements provided in the 2016 PGC. Accordingly, the AS categories of the ASPA will be converted as follows:

- i. Contingency Reserve – Primary Reserve;
- ii. Dispatchable Reserve – Tertiary Reserve; and
- iii. Regulating Reserve – Secondary Reserve

However, the AS Provider with an existing ASPA may opt to renegotiate its offer in a new ASPA that will be filed to the Honorable Commission for approval.

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 capacity is needed to augment the deficiency of Contingency Reserve capacity to be able to maintain the reliability in the operation of the transmission system and in the reliability of the electricity supply in the Visayas Grid.

IN VIEW OF THE FOREGOING, Applicants National Grid Corporation of the Philippines (NGCP) and Cebu Energy Development Corporation (CEDC) are **GRANTED PROVISIONAL AUTHORITY** to implement their Ancillary Services Procurement Agreement (ASPA), subject to the following conditions:

1. Applicable Rates:

CEDC 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 CEDC the corresponding nominated price of that 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)	
	Firm	Non-Firm
Contingency Reserve	PhP1.50/kW/Hr	PhP2.25/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 market.

Provided that CEDC shall be entitled to a Monthly Minimum Incidental Energy Cost (IE) based on actual dispatch and the cost of generation computed using the formula provided under Schedule 4 of the ASPA, subject to further evaluation of the component of the IE Cost upon the final resolution of the instant case.

Provided further that, 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 should be enjoined to optimize 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;

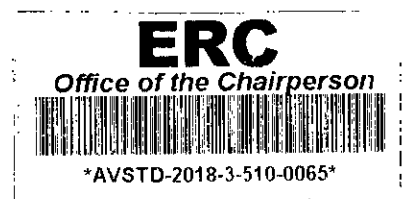
3. The rate to be paid by NGCP as ancillary services cost should be passed on to its customers in accordance with the approved "Ancillary Services-Cost Recovery Mechanism" (AS-CRM). Further, NGCP should be directed to submit its monthly computation of ancillary service rates that it passed on to its customers, with supporting documents on or before the 5th day of the month; and
4. The above recommended 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 provisionally granted, the resulting additional charges shall be collected by CEDC from NGCP and the latter shall pass it on to its customers. On the other hand, if the final rates are lower than the provisionally granted, the amount corresponding to the reduction shall be refunded by CEDC to NGCP and the latter shall pass it on to its customers.

FINALLY, Applicants are hereby directed to implement the herein approved applicable rates starting on the next billing cycle of NGCP from receipt of this Order.

SO ORDERED.

Pasig City, 15 December 2017.

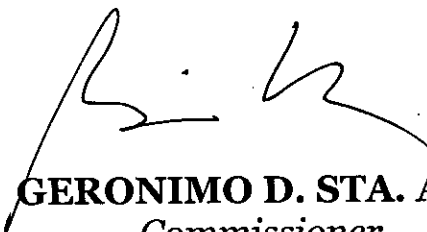

AGNES VST DEVANADERA
Chairperson and CEO




ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


GERONIMO D. STA. ANA
Commissioner

LS: KJP/LSP/APV ROS: LRS/NVR/AJMO/FED

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