

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



**IN THE MATTER OF THE
APPLICATION OF THE
NATIONAL GRID
CORPORATION OF THE
PHILIPPINES FOR THE
APPROVAL OF FORCE
MAJEURE EVENT
REGULATED FM PASS
THROUGH FOR TYPHOON
RUBY AND TROPICAL
STORM SENIANG IN
VISAYAS AND MINDANAO,
IN ACCORDANCE WITH THE
RULES FOR SETTING
TRANSMISSION WHEELING
RATES, WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2015-205 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES,**

Applicant.

X-----X

D O C K E T E D
Date: JUN 11 2018
By: [Signature]

ORDER

On 04 December 2015, the National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 02 December 2015 for the approval of its force majeure event regulated Force Majeure (FM) Pass-Through for Typhoon Ruby and tropical storm Seniang in Visayas and Mindanao, in accordance with the Rules for Setting the Transmission Wheeling Rates (RSTWR), with prayer for provisional authority.

NGCP alleged the following in its *Application*:

1. NGCP is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City. It is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. (RA)

9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).¹

2. Under RA 9511,² NGCP was granted a franchise to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.
3. On 15 January 2009, NGCP assumed transmission functions of TRANSCO including the operation, management and maintenance of the nationwide electrical grid.

STATEMENT OF FACTS

A. Typhoon Ruby

4. On or about 6 December 2014, Typhoon Ruby entered the Philippine Area of Responsibility with maximum winds of 215 kph and gustiness of 250 kph. Due to its intensity and heavy rainfall, NGCP's transmission assets and other related facilities in the Visayas area were damaged causing widespread power interruption over the area. A copy of the Certification dated 26 January 2015 issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached herewith as Annex "A."
5. After the occurrence of Typhoon Ruby, in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission a Force Majeure Event (FME) Notice regarding Typhoon Ruby dated 20 January 2015. A copy of the FME Notice regarding Typhoon Ruby dated 20 January 2015 is attached herewith as Annex "B."

B. Tropical Storm Seniang

6. On or about 28 December 2014, Tropical Storm Seniang entered the Philippine Area of Responsibility with maximum winds of 65 kph and gustiness of 80 kph. The occurrence of Tropical Storm Seniang caused damage to NGCP's transmission assets and other related facilities in the Visayas and Mindanao. A copy of the Certification dated 1 March 2015 issued by the PAGASA is attached herewith as Annex "C."
7. After the occurrence of Tropical Storm Seniang, in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding Typhoon Seniang dated 12 March 2015. A copy of the FME Notice regarding Typhoon

¹ Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes"

² Republic Act No. 9511 entitled "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 or Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes"

Seniang dated 12 March 2015 is attached herewith as Annex "D."

8. Immediately after the devastation of Typhoon Ruby and Tropical Storm Seniang, NGCP started the repair, restoration and rehabilitation of its damaged transmission assets and other related facilities to restore the transmission of electricity in the Visayas and Mindanao areas. As a result, NGCP incurred additional cost for the repair, restoration and rehabilitation of the said transmission assets damaged by Typhoons Ruby and Seniang.

FORCE MAJEURE EVENT CLAIM

9. Under Section 1.3(a) of the Rules for Setting Transmission Wheeling Rates (RTWR), an FME is defined as a "typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide."
10. Ruby and Seniang were categorized by PAGASA as "Typhoon" and "Storm" in its Certifications dated 26 January 2015 and 1 March 2015, respectively. Therefore, Typhoon Ruby and Tropical Storm Seniang fall within the definition of an FME in accordance with Section 1.3 of the RTWR.
11. In relation to the occurrence of the FME Ruby and Seniang and pursuant to Section 10.1.1 of the same RTWR, NGCP is allowed to recover the cost it incurred in the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged by the FME Ruby and Seniang through an FM Pass-Through Amount.
12. Within three (3) months after the occurrence of the FME Ruby and Seniang, NGCP filed before the Energy Regulatory Commission (ERC) FME Notice Regarding Typhoon Ruby dated 20 January 2015 and FME Notice Regarding Typhoon Seniang dated 12 March 2015, pursuant to Sections 10.2.1 and 10.2.2 of the RTWR.³
13. Thereafter, within twelve (12) months after the occurrence of the FME Ruby and Seniang, NGCP hereby files the instant FME Claim Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

14. It must be noted that NGCP has not recovered any amount from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the year 2014 as compensation for the damage and cost it incurred in the repair, restoration and rehabilitation of the transmission assets and other related facilities damaged by the FME Ruby and Seniang. Thus, it is but proper for NGCP to file the instant

³ Please see Annexes "B" and "D".

FME Claim Application to recover the cost it incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the FME Ruby and Seniang.

15. The total cost NGCP incurred as additional FME Capital Expenditure (CAPEX) for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the FME Ruby and Seniang is Thirty-Seven Million Eight Hundred Nine Thousand Six Hundred Thirty-Nine and 76/100 (Php 37,809,639.76). Further, the recoverable values of the assets destroyed (Net Fixed Asset Value) is Sixteen Million Five Hundred Fifty-Six Thousand Five Hundred Ninety-Seven and 57/100 (Php16,556,597.57). The breakdown of the expenses⁴ is shown in the table below:

FME	FME CAPEX		NFAV		TOTAL
	VISAYAS	MINDANAO	VISAYAS	MINDANAO	
RUBY	27,113,681.07	-	13,544,183.30	-	40,657,864.37
SENIANG	491,923.11	10,204,035.58	161,269.31	2,851,144.96	13,708,372.96
Total	27,605,604.18	10,204,035.58	13,705,452.61	2,851,144.96	54,366,237.33

16. NGCP proposes the Force Majeure (FM) Pass-Through Amount, in P/kW-month, as additional network charges in the Visayas and Mindanao starting the billing period of January 2016 to December 2020, or until such time that the amount incurred is fully recovered, computed as shown in the table below:

Visayas	2016	2017	2018	2019	2020
P/kW-mo.	0.76	0.59	0.22	0.21	0.20
P/kWh	0.0016	0.0013	0.0005	0.0005	0.0004
Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.30	0.08	0.07	0.07	0.06
P/kWh	0.0006	0.0002	0.0002	0.0001	0.0001

17. NGCP proposes the FM Pass-Through Amounts for the years 2016 to 2020 to allow the recovery of the CAPEX incurred relative to the FME Ruby and Seniang pending the reset process for the Transmission Services for the Fourth Regulatory Period.
18. Although the instant FM Pass-Through Amounts are not included in NGCP's Third (3rd) Regulatory Reset Application, the same can be recovered pursuant to Section 10.1.1 of the RTWR where NGCP is allowed to recover the cost incurred for the repair, restoration, and rehabilitation of damage sustained by its transmission assets and other related facilities as a result of the FME. A copy of the FM Pass-Through Amount Computation is hereto attached as Annex "E."

⁴ Exclusive of Permit Fees

19. Further, the FM Pass-Through Amounts under this Application did not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0336/kWh in accordance with the RTWR. A copy of the FMTA Computation is hereto attached as Annex "F."
20. Also, NGCP considered the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Ruby and Seniang given that NGCP would have normally fully recovered the return of capital on said assets for the duration of their economic lives had these assets not been damaged or destroyed by the FME Ruby and Seniang.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

21. NGCP respectfully moves for the issuance of a provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the ERC Rules of Practice and Procedure.
22. NGCP needs to immediately recover the actual expenses incurred for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities. It must be emphasized that the occurrence of the aforementioned FME Ruby and Seniang required massive capital infusion, thus, the recovery of which should be allowed immediately in order to avoid any financial strain in the operation of NGCP and to allow the continuous provision of transmission service to the grid customers.
23. In addition, the timely implementation of the FM Pass-Through Amount will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost.
24. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Head, Tariff Design and Billing Management Division, Revenue and Regulatory Affairs, in support of the instant Application, is hereto attached as Annex "G."
25. Lastly, in compliance with Rule 6 of this Honorable Commission's Rules of Practice and Procedure, the pre-filing requirements of the instant application are attached herewith as Annex "H" and series.

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Commission to:

1. DECLARE the Typhoon Ruby and Tropical Storm Seniang as Force Majeure Events (FMEs);

2. GRANT Provisional Approval to implement and bill the FM Pass-Through Amounts to Visayas and Mindanao customers starting January 2016 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered;

Visayas	2016	2017	2018	2019	2020
P/kW-mo.	0.76	0.59	0.22	0.21	0.20
P/kWh	0.0016	0.0013	0.0005	0.0005	0.0004

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.30	0.08	0.07	0.07	0.06
P/kWh	0.0006	0.0002	0.0002	0.0001	0.0001

3. APPROVE the Capital Expenditure (CAPEX) amounting to Php 37,809,639.76 incurred by NGCP for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities due to the Typhoon Ruby and Tropical Storm Seniang as FMEs;
4. APPROVE, after due notice and hearing, the proposed FM Pass Through Amount to be collected from the Visayas and Mindanao customers starting January 2016 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered, as follows;

Visayas	2016	2017	2018	2019	2020
P/kW-mo.	0.76	0.59	0.22	0.21	0.20
P/kWh	0.0016	0.0013	0.0005	0.0005	0.0004

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.30	0.08	0.07	0.07	0.06
P/kWh	0.0006	0.0002	0.0002	0.0001	0.0001

5. APPROVE and ALLOW the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Ruby and Seniang amounting to Php16,556,597.57, given that it would have been fully recovered by NGCP if these transmission assets and other related facilities have not been damaged or destroyed by FME Ruby and Seniang; and
6. EXCLUDE the proposed Pass-Through Amount from the side constraint calculation.

NGCP prays for other relief deemed just and equitable 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 the following dates:

DATE	TIME	VENUE	PARTICULARS
16 July 2018 (Monday)	Ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional and Expository Hearing
18 July 2018 (Wednesday)	Nine o'clock in the morning (9:00 A.M.)	ERC Visayas Field Office, St. Mary's Drive, Banilad, Cebu City	Expository Presentation for Visayas Stakeholders
25 July 2018 (Wednesday)	Nine o'clock in the morning (9:00 A.M.)	ERC Mindanao Field Office, Mintrade Bldg., Monteverde Ave., cor. Sales St., Davao City	Expository Presentation for Mindanao Stakeholders
30 July 2018 (Monday)	Two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-Trial Conference and Evidentiary Hearing

Accordingly, NGCP is 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 Governors, the City Mayor and the Local Government Unit (LGU) legislative bodies where NGCP principally operates, including its regional offices, 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 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, Applicant must submit to the Commission its 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 Applicant to inform of the filing of the *Application*, its reasons therefore, and of the scheduled hearing thereon, the consumers within the affected 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.

Applicant 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 Applicant 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 must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that it 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, 06 June 2018.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal

Copy Furnished:

1. Attys. Luis Manuel U. Bugayong,
Ronald Dylan P. Concepcion,
Mark Anthony S. Actub, and Ari Verfil P. Fabros
Counsels for Applicant
National Grid Corporation of the Philippines (NGCP)
NGCP Building, Quezon Avenue cor. BIR Road
Diliman, Quezon City, Metro Manila
2. The Office of the Solicitor General
234 Amorsolo Street, Legaspi Village, Makati City
Metro Manila
3. The Commission on Audit
Don Mariano Marcos Avenue
Diliman, Quezon City, Metro Manila
4. The Committee on Energy
Senate of the Philippines
GSIS Building, Roxas Blvd., Pasay City, Metro Manila
5. The Committee on Energy
House of Representatives
Batasan Hills, Quezon City, Metro Manila
6. Office of the President of PCCI
Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP)
1030 Campus Avenue corner Park Avenue
McKinley Town Center, Fort Bonifacio, Taguig City
7. Office of the Mayor
Quezon City
8. Office of the Sangguniang Panglungsod
Quezon City
9. Office of the Mayor
Cebu City
10. Office of the Sangguniang Panglungsod
Cebu City
11. Office of the Governor
Province of Cebu
12. Office of the Sangguniang Panlalawigan
Province of Cebu
13. Office of the Mayor
Iligan City
14. Office of the Sangguniang Panglungsod
Iligan City

15. Office of the Governor
Province of Lanao Del Norte
16. Office of the Sangguniang Panlalawigan
Province of Lanao Del Norte
17. Standards, Compliance and Monitoring Division
Energy Regulatory Commission
17th Floor, Pacific Center, San Miguel Avenue, Pasig City