

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



**IN THE MATTER OF THE
PETITION FOR THE
AVAILMENT OF THE
ENVIRONMENTAL
CHARGE/SHARE FROM THE
UNIVERSAL CHARGE FOR
THE REHABILITATION AND
MANAGEMENT OF
WATERSHED AREAS (PLAN
14) WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC Case No. 2017-021 RC

**NATIONAL POWER
CORPORATION (NPC),
Petitioner.**

X-----X

D O C K E T E D
Date: JUL 30 2018
By: [Signature]

ORDER

On 15 March 2017, the National Power Corporation (NPC) filed a *Petition* dated 10 March 2017, seeking for the availment of the Environmental Charge (EC)/Share from the Universal Charge (UC) for the proposed operations plan for Calendar Year 2017, referred to as "Plan 14", for the rehabilitation and management of watershed areas.

In the *Petition*, NPC alleged the following:

1. Petitioner NPC is a government owned-and-controlled corporation created and existing under and by virtue of Republic Act No. 6935, as amended (NPC Charter), with principal office address at NPC Office Building Complex, Quezon Avenue Corner BIR Road, Diliman, Quezon City, where it may be served with notices and other processes of the Honorable Commission;
2. Under the NPC Charter, particularly Section 3, paragraph (N) thereof, Petitioner is vested with the power to exercise complete jurisdiction and control over watersheds surrounding the reservoir of plants and/or projects it constructed;

3. To further strengthen its jurisdiction and control over watersheds, Executive Order (EO) No. 224 was issued on 16 July 1987, wherein Petitioner was granted complete jurisdiction, control and rehabilitation over the following watershed areas and reservations: (1) Upper Agno Watershed reservation as covered by Proclamation No. 548; (2) Angat Watershed as covered by Proclamation Nos. 505 and 599; (3) Caliraya-Lumot Watershed Reservation as covered by Proclamation No. 573; (4) Makiling-Banahaw Geothermal Reservations as covered by Proclamation No. 1111; (5) Buhi-Barit Watershed covered by Proclamation No. 573; (6) Tiwi Geothermal Reservation as covered by Presidential Proclamation No. 739;
4. Accordingly, Petitioner became responsible for the management, protection, development, and rehabilitation of the aforementioned watershed areas, including but not limited to the following: (1) Enforcement of forestry laws, rules and regulations governing the Integrated Management of Watershed Reservation under Ministry Order No. 83-01-13, Series of 1982; (2) Identification of areas which required immediate rehabilitation and development; (3) Preparation of plans and programs using the integrated multiple use concept of Watershed Management for the maximum utilization of Watershed resources; (4) Formulation and/or implementation of measures to prevent denudation of the forest cover and siltation of existing reservoirs; (5) Public education and information drive to create awareness among the populace of the importance of forest resources and watershed areas; (6) Promotion of the development and conservation of existing vegetative cover; (7) Formulation of plans and development programs for resettlement and relocation; (8) Coordination with other government agencies/instrumentalities, religious and civil groups in undertaking forest conservation measures in watershed areas; (9) afforestation, reforestation and physical rehabilitation measures in critically denuded watershed areas; (10) Development, maintenance and management of free farms within adequately vegetative watershed for the production of transmission line poles;
5. Petitioner's jurisdiction and control over watershed was again recognized and reiterated in Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" (**EPIRA**) and its Implementing Rules and Regulations (**IRR**), particularly Section 6 (s), Rule 23 of the IRR, wherein Petitioner is mandated to continue to be responsible for watershed rehabilitation and management;
6. Under the EPIRA, Petitioner is entitled to the Environmental Charge (**EC**) equivalent to one-fourth of

one centavo per kilowatt-hour sales (P0.0025/kWh), which forms part of the Universal Charge (UC), this environmental fund is intended solely for watershed rehabilitation and management is being managed by Petitioner under existing arrangements. In order to avail said EC, Petitioner is required to submit to the Honorable Commission a petition for the avilment of the UC-EC in relation to the proposed watershed rehabilitation and management projects on or before March 15 every year. Hence, this petition;

7. In support of the instant Petition, Petitioner hereby submits the proposed operations plan for Calendar Year 2017 (hereinafter referred to as "**Plan 14**") for the avilment of the UC-EC for the rehabilitation and management of the watersheds. (*Attached as **Annex "A"** is the **Executive Summary** of Plan 14 which forms an integral part hereof*);
8. Plan 14 is crafted in order to intensify and strengthen Petitioner's undertakings to address the issue on the uncontrolled deforestation especially in watershed areas. For the past 15 years (2002-2017), Petitioner has embarked on non-stop greening initiatives in its various watershed areas which have gained acceptance and cooperation by its stakeholders. In line with the Greening Program of the National Government, Petitioner's Watershed Management Department (**WMD**) and its Watershed Area Teams (**WAT**) are committed to reforest idle/open and denuded areas and promote the use of indigenous species (Rainforestation) in its greening projects. Alongside with the greening programs, WMD intends to raise planting stocks primarily to share and disperse to qualified beneficiaries to plant trees in their respective communities;
9. Plan 14 is composed of programs and projects specified in Section 1 of Article II of the Rules and Procedure Governing the Utilization and Disbursement of UC-EC (**Rules**) with the proposed modes of procurements in implementing the same. In particular, Plan 14 involves the following programs and projects: (1) Watershed Protection and Law Enforcement; (2) Watershed Rehabilitation; (3) Watershed Resource Development; (4) Infrastructure; (5) Administrative and Project Operations and/or Supervision; (6) Equipment Acquisition; (7) Sustainability and Third-Party Evaluation; (8) Biodiversity and Ecotourism; (9) Research Development. These programs and projects were recommended by the concerned WAT. And the same were reviewed and evaluation by the Head Office-WMD. (*Attached as **Annexes "D" to "L"** are the proposed plans of the WATs assigned in Angat, Buhi-Barit, Caliraya-Lumot, Lake-Lanao Agus River, Magat, Mak-Ban, Patabangan, Pulangi, San Roque, Tiwi,*

Upper Agno and the WMD-Head Office which forms an integral part hereof);

10. Plan 14 covers six (6) watershed over which Petitioner has complete jurisdiction and control by virtue of EO 224, San Roque Watershed (Lower Agno) which is being managed by Petitioner for San Roque Multi-Purpose Project by virtue of PD 2320, Pantabangan and Magat Watersheds which Petitioner has an area sharing scheme with National Irrigation Administration, and Lake Lanao-Agus River and Pulangi Watershed Area which Petitioner has a memorandum of Agreement with the Department of Environment and Natural Resources.
11. Plan 14 still forms part of the original 5-year Comprehensive Watershed Management Plan (CWMP) which was submitted by Petitioner on 15 March 2002, and aims to continue the remaining projects and programs therein. The instant petition is premised on the said CWMP. Likewise, Plan 14 is crafted with reference to the previous proposed plans submitted for the approval of the Honorable Commission;
12. Aside from maintaining the objectives of the previous proposed plans submitted to the Honorable Commission, Plan 14 particularly seeks to attain the rehabilitation through vegetative measures of 3,059 hectares of sedimentation and soil erosion inside Petitioner's reforestation areas of at least 2,880 tons/year (Saplaco, S.R., 1981); increase biodiversity in terms of species richness and flora and fauna population thru conservation and ecotourism programs' Strengthening and sustaining of 11 Bantay Watershed Task Force Group created purposely for the protection and conservation of the watershed areas; sustaining tapping more than 730 volunteers to augment the existing watershed protection personnel; employment of more or less 1,000 individuals from the local community; and, provide income through livelihood projects and produce from the established plantations;
13. Plan 14 complies with the ERC Case Res. Nos. 18, Series of 2011, which requires Petitioner to conduct consultation with the Local Government Units (LGU) and LGAs where projects will be situated. Reference is made with those of the environmental projects of the LGUs and LGAs so that no duplication in the funding of projects will occur. Concerns of the stakeholders are brought to the attention of concerned WAT and this serves as the latter's guide in packaging of Plan 14. This also ensures the support of the LGUs and the local communities for the proposed project;
14. In order to attain the objectives of Plan 14, Petitioner would need to avail and utilize the funds from the UC-EC

amounting to a total of **FOUR HUNDRED THIRTY ONE MILLION ONE HUNDRED NINETY TWO THOUSAND EIGHT HUNDRED FOUR PESOS & 80/100 (PhP431,192,804.80)**, as shown in the Consolidated Financial Proposal (From the 11 Watershed Area Teams and WMD-based Head Office) attached as **Annex D**. This was computed based on existing rules and regulations prescribed for government projects;

17. In compliance with Section 2 (b), Article II of the Rules, Petitioner furnished a copy of the instant petition to the Sangguniang Panlungsod and Office of the City Mayor of Quezon City where Petitioner principally operates, and publish the same in a newspaper of general circulation. (Attached as **Annexes "M" and "N"** are proofs of service and publication of the Petition.)

WHEREFORE, premises considered, Petitioner prays that the instant petition be **APPROVED** by the Honorable Commission.

Petitioner prays for other just and equitable relief.

Finding the said *Petition* to be sufficient in form with the required fees having been paid, the same is hereby set for initial hearing on the following dates and venues:

Date and Time	Venue	Particulars
18 September 2018 (Tuesday) at ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional and Expository Presentation
26 September 2018 (Wednesday) at two o'clock in the afternoon (2:00 P.M.)	Gladiola Hall, Benguet State University, La Trinidad, Benguet	Expository Presentation
02 October 2018 (Tuesday) at ten o'clock in the morning (10:00 A.M.)	Ibalong Conference Room, 2F Legazpi City Hall Annex Building, Rizal Street, Legazpi City	Expository Presentation
11 October 2018 (Thursday) at ten o'clock in the morning (10:00 A.M.)	Central Mindanao University, Maramag, Bukidnon	Expository Presentation
16 October 2018	ERC Hearing Room,	Pre-Trial

(Tuesday) at ten o'clock in the morning (10:00 A.M.)	15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Conference and Evidentiary Hearing
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Accordingly, NPC is hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of national 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/Municipal Mayors and their Local Government Unit (LGU) legislative bodies within the affected watershed areas, and the City Mayor and LGU legislative body of Quezon City for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform of the filing of the *Petition*, its reasons therefor, and of the scheduled hearing thereon the consumers within the affected watershed areas, 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 *Petition*, and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Petitioner 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 Manager of the newspapers where the said Notice of Public Hearing were 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 and LGU legislative bodies or their duly authorized representatives bearing the seals of their offices.
- 3) The evidence of the means employed by Petitioner to inform of the filing of the *Petition*, its reasons therefor, and of the scheduled hearing thereon, the consumers within the affected watershed areas;
- 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 the 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.

Petitioner and all interested parties are directed 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, to be attached to the Pre-trial Brief.


Failure of Petitioner 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 said date of cancellation.

NPC must also be prepared to make an Expository Presentation of its *Petition*, aided by whatever communication medium 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 *Petition* is all about and the reasons and justifications being cited in support thereof.

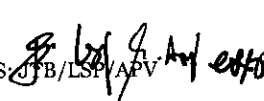
SO ORDERED.

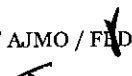
Pasig City, 10 July 2018.

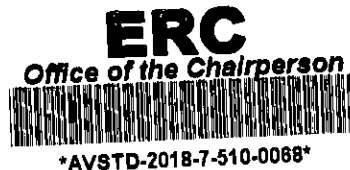
FOR AND BY AUTHORITY
OF THE COMMISSION:


AGNES VST DEVANADERA
Chairperson and CEO ✓

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LS: JTB/LSF/AFV 

ROS: AMDB / AJMO / FFD 



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Copy furnished:

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Atty. May Rose C. Pintor, and Atty. Diwa Rafael B. Bontuyan
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Makati City
4. Commission on Audit
Commonwealth Avenue
Quezon City
5. Senate Committee on Energy
GSIS Building, Roxas Boulevard
Pasay City
6. House Committee on Energy
Batasan Hills
Quezon City
7. The Administrator
National Electrification Administration (NEA)
Quezon Avenue, Quezon City
8. The General Manager
Philippine Rural Electric Cooperative Association (PHILRECA)
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372 Quezon Avenue, Quezon City
9. All Distribution Utilities
10. Office of the Governor
Province of Bulacan
11. Office of the LGU legislative body
Province of Bulacan
12. Office of the Mayor
San Jose Del Monte, Bulacan
13. Office of the LGU legislative body
San Jose Del Monte, Bulacan
14. Office of the Mayor
Norzagaray, Bulacan
15. Office of the LGU legislative body
Norzagaray, Bulacan
16. Office of the Mayor
Dona Remedios Trinidad, Bulacan
17. Office of the LGU legislative body
Dona Remedios Trinidad, Bulacan
18. Office of the Governor

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Province of Ifugao
20. Office of the LGU legislative body
Province of Ifugao
21. Office of the Governor
Province of Isabela
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Aguinaldo, Isabela
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Alfonso Lista, Isabela
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Ramon, Isabela
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Province of Nueva Ecija
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Pantabangan, Nueva Ecija
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35. Office of the Governor
Province of Pangasinan
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37. Office of the Mayor
San Nicolas, Pangasinan
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39. Office of the Mayor
San Manuel, Pangasinan
40. Office of the LGU legislative body
San Manuel, Pangasinan

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Province of Benguet
42. Office of the LGU legislative body
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Atok, Benguet
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Bauko, Mt. Province
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Province of Batangas
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Tiwi, Albay
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Province of Lanao del Sur
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151. Office of the Mayor
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214. Office of the LGU legislative body
Iligan City, Lanao Del Norte
215. Office of the Governor
Province of Bukidnon
216. Office of the LGU legislative body
Province of Bukidnon

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216. Office of the Mayor
Malaybalay, Bukidnon
217. Office of the LGU legislative body
Malaybalay, Bukidnon
218. Office of the Mayor
Maramag, Bukidnon
219. Office of the LGU legislative body
Maramag, Bukidnon
220. Office of the Mayor
San Fernando, Bukidnon
221. Office of the LGU legislative body
San Fernando, Bukidnon
222. Office of the Mayor
Lantapan, Bukidnon
223. Office of the LGU legislative body
Lantapan, Bukidnon
224. Office of the Mayor
Valencia City, Bukidnon
225. Office of the LGU legislative body
Valencia City, Bukidnon
226. Office of the Mayor
Cabanglasan, Lanao del Norte
227. Office of the LGU legislative body
Cabanglasan, Lanao del Norte
228. Office of the Governor
Province of Rizal
229. Office of the LGU legislative body
Province of Rizal
230. National Commission on Indigenous People (NCIP)
2nd Floor N. dela Merced Building, Cor. West and Quezon Avenues, Quezon City
231. Foundation for the Philippine Environment (FPE)
77 Matahimik Street, Teacher's Village, Diliman, Quezon City 1101
232. Bukidnon Higaonon Tribal Association (BUHITA)
Dampog Residence Sta. Cruz St. Sumpong, Malaybalay City, Bukidnon
233. Regulatory Operations Service
17th Floor Pacific Center, San Miguel Avenue, Pasig City