

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 PHINMA
ENERGY CORPORATION
(SUBIC PLANT), WITH
PRAYER FOR THE
ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2018-016 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND PHINMA
ENERGY CORPORATION,
Applicants.**

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

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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 23 March 2018, the applicants National Grid Corporation of the Philippines (NGCP) and PHINMA Energy Corporation (PHINMA Energy) filed an *Application* dated 15 March 2018 for the approval of their Ancillary Services Procurement Agreement (ASPA), with prayer for the issuance of provisional authority.

Applicants NGCP and PHINMA Energy alleged the following in their *Application*:

NATURE OF THE CASE

1. This Application is for the approval of the Ancillary Services Procurement Agreement (ASPA) between the NGCP and PHINMA Energy, 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 PHINMA Energy is a corporation organized and existing under and by virtue of the Philippine laws with principal office address at Level 11, PHINMA Plaza, 39 Plaza Drive, Rockwell Center, Makati City. It may be served with orders, notices, and other legal processes through its undersigned counsels. It is the administrator of the diesel power generating facility located at Subic Bay Freeport Zone (the “Subic Plant”) which was certified by NGCP as capable of providing Dispatchable Reserve (DR).

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

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);

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 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.
9. On 21 December 2012, NGCP and PHINMA Energy (formerly known as Trans-Asia Oil and Energy Development Corporation (“TA-OIL”)) filed an application for the approval of its Ancillary Services Procurement Agreement (ASPA 2012) docketed as ERC Case No. 2012-136RC. Upon receipt of the intention from PHINMA Energy to continue providing ancillary services, NGCP commenced negotiation for the execution of a new ASPA.
10. In view of the need for PHINMA Energy to continue providing ancillary services, the Applicants on 23 December 2017, executed a new ASPA (ASPA 2017). NGCP agreed to procure and PHINMA Energy agreed to supply Ancillary Services in the form of: Dispatchable Reserve (DR) for five (5) years under a non-firm arrangement for up to 120MW. A copy of the *Ancillary Services Procurement Agreement between NGCP and PHINMA* dated 23 December 2017 is attached as **Annex “A”**.
11. During the period of negotiation, NGCP conducted several tests, and certified that the power plant has met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Dispatchable Reserve Service.

³ 2007 PGC, Section 6.3.1.2;

Thus, NGCP issued the *Accreditation Certificate* No. 2017-LO01, attached as **Annex “B”** and its renewal, Accreditation Certificate No. L2018-LO04, attached as Annex “B-1”.

12. At present, the Subic Plant does not have any power supply agreement with any customer.

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

13. Schedule 1 of the ASPA provides for the types of AS that can be nominated by PHINMA Energy, as follows:

Non-Firm Contracted Capacity

Dispatchable Reserve (Tertiary Reserve)

Up to 120MW

The capacity listed above is the maximum offer. However, for clarity, the basis for AS Provider’s nomination and scheduling shall be the capacity listed in its valid AS Certificate.

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

Ancillary Service	Applicable Rates (Maximum Hourly Rate)
Dispatchable Reserve	Php1.25 /kW/Hr (Non-firm)

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

15. 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
DR	3.9264	0.0077

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

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 Luzon Grid.
17. PHINMA Energy submits the copies of the following documents:

Document	Annex
<i>Certificate of Compliance</i>	“D”
<i>Certification of No 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

18. 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.

19. On 21 December 2012, NGCP and PHINMA Energy (formerly known as Trans-Asia Oil and Energy Development Corporation (“TA-OIL”)) filed an application for the approval of its Ancillary Services Procurement Agreement (ASPA 2012) docketed as ERC Case No. 2012-136RC. In the Order dated 25 February 2013, the Honorable Commission issued an Order approving the Application. Page 9 of the Order provides: “An initial evaluation of the instant application discloses that the ASPA entered into by and between NGCP and TA-OIL will redound to the benefit of the customers in terms of continuous, reliable, efficient and affordable power supply as mandated by the EPIRA [Section 2. Declaration of Policy – (b) “to ensure the quality, reliability, security and affordability of the supply of electric power].” (Emphasis supplied) The parties implemented the 2012 ASPA on the July 2013 Billing Period.

20. As mentioned above, the Honorable Commission has already declared that there is a necessity for NGCP to procure the contracted ancillary services capacity of PHINMA Energy to maintain the reliability of the operation of the transmission system and electricity supply in the Luzon Grid.

21. PHINMA must continue to provide ancillary services beyond the 2012 ASPA to maintain the reliability of the power grid. Based on the current levels of available contracted AS in the Luzon Grid, the firm contracted AS have not yet met the required levels. The copy of the *Luzon AS Availability* showing the required and available levels of ancillary services in the Luzon Grid is attached as **Annex “J”**.

22. As the demand for power in the Luzon 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.

23. The importance of DR, from PHINMA Energy to ensure and maintain the reliability, adequacy, security, stability and integrity of the Luzon Grid cannot be overemphasized.
24. 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. Lisaflor Bacani-Kater*, which is attached as **Annex "K"**.
25. Applicants further submit that if and when the 2017 ASPA is approved by this Honorable Commission, it is hereby understood that it will only take effect, immediately upon expiration of the 2012 ASPA or on the July 2018 Billing Period.

PRAYER

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

- a) Immediately **ISSUE** a provisional authority to implement the 2017 ASPA, to take effect upon expiration of the 2012 ASPA or on the July 2018 Billing Period;
- b) **APPROVE**, after notice and hearing, the 2017 ASPA.

Applicants pray for other just and equitable relief.

Finding the said *Application* to be 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 **20 June 2018 at nine o'clock in the morning (9:00 A.M.), at Court Meridian Hotel & Suites, Lot B Waterfront Road, corner Rojas St., Central Business District, Subic Bay Freeport Zone.**

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name and address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Applicants rest their case, subject to the requirements under Rule 9 of the 2006 Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- 1) The name and address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

All such persons who wish to have a copy of the *Application* may request from Applicants that they be furnished with the same, prior to the date of the initial hearing. Applicants are hereby directed to furnish all those making such request with copies of the *Application* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairperson and CEO **AGNES VST DEVANADERA**, and the Honorable Commissioners **ALFREDO J. NON**, **GLORIA VICTORIA C. YAP-TARUC**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 22nd day of May 2018 in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal