

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 (FM) EVENT REGULATED FM PASS THROUGH FOR SEVERE TROPICAL STORM URDUJA IN THE VISAYAS, TYPHOON VINTA IN MINDANAO, TROPICAL STORM BASYANG IN THE VISAYAS AND MINDANAO, AND FLASH FLOOD IN MINDANAO IN ACCORDANCE WITH THE RULES FOR SETTING TRANSMISSION WHEELING RATES, WITH PRAYER FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2018-117 RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,

D O C K E T E D
Date: JAN 24 2019
By: *[Signature]*

Applicant.

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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 11 December 2018, the National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 28 November 2018 seeking the approval of its Force Majeure (FM) event regulated FM pass through for severe tropical storm Urduja in the Visayas, typhoon Vinta in the Mindanao and flash flood

in Mindanao in accordance with the Rules for the Setting the Transmission Wheeling Rates (RSTWR), with prayer for provisional authority.

In its *Application*, NGCP alleged, among others, the following:

1. Applicant 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 B.I.R. Road, Diliman, Quezon City. It is the concessionaire that operates and maintains the nationwide transmission system pursuant to Section 21 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (“EPIRA”).¹
2. Under Republic Act No. 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. Pursuant to Section 10.1.1 of the Rules for Setting Transmission Wheeling Rates (“RTWR”), NGCP is allowed to recover the cost incurred for the repair, restoration, rehabilitation of its transmission assets and other related facilities damaged as a result of a force majeure event (“FME”), as defined in Article I of RTWR.

STATEMENT OF FACTS

A. Severe Tropical Storm Urduja

4. Severe Tropical Storm (STS) Urduja was inside the Philippine Area of Responsibility (PAR) during the period 12 to 19 December 2017, with maximum winds of 95 kph and gustiness of 120 kph. It made landfall six times and traversed the Samar Provinces, Masbate, Sibuyan Island, Romblon, Aklan, Cuyo Island, and Palawan. As a result, NGCP’s transmission assets and other related facilities particularly in the Visayas were damaged. A copy of the Certification dated 23 January 2018, issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached in the said Application.

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”

5. After the occurrence of STS Urduja and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission a Force Majeure Event Notice (FME Notice) regarding STS Urduja dated 3 January 2018. A copy of the FME Notice regarding STS Urduja dated 3 January 2018 is attached in the said Application.

- B. Typhoon Vinta

6. Typhoon Vinta was inside the PAR during the period 20 to 24 December 2017, with maximum winds of 120 kph and gustiness of 145 kph. It made landfall in Cateel, Davao Oriental and traversed several provinces in Mindanao, causing damage to NGCP's transmission assets and other related facilities in therein. A copy of the Certification dated 12 February 2018 issued by the PAGASA is attached in the said Application.

7. After the occurrence of Typhoon Vinta and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding Typhoon Vinta dated 6 February 2018. A copy of the FME Notice regarding Typhoon Vinta dated 6 February 2018 is attached in the said Application.

- C. Tropical Storm Basyang

8. Tropical Storm (TS) Basyang was in the PAR from 11 to 14 February 2018, with maximum winds of 65 kph and gustiness of 80 kph. It made landfall in Cortes, Surigao del Sur, traversed the Surigao Provinces, and again made landfall over Dumaguete City, causing damage to NGCP's transmission assets and other related facilities in the Visayas and Mindanao. A copy of the Certification dated 27 March 2018 issued by the PAGASA is attached in the said Application.

9. After the occurrence of TS Basyang and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding TS Basyang dated 7 March 2018. A copy of the FME Notice regarding TS Basyang dated 7 March 2018 is attached in the Application.

- D. FLASH FLOOD IN MINDANAO

10. On 25 February 2018, a flash flood occurred within the jurisdiction of Barangay Sianib, Polanco, Zamboanga del Norte, causing damage to NGCP's transmission assets and other related facilities in Mindanao. A copy of the Certification dated 1 March 2018 issued by Barangay Chairman Marcelo C. Sumagang, Sr. is attached in the Application.

11. The Certification dated 3 October 2018, issued by PAGASA attached in the Application, states that continuous rain and occasional thunderstorm were observed from 25 to 26 February 2018 at the Dipolog City Weather Station, the PAGASA observing station closest to Zamboanga del Norte.
12. After the occurrence of the flash flood and in compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice regarding the flash flood dated 30 April 2018. A copy of the FME Notice regarding the flash flood dated 30 April 2018 is attached in the Application.

FME CLAIM

13. Immediately after the devastation caused by the foregoing incidents, NGCP started the repair, restoration and rehabilitation of its damaged transmission assets and other related facilities in order to restore transmission service to its customers and the public. As a result, NGCP incurred additional costs for the repair, restoration and rehabilitation of the said damaged transmission assets and other related facilities.
14. Under Section 1.3(a) of the RTWR, an FME is defined as a “typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or an act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions.”
15. Pursuant to Section 10.1.1 of the 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 STS Urduja in the Visayas, Typhoon Vinta in Mindanao, TS Basyang in the Visayas and Mindanao, and the flash flood in Mindanao, (the “Subject Force Majeure Events”) through an FM Pass-Through Amount.
16. Pursuant to Sections 10.2.1 and 10.2.2 of the RTWR, within three (3) months after the occurrence of the Subject Force Majeure Events, NGCP filed before the Commission the required FME Notices. The Commission acknowledged receipt of the FME Notices for STS Urduja, Typhoon Vinta, and TS Basyang, in its letters respectively dated 5 February, 21 February, and 5 April 2018, attached in the Application.
17. Thereafter, within twelve (12) months after the occurrence of the Subject Force Majeure Events, NGCP hereby files the instant FME Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

18. NGCP has not recovered from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the years 2017 and 2018, the cost that it incurred in the repair, restoration, and rehabilitation of the transmission assets and other related facilities damaged by the Subject Force Majeure Events. The affected assets are located beyond a one (1) kilometer radius from the nearest substation (except for Babatngon Substation and Kananga-Tabango 230 kV line), and are therefore not covered by the IAR. With regard to the Babatngon Substation and Kananga-Tabango 230 kV line, the total cost of damage is below the One (1) Million US Dollars deductible amount. Thus, it is but proper for NGCP to file the instant FME Application to recover the cost it incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the Subject Force Majeure Events pursuant to the RTWR.
19. The total cost NGCP incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the Subject Force Majeure Events is Sixty-Three Million Eight Hundred Seventy Thousand Seven Hundred Eighty-Six Pesos and 10/100 (PhP63,870,786.10). Further, the recoverable values of the assets destroyed (Net Fixed Asset Value or NFAV) is Two Million Fourteen Thousand Five Hundred Sixty-Five and 43/100 (PhP2,014,565.43). The breakdown of the expenses is shown in the table below:

FME	CAPEX/OPEX*	NFAV	Total
Tropical Storm Urduja	40,936,343.46	260,182.36	41,196,525.82
Typhoon Vinta	399,610.27	883,711.95	1,283,322.22
Tropical Storm Basyang	22,402,140.29	657,676.72	23,059,817.01
Flash flood in Mindanao	132,692.08	212,994.40	345,686.48
Total	63,870,786.10	2,014,565.43	65,885,351.53

* Capital Expenditures/Operating Expenditures, exclusive of VAT (pursuant to the TRAIN law) and Permit Fees

20. NGCP proposes the FM Pass-Through Amounts, in P/kW-month, as additional network charges starting January 2019 until 2020 to Visayas and Mindanao, or until such time that the amounts incurred are fully recovered, computed as shown in the tables below:

Visayas	2019	2020
P/kW-mo.	2.95	0.02
P/kWh	0.00587	0.00005
Mindanao	2019	2020
P/kW-mo.	0.06	0.003
P/kWh	0.00012	0.00001

Note: P/kWh in this table are only the equivalent P/kWh of the FME Pass-Through amounts

21. NGCP proposes the FM Pass-Through Amounts for the years 2019 to 2020 to allow the recovery of the expenditures incurred by NGCP relative to the Subject Force Majeure Events, pending the reset process for the Transmission Services.
22. The proposed FM Pass-Through Amounts can be recovered pursuant to Section 10.1.1 of the RTWR, wherein 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 a force majeure event. A copy of the FM Pass-Through Amount Computation is attached in the Application.
23. Further, the FM Pass-Through Amounts in this Application do not breach the Force Majeure Threshold Amount (FMTA) of PhPo.0366/kWh in accordance with the RTWR. A copy of the FMTA Computation is attached in the said Application.
24. Also, NGCP considered the NFAV of the transmission assets and other related facilities damaged by the Subject Force Majeure Events 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 Subject Force Majeure Events.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

25. NGCP respectfully moves for the issuance of 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.
26. 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 rehabilitation of the assets damaged by the Subject Force Majeure Events required capital infusion, 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.
27. In addition, the timely implementation of the FM Pass-Through Amounts will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost.
28. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Manager, Tariff Design and Billing Management Division, Revenue and Regulatory Affairs, in support of the instant Application, is attached in the Application.

PRAYER

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

1. DECLARE Severe Tropical Storm Urduja in the Visayas, Typhoon Vinta in Mindanao, Tropical Storm Basyang in the Visayas and Mindanao, and flash flood in Mindanao as Force Majeure Events (FME);
2. Immediately GRANT PROVISIONAL APPROVAL to implement and bill the following FM Pass-Through Amounts to Visayas and Mindanao customers starting January 2019 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered;

Visayas	2019	2020
P/kW-mo.	2.95	0.02
P/kWh	0.00587	0.00005

Mindanao	2019	2020
P/kW-mo.	0.06	0.003
P/kWh	0.00012	0.00001

3. Approve the FME CAPEX/OPEX amounting to Sixty-Three Million Eight Hundred Seventy Thousand Seven Hundred Eighty-Six Pesos and 10/100 (Php63,870,786.10) incurred by NGCP for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities due to Severe Tropical Storm Urduja in the Visayas, Typhoon Vinta in Mindanao, Tropical Storm Basyang in the Visayas and Mindanao, and flash flood in Mindanao;
4. Approve, after due notice and hearing, the proposed FM Pass Through Amount to be collected from the Visayas and Mindanao customers starting January 2019 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered, as follows:

Visayas	2019	2020
P/kW-mo.	2.95	0.02
P/kWh	0.00587	0.00005

Mindanao	2019	2020
P/kW-mo.	0.06	0.003
P/kWh	0.00012	0.00001

5. Approve and allow the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by Severe Tropical Storm Urduja in the Visayas, Typhoon Vinta in Mindanao, Tropical Storm Basyang in the Visayas and Mindanao, and flash flood in Mindanao, amounting to Two Million Fourteen Thousand Five Hundred Sixty-Five and 43/100 (PhP2,014,565.43). 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 the Subject Force Majeure Events; and
6. Exclude the proposed Pass-Through Amounts from the side constraint calculation.

NGCP prays for other relief deemed just and equitable under the premises.

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates:

Date and Time	Venue	Hearing Coverage
21 February 2019 at ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room 15th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Jurisdictional and Expository Presentation
28 February 2019 at two o'clock in the afternoon (2:00 P.M.)	ERC Visayas Field Office St. Mary's Drive Banilad, Cebu City	Expository Presentation Pre-trial Conference and Presentation of Evidence
07 March 2019 at 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 Pre-trial Conference and Presentation of Evidence

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 ERC 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.

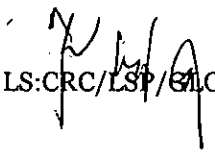
All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Applicant rests its case, subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and 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 Applicant that they be furnished with the same, prior to the date of the initial hearing. Applicant is 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, **AGNES VST DEVANADERA** and the Honorable Commissioners **ALEXIS M. LUMBATAN** and **CATHERINE P. MACEDA**, Energy Regulatory Commission, this 16th day of January 2019 in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal


LS:CRC/LS/EO nph2018-117rc NGCP FM VISMIN