

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



**PETITION FOR THE
AVAILMENT OF THE
NATIONAL POWER
CORPORATION'S
STRANDED CONTRACT
COSTS PORTION OF THE
UNIVERSAL CHARGE FOR
CALENDAR YEAR 2014,
WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2015-139 RC

**POWER SECTOR ASSETS
AND LIABILITIES
MANAGEMENT
CORPORATION (PSALM),
Petitioner.**

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D U C K E T E D
Date: MAY 07 2015
By: [Signature]

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES

Notice is hereby given that on 24 July 2015, Power Sector Assets and Liabilities Management Corporation (PSALM) filed a *Petition* dated 21 July 2015 (*Petition*) seeking the Commission's approval for the availment of the National Power Corporation's stranded contract costs portion of the Universal Charge for calendar year 2014 with prayer for the issuance of provisional authority.

PSALM alleged the following in its *Petition*:

**I.
NATURE OF THE PETITION**

1. This is a *Petition* for the availment from the Universal Charge (hereinafter, "UC") of the National Power Corporation's (hereinafter, "NPC") Stranded Contract Costs (hereinafter, "SCC") for calendar year 2014 pursuant to R.A. No. 9136 or the "Electric Power Industry Reform Act of 2001" (hereinafter, "EPIRA"), its Implementing Rules and Regulations (hereinafter, "EPIRA-IRR") and the Amended Rules for

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Recovery of NPC Stranded Contract Costs and Stranded Debts Portion of the Universal Charge (hereinafter, "Amended Rules for Recovery") as adopted by Energy Regulatory Commission (hereinafter, "ERC") Resolution No. 02-2011 dated 07 February 2011.

2. Section 4(b), Rule 18 of the EPIRA-IRR provides that petitions for availment under the UC for the succeeding years shall be submitted to the Honorable Commission on or before 15 March of every year.
3. Under Article IV, Section 9 of the Amended Rules for Recovery, PSALM shall file the petition for availment from the UC for NPC's SCC in accordance with Section 4(e), Rule 3 of the EPIRA-IRR and the Honorable Commission's Rules of Practice and Procedure.

II.

TIMELINESS OF THE PETITION

4. In a letter dated 03 March 2015, Petitioner requested for an extension of the deadline to file the petition for the availment of the UC-SCC for CY 2014 from 15 March 2015 to 31 July 2015, on the ground that the 15 March original deadline is no longer feasible considering that the CY 2014 certified financial statements of PSALM which serve as the bases in calculating the SCC will only be available by April 2015. In a letter dated 12 March 2015, the Honorable Commission granted Petitioner's request and directed it to file the UC-SCC petition on or before 31 July 2015. Copies of the said letter request are attached hereto and made integral parts hereof as **Annexes "A" and "B"**, respectively.
5. Hence, the instant Petition is timely filed.

III.

PETITIONER

6. Petitioner is a government-owned and controlled corporation created by virtue of the EPIRA, with principal office address at 7/F Bankmer Building, 6756 Ayala Avenue, Makati City. It may be served with notices, orders, and other processes of the Honorable Commission through the undersigned counsel with office address at the Power Sector Assets and Liabilities Management Corporation, 7th Floor, Bankmer Building, 6756 Ayala Avenue, Makati City.
7. The principal mandate of Petitioner is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner¹. To attain its objectives, Petitioner shall, among others, [i] calculate the amount of the stranded debts and stranded contract costs of

¹ Sec. 50, EPIRA

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NPC which shall form the basis for ERC in the determination of the universal charge and [ii] liquidate the NPC stranded contract costs, utilizing the proceeds from sales and other property contributed to it, including the proceeds from the universal charge².

IV.
NPC'S STRANDED CONTRACT COSTS

8. Stranded Contract Costs of NPC refer to the "excess of the contracted cost of electricity under eligible contracts over the actual selling price of the contracted energy output of such contracts in the market". Market as defined in the Amended Rules for Recovery refers to the "Wholesale Electricity Spot Market (WESM) where electricity traded includes, but is not limited to, Spot Sales, Transition Supply Contract (TSCs), Bilateral Contracts, One Day Power Sale (ODPS), Default Wholesale Supplier (DWS) service, and Ancillary Services"³. To be eligible for recovery under the Universal Charge, such contracts shall have been approved by the Energy Regulatory Board (hereinafter, "ERB") as of 31 December 2000⁴.
9. For purposes of the UC-SCC calculation, Independent Power Producer (hereinafter, "IPP") Contracts of NPC eligible for recovery under the UC-SCC (hereinafter, "Eligible IPP Contracts") shall refer to "generation capacities developed under the Build-Operate-Transfer scheme and any such generation asset whose construction was not financed by NPC but whose output is bought by NPC under Purchase Power Agreements (PPAs), Energy Conversion Agreement (ECAs) or any other similar contractual relationship. The IPP Contracts shall also include Rehabilitate Operate Lease (ROL) and Rehabilitate Operate Maintain types of IPP Contracts"⁵. In accordance with Section 32 of the EPIRA, only contracts duly approved by the ERB as of 31 December 2000 shall be entitled for recovery through the UC-SCC.
10. On 26 December 2010, the commercial operation of the WESM in the Visayas Grid and its integration with the Luzon Grid commenced⁶.
11. Based on the above definition and for the purpose of this filing, the following are the Eligible IPP Contracts, which are eligible for recovery under UC-SCC:
 - a. Benguet Mini-Hydros (Ampohaw and Bakun);
 - b. Pagbilao I & II;
 - c. Sual I & II; and
 - d. Unified Leyte (Leyte A and B)

² Sec. 51, EPIRA

³ Article 1, Section 2, Amended Rules for Recovery

⁴ Sec. 4 [uu] and Sec. 32, EPIRA

⁵ Article III, Amended Rules for Recovery

⁶ DOE Department Circular No. 2010-11-0012

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12. The annual UC-SCC shall be computed as the difference between the Gross Annual Contract Costs (hereinafter, "GACC") and combined amounts derived from the Revenues from the Sale of Contracted Energy of Eligible IPP Contracts (hereinafter, "RSCE") and the Privatization proceeds of the Eligible IPP Contracts (hereinafter, "PP")⁷.

IV – A.
GROSS ANNUAL CONTRACT COSTS

13. For purposes of this filing, the GACC is composed of capacity fees, fixed operating and maintenance fee (FOM)-other power supply (OPS), other Operating Expenses (OPEX), variable fees-OPS (when purchased power cost varies with volume of energy), and energy purchased from the WESM (EPFW).
14. For CY 2014, the GACC amounted to a total of PhP 32,510.27 Million with details as follows:

GACC Components (in PhP)	Benguet Mini-Hydros	Unified Leyte	Pagbilao	Sual	TOTAL
Capacity Fees	-	-	8,397,759,649.85	8,283,130,058.42	16,680,889,708.27
FOM-OPS	-	10,759,638,587.82	1,433,109,830.39	1,426,376,103.85	13,619,124,522.06
Other OPEX	1,522,586.15	71,480,131.22	79,066,928.39	135,679,156.94	287,748,802.70
Sub-Total: Fixed Fees	1,522,586.15	10,831,118,719.04	9,909,936,408.63	9,845,185,319.21	30,587,763,033.04
Variable-OPS	637,144,130.63	-	685,452,580.03	564,058,393.90	1,886,655,104.56
EPFW (to meet TSC)	22,198,158.15	13,638,483.74	-	-	35,836,641.90
EPFW (Station Use)	16,787.76	-	-	-	16,787.76
Sub-Total: Variable Fees	659,359,076.55	13,638,483.74	685,452,580.03	564,058,393.90	1,922,508,534.22
TOTAL	660,881,662.70	10,844,757,202.79	10,595,388,988.66	10,409,243,713.11	32,510,271,567.26

Table 1. Annual Gross Contract Costs

15. For Benguet Mini-Hydros and Unified Leyte, components of GACC were lifted from the Operating Results (ROO) of Eligible IPPs. Copies of the ROO of Eligible IPPs and ROO per Grid for CY 2014 are attached hereto and made integral parts hereof as **Annexes "C" and "C-1"**, respectively.
16. For eligible IPP plants under IPP Administrators (hereinafter, "IPPA") namely Sual and Pagbilao, components of GACC were sourced from the monthly IPP payment vouchers and Schedule of Other OPEX of Eligible Plants under IPPA Agreement (IPPAA). Copies of the Fixed and Variable Costs and Other OPEX of Eligible Plants under IPPAA for CY 2014 are attached hereto and made integral parts hereof as **Annexes "D" and "E"**, respectively.
17. It should be noted that in computation of the Other OPEX component of the GACC for Sual and Pagbilao, the VAT expense was not included as it was netted out in the PP.

IV – B.

⁷ Article IV, Section 6 in relation to Sections 3, 4 and 5, Amended Rules for Recovery

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REVENUES FROM THE SALE OF CONTRACTED ENERGY OF ELIGIBLE IPP CONTRACTS

18. For purposes of this filing, the RSCE refers to the following sources of revenue: (i) Sales in WESM, including net settlement surplus (NSS); and (ii) Sales under Transition Supply Contracts (TSC), including adjustments, namely, fuel cost adjustment (FCA), purchased power cost adjustments (PPCA) and foreign exchange-related cost adjustments (FxA), and penalties imposed on customers which drew power lower than or in excess of contracted level of energy.
19. For CY 2014, the RSCE amounted to a total of PhP11,406.99 Million with details as follows:

RSCE Components in (PhP)	Benguet Mini-Hydros	Unified Leyte	TOTAL
Sales in WESM	64,985,545.45	3,284,409,318.24	3,349,394,863.69
Sales in TSC	266,830,310.31	7,790,767,962.56	8,057,598,272.87
TOTAL RSCE	331,815,855.77	11,075,177,280.80	11,406,993,136.56

Table 2. Revenues from the Sale of Contracted Capacity

20. Components of RSCE were lifted from the Net Utility Revenue portion of the ROO for CY 2014. RSCE excludes Power Act Reduction (PAR) and Prompt Payment Discount (PPD) adjustment which have been disallowed for recovery by the Honorable Commission in its Decision dated 28 January 2013 in ERC Case No. 2011-091 RC. FxA per plant was based on Total FxA Revenue per Grid allocated per plant based on per plant TSC energy sales. Copies of the Schedule of FxA for the period 2014 and Schedule of FxA for Eligible IPP Plants are attached hereto and made integral parts hereof as **Annexes "F"** and **"G"**, respectively.

IV – C.
PROCEEDS FROM PRIVATIZATION OF ELIGIBLE IPP CONTRACTS

21. For CY 2014, PP amounted to a total of PhP13,748.71 Million. Included under PP are cash inflows arising from an Assumption of Obligation scheme of the eligible IPP contracts, namely, monthly payments (net of VAT) and generation payments of Pagbilao and Sual IPPAs, as follows:

Privatization Proceeds Components (in PhP)	Pagbilao	Sual	Total
Monthly Payments	5,228,589,294.53	7,272,379,811.17	12,500,969,105.70
Generation Payments	684,437,595.97	563,308,280.11	1,247,745,876.08
TOTAL	5,913,026,890.51	7,835,688,091.28	13,748,714,981.78

Table 3. Privatization Proceeds

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22. Copies of the IPPAA Monthly Payments for Eligible Plants, Summary of IPPA Collection – Energy Fee (Original Currency), and Summary of IPPA Collection – Generation Payments (PhP Equivalent) for CY 2014 are attached hereto and made integral parts hereof as **Annexes “H”, “I” and “J”**, respectively.

V.
NPC’S STRANDED CONTRACT COSTS

23. Based on the foregoing calculations, the SCC for CY 2014 amounts to PhP7,354.56 Million computed as the difference between the GACC, on one hand, and the combined amounts derived from the RSCE and PP, on the other, with details as follows:

2014 UC-SCC (in PhP)	Benguet Mini-Hydros	Unified Leyte	Pagbilao	Sual	TOTAL
GACC	660,881,662.70	10,844,757,202.79	10,595,388,988.66	10,409,243,713.11	32,510,271,567.26
Less: RSCE	331,815,855.77	11,075,177,280.80	-	-	11,406,993,136.56
Less: PP	-	-	5,913,026,890.51	7,835,688,091.28	13,748,714,981.78
SCC	329,065,806.93	(230,420,078.01)	4,682,362,098.15	2,573,555,621.83	7,354,563,448.91

Table 4. Details of Stranded Contract Cost

24. Consistent with the Honorable Commission’s Decision in ERC Case No. 2011-091 RC mentioned above, wherein the Honorable Commission used four (4) years’ forecast of electricity sales based on the Department of Energy’s (DOE) Power Development Plan (PDP) in determining the four (4) year 2007-2010 UC-SCC rate, the UC-SCC rate for CY 2014 is derived by dividing the calculated CY 2014 SCC by one (1) year Electricity Sales Forecast for CY 2016 based on the PDP (2014-2030)⁸. The calculated SCC rate is PhP 0.0907/kWh with details as follows:

UC-SCC For CY 2014 (in PhP)	Forecasted Energy Sales (GWh)	UC-SCC Rate (PhP/kWh)
7,354,563,448.91	81,082	0.0907

Table 5. Stranded Contract Costs

25. A copy of the Electricity Sales Forecast, PDP (2014-2030) as sourced from the DOE is attached hereto and made an integral part hereof as **Annex “K”**.
26. It should be noted that the calculated UC-SCC for CY 2014 does not include the downward adjustment in revenues for November and December 2013 issued by the Philippine Electricity Market Corporation (PEMC) in 2014 as a result of market suspension during the Malampaya natural gas pipeline shutdown, which was directed by the Honorable Commission in its Order dated 03 March 2014 in ERC Case No. 2014-021 MC titled *“In the Matter of the Prices in the (Wholesale Electricity Spot Market (WESM) for the Supply Months of November and December 2013 and the Exercise by the*

⁸ Electricity Sales forecast for 2016 is based on the DOE’s PDP for 2014-2030 in the absence of updated sales forecast under the PDP for 2015-2030 which is yet to be released by DOE.

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Commission of its Regulatory Powers to Intervene and Direct the Imposition of Regulated Prices therein without prejudice to the Ongoing Investigation on the Allegation of Anti-Competitive Behavior and Possible Abuse of Market Power by some WESM Participants". In the event the PEMC adjustments are reflected, the UC-SCC would have increased by PhP 27.07 Million, representing the amount returned by PSALM to PEMC under dispute in CY 2014 for the traded energy of the eligible IPPs.

27. In compliance with Section 4(e) of Rule 3 of the EPIRA-IRR and ERC Resolution No. 38-2006, a copy of the instant Petition (including Annexes) was furnished the Sangguniang Panlungsod of Makati City. A copy of the Certification of Posting/Affidavit of Service is attached hereto and made an integral part hereof as **Annex "L"**. The Petition (excluding Annexes) was also published in a newspaper of general circulation. A copy of the Affidavit of Publication is attached hereto and made integral part hereof as **Annex "M"**.

VI.
ALLEGATIONS IN SUPPORT OF THE ISSUANCE OF
PROVISIONAL AUTHORITY

28. The instant petition covers the SCC for CY 2014. The amount, if collected, would enable Petitioner to recover SCC, which was funded through loans/borrowings, and to service these maturing loan obligations. Provisional approval of this SCC will also keep Petitioner from resorting to refinancing to service its maturing loan obligations, thus reducing, if not totally eliminating additional borrowing costs.
29. Pursuant to the Honorable Commission's Rules of Practice and Procedure, the Honorable Commission may exercise its discretion by granting provisional authority or interim relief prior to a final decision.
30. It is understood that the interim relief sought by Petitioner, that may be granted by the Commission, shall be subject to adjustments and other conditions that the Commission may impose after hearing and final determination of the Honorable Commission.

PRAYER

WHEREFORE, premises considered, Petitioner respectfully prays, after due notice and hearing, for the **APPROVAL** of the following:

1. The calculated UC-SCC for the calendar year 2014 amounts to PhP 7,354,563,448.91, which is equivalent to PhP 0.0907/kWh covering a one-year recovery period.

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2. Provisional Authority allowing Petitioner to charge and collect the computed UC-SCC or such amount determined by the Honorable Commission.

Other reliefs just and equitable are likewise prayed for.

The Commission has set the *Petition* for hearing on the following dates:

Date and Time	Venue	Particulars
LUZON		
11 July 2018 (Wednesday) at ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig Ciy	Jurisdictional and Expository Presentation
VISAYAS		
18 July 2018 (Wednesday) at two o'clock in the afternoon (02:00 P.M.)	Energy Regulatory Commission- Visayas Field Office (ERC-VFO), St. Mary's Drive, Banilad, Cebu City, Philippines	Expository Presentation
MINDANAO		
25 July 2018 (Wednesday) at two o'clock in the afternoon (02:00 P.M.)	Energy Regulatory Commission- Mindanao Field Office (ERC-MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue cor. Sales Street, Davao City	Expository Presentation
LUZON		
01 August 2018 (Wednesday) at ten o'clock in the morning (10:00 A.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig Ciy	Pre-trial Conference and Evidentiary Hearing

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;

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- 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 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 *Petition* may request from Petitioner that they be furnished with the same prior to the date of the initial hearing. Petitioner is hereby directed to furnish all those making such request with copies of the *Petition* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Petition* 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 25th day of April 2018 in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commission for Legal