

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, 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
12), WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2015-050 RC

**NATIONAL POWER
CORPORATION (NPC),**

Petitioner.

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Date: AUG 04 2015
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ORDER

On March 12, 2015, the National Power Corporation (NPC) filed a petition for the availment of the Environmental Charge/Share from the Universal Charge (UC) for the rehabilitation and management of watershed areas (Plan 12), with prayer for provisional authority.

In the said petition, NPC alleged, among others, the following:

1. It is a government-owned and controlled corporation created and existing under and by virtue of Republic Act No. 6395 (R.A. 6395), as amended (NPC Charter), with principal office address at NPC Building Complex, Quezon Avenue, cor. BIR Road, Diliman, Quezon City;
2. In pursuit of its mandate and under Section 3 (n) of its Charter, it exercises complete jurisdiction and control over watersheds surrounding the reservoirs of plants and/or projects constructed or proposed to be constructed by it;

3. To further strengthen its jurisdiction and control over watersheds, Executive Order No. 224 (EO 224) was issued on July 16, 1987, wherein it was granted complete jurisdiction, control rehabilitation over the following watershed areas and reservations: a) the Upper Agno Watershed Reservation as covered by Proclamation No. 548; b) Angat Watershed Reservation as covered by Proclamation Nos. 505 and 599; c) Caliraya-Lumot Watershed Reservation as covered by Proclamation No. 573; d) Makiling-Banahaw Geothermal Reservations as covered by Proclamation No. 1111; e) Buhi-Barit Watershed as covered by Proclamation No. 573; and f) Tiwi Geothermal Reservation as covered by Presidential Proclamation No. 739; and g) San Roque Watershed Reservation as covered by Proclamation No. 2320;

4. It became responsible for the management, protection, development and rehabilitation of the aforementioned watershed areas, including but not limited to the following:
 - a. Enforcement of forestry laws, rules and regulations governing the Integrated Management of Watershed Reservation under Ministry Order No. 83-01-13, Series of 1982;
 - b. Identification of areas which required immediate rehabilitation and development;
 - c. Preparation of plans and programs using the integrated multiple use concept of Watershed Management for the maximum utilization of watershed resources;
 - d. Formulation and/or implementation of measures to prevent denudation of the forest cover and siltation of existing reservoirs;
 - e. Public education and information drive to create awareness among the populace of the importance of forest resources and watershed areas;
 - f. Promotion of the community development and livelihood programs to lessen the dependence of watershed residents to forest resources;

- g. Formulation of plans and development programs for resettlement and relocation;
 - h. Coordination with other government agencies/instrumentalities, religious and civil groups in undertaking forest conservation measures in watershed areas;
 - i. Afforestation, reforestation and physical rehabilitation measures in critically, denuded watershed areas to reduce soil erosion and siltation of reservations;
 - j. Biodiversity conservation and ecotourism;
 - k. Resources regulation; and
 - l. Project sustainability;
5. Its jurisdiction and control over watersheds was again recognized and reiterated in Republic Act No. 9136 (R.A. 9136), otherwise known as the Electric Power Industry Reform Act of 2001" (EPIRA) and its Implementing Rules and Regulations (IRR), particularly Section 6 (c), Rule 23 of the IRR, wherein it is mandated to continue to be responsible for watershed rehabilitation and management;
6. Under the EPIRA, it is entitled to the Environmental Charge (EC) equivalent to one-fourth of one centavo per kilowatt-hour sales (PhP0.0025/kWh), which forms part of the Universal Charge (UC). This environmental fund is intended solely for watershed rehabilitation and management and is being managed by it under existing arrangements. In order to avail said EC, it is required to submit to the Commission a petition for availments of the UC-EC in relation to the proposed watershed rehabilitation and management projects on or before March 15 every year;
7. In support of the instant petition, it submitted the proposed operations plan for Calendar Year 2015 (Plan 12) for the utilization of the EC for the rehabilitation and management of the watershed;

8. Plan 12 is crafted in order to intensify and strengthen its undertakings to address the issue on climate change. For the past twelve (12) years (2002-2014), it 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, its 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 (reforestation) in its greening projects. Alongside with the greening programs, WMD intends to raise planning stocks primarily to share and disperse to qualified beneficiaries to plant trees in their respective communities;
9. Plan 12 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 with the proposed modes of procurement in implementing the same. In particular, Plan12 involves the following programs and projects: a) Watershed Information and Database Management; b) Watershed Projection and Law Enforcement; c) Watershed Rehabilitation; d) Biodiversity and Ecotourism; e) Project Sustainability; f) Infrastructure; g) Acquisition and Maintenance of Tools and Equipment; h) Project Operations and Regulations; i) Project Audit and Evaluation; j) Research and Development; k) Legal Consultancy Services; l) Technical Consultancy Services; m) Financial and Administration Support Services; n) Watershed Information System and Documentation; and o) Program Management. These programs and projects were recommended by the concerned WAT and the same were reviewed and evaluated by the Head Office-WMD. The copies of the proposed plans of the WATs assigned in Angaat, Buhi-Barit, Caliraya-Limot, Lake Lanao-Agus River, Magat, Makiling-Banahaw, Pantabangan, Pulangi, San Roque, Tiwi, Upper Agno River and the WMD-Head Office are attached to the instant petition;
10. Plan 12 covers the six (6) watersheds over which it has complete jurisdiction and control by virtue of EO 224, San Roque Watershed (Lower Agno) which is being managed by it for San Roque Multi-Purpose Project by virtue of PD 2320, Pantabangan and Magat Watersheds

which it has an area sharing scheme with National Irrigation Administration (NIA), and Lake Lanao-Agus River and Pulangi Watershed Area which it has a Memorandum of Agreement (MOA) with the Department of Environment and Natural Resources (DENR);

11. Plan 12 still forms part of the original 5-year Comprehensive Watershed Management Plan (CWMP) which was submitted by it on March 15, 2002, and aims to continue the remaining projects and programs therein. The instant petition is premised on the said CWMP. Likewise, Plan 12 is crafted with reference to the previous proposed plans submitted for the approval of the Commission;
12. Aside from maintaining the objectives of the previous proposed plans submitted to the Commission, Plan 12 particularly seeks to attain the rehabilitation through vegetative measures of 1,045 hectares; planting of about 2.7 million trees; protection of more than 150,000 hectares with an estimated carbon sequestration of about 7,315 tons/year for the new plantation and 37.5 Million tons/year for the remaining forest cover (Lasco, R.D. and F.B. Pulhin 2003); reduction of sedimentation and soil erosion inside its reforestation areas of at least 1,254 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 700 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 12 complies with Resolution No. 18, Series of 2011, which requires it to conduct consultation with the Local Government Units (LGUs) 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 the packaging of Plan 12. This also

ensures the support of the LGUs and the local communities for the proposed project;

14. Plan 12 includes the proposals of four (4) LGUs from the Province of Lanao del Sur (Municipalities of Tamparan, Taraka, Bubong and Balindong), for the funding of their proposed programs. Among these projects include the following: a) construction of Poblacion Lake from the Municipality of Tamparan, Lanao del Sur in the amount of PhP3,000,000.00; b) construction of five (5) river walls with laundry shed from the Municipality of Taraka, Lanao del Sur in the amount of PhP5,773,448.00; c) construction of concrete river wall at Bubong-Ramain river in the Municipality of Bubong, Lanao del Sur in the amount of PhP15,000,000.00; and d) construction of lake wall and nursery at the Municipality of Balindog, Lanao del Sur in the amount of PhP16,782,198.00. The rivers from the four (4) Municipalities contribute to the quality of water flowing through the Agus River from the Lake Lanao which in turn is the source of water that will supply power to its six (6) hydro-power plants in Mindanao. The proposed projects will serve as protective barriers against flooding as well as erosion control measure and will also stabilize the slopes and river banks. They will also minimize environmental impacts and reduce damage on structures and river system;
15. In order to attain the objectives of Plan 12, it would need to avail and utilize the funds from the UC-EC amounting to PhP386,319,775.95, while that of the LGU, Lanao del Sur (Municipalities of Tamparan, Bubong, Taraka and Balindong) is PhP40,555,646.00 or a total sum of **FOUR HUNDRED TWENTY SIX MILLION EIGHT HUNDRED SEVENTY-FIVE THOUSAND FOUR HUNDRED TWENTY-ONE PESOS AND NINETY-FIVE CENTAVOS (PhP426,875,421.95)**;
16. In compliance with Section 2 (b), Article II of the Rules, it furnished a copy of the instant petition to the Sangguniang Panlungsod and Office of the Mayor of Quezon City where it principally operates, and publish the same in the newspaper of general circulation; and
17. It prays that the instant petition be approved by the Commission and that pending hearing, a provisional

authority be issued in order for it to avail the funds from the UC-EC for the implementation of Plan 12.

Finding said petition sufficient in form and in substance, with the required fees having been paid, the same is hereby set for hearing on the following dates and venues:

Date and Time	Venue	Particulars
August 27, 2015 (Thursday) ten o'clock in the morning (10:00 A.M.)	Central Bicol State University of Agriculture, San Jose, Pili, Camarines Sur	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
September 3, 2015 (Thursday) at ten o'clock in the morning (10:00 A.M.)	Gladiola Hall, Benguet State University, La Trinidad, Benguet	Expository Presentation and Evidentiary Hearing
September 14, 2015 (Monday) at two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Expository Presentation and Evidentiary Hearing
September 17, 2015 (Thursday) at ten o'clock in the morning (10:00 A.M.)	Bukidnon State University, College of Education, Audio Visual Room, Malaybalay City, Bukidnon	Expository Presentation and Evidentiary Hearing

NPC is hereby directed to cause the publication of the attached Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing. It is also directed to inform its consumers, by any other means available and appropriate, of the filing of the instant petition, its reasons therefor, and of the scheduled hearing thereon.

Let copies of the petition, this Order and the attached Notice of Public Hearing be furnished the Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on

Energy of both Houses of Congress who are hereby requested, if they so desire, to send their duly authorized representatives at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Governors and Mayors of the Cities/Municipalities where NPC principally operates for the appropriate posting thereof on their respective bulletin boards.

NPC is hereby directed to furnish all those making requests therefor with copies of the petition and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, NPC must submit to the Commission its written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Governors and Mayors or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

NPC and all interested parties are directed to submit, at least five (5) days before the date of initial hearing, its Pre-trial Brief containing, among others, the following:

- a) a summary of admitted facts and proposed stipulations of facts;
- b) the issues to be tried or resolved;
- c) the documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- d) the number and names of witnesses, with their written testimonies in affidavit form to be attached to the Pre-trial Brief.

Failure of NPC to submit the required Pre-trial Brief and Judicial Affidavits of its witnesses 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.

As part of the pre-trial conference, NPC must also be prepared to make an expository presentation of its petition, 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 petition is all about and the reasons and justifications being cited in support of the rate adjustments prayed for.

SO ORDERED.

Pasig City, August 3, 2015.

FOR AND BY AUTHORITY
OF THE COMMISSION



ALFREDO J. NON
Officer-In-Charge
and Commissioner

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Copy furnished:

1. **Atty. Melchor P. Ridulme**
National Power Corporation
Agham Road, Diliman
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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. **Atty. Ranulfo Ocampo**
President
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Emerald Avenue, Ortigas Center, Pasig City
7. **The General Manager**
Philippine Rural Electric Cooperatives Association (PHILRECA)
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372 Quezon Avenue, Quezon City
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8. **Ms. Edith Bueno**
Administrator
NATIONAL ELECTRIFICATION ADMINISTRATION
ODFC Building, 1050 Quezon Avenue
Quezon City, Metro Manila
9. **Hon. Leonor T. Oralde-Quintayo**
Chairperson
National Commission on Indigenous Peoples (NCIP)
N. De la Merced Building, corner West Avenue, Quezon City
10. **Atty. Rose-Liza Eisma-Osorio**
Foundation for the Philippine Environment (FPE)
77 Matahimik Street, Teacher's Village, Diliman, Quezon City

Bukidnon Higaonon Tribal Association (BUHITA)
Dampog Residence, Sta Cruz St., Sumpong,
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