

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  
THERMA MOBILE, INC.  
(FOR DISPATCHABLE  
RESERVE), WITH PRAYER  
FOR THE ISSUANCE OF  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2020-022 RC**

**NATIONAL GRID  
CORPORATION OF THE  
PHILIPPINES (NGCP) AND  
THERMA MOBILE, INC.  
(TMO),**

**Promulgated:**  
September 1, 2020

**Applicants.**

**x ----- x**

**ORDER**

On 11 August 2020, the National Grid Corporation of the Philippines (NGCP) and Therma Mobile, Inc. (TMO) filed an *Application* seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA) for Dispatchable Reserve (DR), with prayer for the issuance of provisional authority.

The pertinent allegations of the *Application* are hereunder quoted as follows:

**NATURE OF THE CASE**

1. This Application is for the approval of the Ancillary Services Procurement Agreement ("ASPA") for Dispatchable Reserve dated 14 July 2020 between NGCP and TMO, pursuant to the Decision dated 3 October 2007 in ERC Case No. 2006-049 RC, 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.”*

#### 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. 9511<sup>1</sup> 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 TMO is a corporation organized and existing under the laws of the Republic of the Philippines, with office address at the Old VECO Compound, Ermita, Cebu City. TMO is engaged in the generation of power and owns and operates the barge-mounted, bunker oil-fired power generating and interconnection facilities at the Navotas Fish Port Complex in Navotas City. It may be served with notices, orders, and other processes of the Honorable Commission through its undersigned counsel at the address indicated herein.

#### ANTECEDENT FACTS

4. Republic Act No. 9136<sup>2</sup> 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 system.<sup>3</sup>
5. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid Ancillary Services<sup>4</sup> and for developing and proposing Wheeling Charges and Ancillary Service tariffs to the Energy Regulatory Commission (“ERC”).
6. Ancillary Services (“AS”) as defined in Section 4 (b) 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

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<sup>1</sup> 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.

<sup>2</sup> The Electric Power Industry Reform Act of 2001 or EPIRA;

<sup>3</sup> *Ibid.*, Section 9 (c) and (d), in relation to RA No. 9511;

<sup>4</sup> Section 6.3.1.2;

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.
9. NGCP agreed to procure and TMO agreed to supply AS in the form of Dispatchable Reserve (“DR”) under a firm arrangement. A copy of the Ancillary Services Procurement Agreement between NGCP and TMO for DR dated 14 July 2020 is attached as Annex “A”.
10. During the period of negotiation, NGCP conducted several tests on the generation facility, and certified that the generating units have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing DR. Copies of the Accreditation Certificate Nos. 2019-L029 to 2019-L032 issued on 1 January 2020 are attached as Annex “B” and series.

#### FIRM CONTRACTED CAPACITY RATE AND IMPACT SIMULATION

11. Under Schedule 1 of the ASPA, TMO shall provide NGCP with the following ancillary service:

A. *Firm Contracted Capacity:*

1. *Dispatchable Reserve - set at 145 MW for Power Barges 1 to 4 of Service Provider, or as indicated in the valid AS Certificates, from interval 0001H to 2400H*

*Note that the capacity listed above is based on the latest AS Accreditation Certificate. However, the maximum ancillary service capacity that can be provided shall be based on the latest AS Accreditation Certificate or based on the total COC capacity of the Power Barges, whichever is lower.*

12. The applicable rates under the ASPA, as provided in Schedule 3,<sup>5</sup> are as follows:

A. *Firm Contracted Capacity Applicable Rates:*

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<sup>5</sup> There is a typographical error in Section 5.1 of the ASPA. “Schedule 4” written therein should read “Schedule 3.”;

*Dispatchable Reserve (DR): PhP 0.85/kW-h*

*B. Capacity Payment*

$$CP = SC \times AR$$

*Where:*

*CP = Capacity Payment*

*SC = Summation of Scheduled Capacity without energy  
dispatched*

*AR = Applicable Rate per AS type*

*C. Incidental Costs Payment*

*The Cost of Incidental Energy (“IE”) is the cost of actual energy generated for the Firm and Non-Firm Scheduled Capacity<sup>6</sup> which shall be paid and computed using the formula below:*

$$IE = (G \times (AR + \text{Variable O\&M Costs}) - REV_{WESM}) + DWS^*$$

*Where:*

*G = Summation of actual energy generated or dispatched  
due to Scheduled Ancillary Service, in kWh*

*AR = Applicable Capacity Rate of CR<sup>7</sup>*

*Variable Costs = Fuel Costs + Variable O&M costs*

*Fuel Costs = HFR + LR*

*HFR (in Php/kWh) = HFCR \* P<sub>HFO</sub>*

*LR (in Php/kWh) = LCR \* P<sub>Lube</sub>*

*HFR = heavy fuel oil (HFO) rate in Php/kWh*

*HFCR = HFO consumption rate in liters/kWh  
= the lower of actual consumption rate or 0.245  
liters/kWh*

*LR = lube oil rate in Php/kWh*

*LCR = lube consumption rate in liters/kWh  
= the lower of actual consumption rate or 0.003 liters/kWh*

*P<sub>HFO</sub> = actual HFO net delivered price, in Php/Liter.  
Determination of the actual price shall be based on  
"weighted average" inventory method.*

*P<sub>Lube</sub> = actual Lube net delivered price, in Php/Liter.  
Determination of the actual price shall be based on  
"weighted average" inventory method.*

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<sup>6</sup>This is a typographical error in the ASPA. The ASPA is only for Firm DR capacity;

<sup>7</sup>This is a typographical error in the ASPA. "CR" should read as "DR.";

Variable O&M Cost =

$$(VOM * (\frac{PCPI_i}{PCPI_o})) + SSC$$

VOM = Variable O&M=Php0.40/ kWh

*PCPI<sub>i</sub> = average Philippine Consumer Price Index for All Income Households in the Philippines – All Items (2012=100) taken from the National Statistic Office<sup>8</sup> website for the last three calendar months prior to the start of the current Billing Period.*

*PCPI<sub>o</sub> = average Philippine Consumer Price Index for All Income Households in the Philippines – All Items (2012=100) (“PCPI”) for the calendar months of August 2013 equivalent to 102.8.*

*In the event that revisions are made on the PCPI, including any shift made in the base year and other adjustments to the PCPI made by the Philippine National Statistical Coordination Board, its successor-interest, or such other relevant Government Instrumentality conducting an equivalent Philippine consumer price index city average, there shall be a corresponding change in the PCPI<sub>o</sub> such that the use of the revised PCPI will yield the equivalent MFOM values as the use of the original PCPI.*

*In the event that the PCPI (a) becomes unavailable, (b) is replaced by a new benchmark rate as determined by the Philippine National Statistical Coordination Board, its successor in interest, or such other relevant Government Instrumentality conducting an equivalent Philippine consumer price index city average, (c) ceases to exist, or (d) in the reasonable determination of either Party, fails to reflect the real costs of the FOM and forming an integral part of this price mechanism, the Parties shall agree to adopt a new consumer price index benchmark rate applicable in the Philippines.*

*SSC = Start-up and shutdown cost incurred in the delivery of the ancillary service.*

*DWS\* = Distribution Wheeling Service charge that has to be paid to the host DU where the embedded generator is located. This DWS shall be removed from the IC formula once TMO is directly connected to the Grid.*

*REV<sub>WESM</sub> = Summation of WESM revenue based on Final Ex-post market clearing price of the AS Provider’s trading Node arising from G above*

a. Start- up and Shutdown Costs (SSC) for DR:

$$SSC = \frac{s * [(V_{IDO} * P_{IDO}) + (V_{Lube} * P_{Lube})]}{Total\ Energy}$$

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<sup>8</sup> NSO is now the Philippine Statistics Authority;

Where:

$S$  = total number of start-ups and shutdowns during the relevant Billing Period based on NGCP's dispatch schedule.

$P_{IDO}$  = actual IDO net delivered price, in Php/Liter. Determination of the actual price shall be based on "weighted average" inventory method.

$P_{Lube}$  = actual Lube net delivered price, in Php/Liter. Determination of the actual price shall be based on "weighted average" inventory method.

$V_{IDO}$  = 200 liters per engine per start-up or shutdown

$V_{Lube}$  = 5 liters per engine per start-up or shutdown

Total Energy = total energy delivered arising from "G" above for the current Billing Period

b. *Submission of Relevant Documents*

a. *Service Provider shall submit the necessary documents detailing the actual fuel costs (e.g. invoice or official receipts) along with the bill.*

b. *Failure to submit the necessary documents within the next billing period after the relevant billing period will forfeit the payment to Service Provider for IE. NGCP shall only pay for the Applicable Rate for the undispached scheduled capacities and shall not be obligated to pay for the IE.*

c. *NGCP shall provide due notice to Service Provider for any additional documents that may be required in relation to the computation of Actual Fuel Costs.*

13. Applicants submit that the rates represent a reasonable recovery of the opportunity cost in making available generation capacity to provide the procured AS.

14. The rates under the ASPA were subjected to a simulation by NGCP with the following results:

Ancillary Service	Indicative Rate Impact	
	P/kW-month	P/kWh equivalent
Dispatchable Reserve	12.5073	0.0252

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

15. 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.
16. The ASPA shall be effective for a period of three (3) years, to commence upon receipt of a provisional approval (“PA”), or in the absence thereof, a final approval (“FA”) issued by the ERC, subject to Clause 12 (Termination) of the ASPA. In the event that the PA or FA, as the case may be, does not state a particular date of effectivity, the Agreement shall be effective on the date agreed upon by the Parties.
17. TMO respectfully submits copies of the following documents:

Document	Annex
<i>Certificate of Compliance (“COC”) Nos. 17-07-M-00305L, 17-07-M-00306L, 17-07-M-00307L, and 17-07-M-00308L</i>	“D” and series
<i>Summary of TMO’s existing Power Supply Agreements</i>	“E”
<i>Latest 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 Approval Form</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 2(b), EPIRA] To this end, there is a need to comply with the system requirements for AS to ensure grid system security and reliability. As mentioned above, NGCP has the mandate to procure the required AS.
19. The current levels of available contracted AS in the Luzon Grid have not yet met the required levels under the ASPP. A copy of the relevant actual data and its corresponding graphical presentations showing the required and available levels of DR in the Luzon Grid and the impact of the AS contribution of TMO to the Luzon Grid entitled: *Luzon Dispatchable Reserve Availability* is attached as Annex “J”.
20. NGCP must be guaranteed of available DR on a daily basis to ensure reliability of the grid. Thus, it is necessary for the Honorable Commission to approve the ASPA.
21. As the demand for power in the Luzon increases, the requirements of the system to ensure stability, reliability and security likewise increase. 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.

22. Applicants respectfully submit that the immediate approval of the ASPA by this Honorable Commission is a necessity to ensure the reliability and security of the Grid. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Engr. Lisaflor Bacani-Kater of the Revenue and Regulatory Affairs Department of NGCP, which is attached as Annex "K."

**PRAYER**

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

- a) Immediately ISSUE a provisional authority to implement the subject ASPA executed on 14 July 2020; and
- b) APPROVE, after notice and hearing, the subject ASPA.

Applicants pray for other just and equitable relief under the premises.

Finding the said *Application* to be sufficient in form with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **19 November 2020 (Thursday) at two o'clock in the afternoon (2:00 P.M.)**, through a virtual hearing using the **Zoom Application** as the online platform for the conduct thereof pursuant to Resolution No. 07, Series of 2020<sup>9</sup> dated 23 July 2020.

**RELATIVE THERETO**, NGCP and TMO are hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at their 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 Virtual Hearing* the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies where NGCP and TMO principally operate, including their regional offices, for the appropriate posting thereof on their respective bulletin boards;

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<sup>9</sup> A Resolution for the Transitory Implementation of Legal e-Processes Pending the Adoption of the Interim Guidelines Governing Electronic Application, Filings, and Virtual Hearings Before the Energy Regulatory Commission.



- 3) Inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual 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 *Application* and its attachments all those making requests therefor, subject to reimbursement of reasonable photocopying costs.

Within five (5) calendar days prior to the date of the virtual hearing, NGCP and TMO must submit to the Commission via electronic mail (e-mail) at [records@erc.gov.ph](mailto:records@erc.gov.ph) and [records.erc.gov.ph@gmail.com](mailto:records.erc.gov.ph@gmail.com), copy furnish the Legal Service through [legal.erc.gov.ph@gmail.com](mailto:legal.erc.gov.ph@gmail.com), the scanned copies of their 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 Virtual Hearing* consisting of affidavits of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issue of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governor, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by NGCP and TMO to inform the consumers within the affected area of the filing of the *Application*, its reasons therefor, and of the scheduled hearing thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, the COA, and the Committees on Energy of both Houses of Congress;

- 5) The evidence of receipt of copies of the *Application* and its attachments by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Moreover, NGCP and TMO are hereby required to post on their bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publication and certifications issued by the concerned Office of the Mayors, or Provincial Governor and Local Legislative Bodies, and to submit proof of its posting thereof.

NGCP and TMO and all interested parties are also required to submit via e-mail at [records@erc.gov.ph](mailto:records@erc.gov.ph) and [records.erc.gov.ph@gmail.com](mailto:records.erc.gov.ph@gmail.com), copy furnish the Legal Service through [legal.erc.gov.ph@gmail.com](mailto:legal.erc.gov.ph@gmail.com), at least five (5) calendar days before the date of the scheduled virtual 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 therefor; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

NGCP and TMO must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled initial virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of NGCP and TMO 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 the said date of cancellation.

NGCP and TMO must also be prepared to make an expository presentation of the instant *Application*, aided by whatever

communication medium that 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, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

NGCP and TMO are hereby directed to file a copy of their Expository Presentation via e-mail at [records@erc.gov.ph](mailto:records@erc.gov.ph) and [records.erc.gov.ph@gmail.com](mailto:records.erc.gov.ph@gmail.com), copy furnish the Legal Service through [legal.erc.gov.ph@gmail.com](mailto:legal.erc.gov.ph@gmail.com), at least five (5) calendar days prior to the scheduled virtual hearing. NGCP and TMO shall also be required, upon the request of any stakeholder, to provide an advance copy of their expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via e-mail at [records@erc.gov.ph](mailto:records@erc.gov.ph) and [records.erc.gov.ph@gmail.com](mailto:records.erc.gov.ph@gmail.com), copy furnish the Legal Service through [legal.erc.gov.ph@gmail.com](mailto:legal.erc.gov.ph@gmail.com). The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

NGCP and TMO are hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of their Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

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Finally, Applicants, including their authorized representative/s and witness/es, are hereby directed to provide the Commission, thru [legal.virtualhearings.erc.gov.ph@gmail.com](mailto:legal.virtualhearings.erc.gov.ph@gmail.com), with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

**SO ORDERED.**

Pasig City, 19 August 2020.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
**AGNES VST DEVANADERA**  
*Chairperson and CEO*

  
LS: JTB/LSP/MCCG

**ERC CASE NO. 2020-022 RC**  
**ORDER/ 19 AUGUST 2020**  
**PAGE 13 OF 13**

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