

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
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 SMCGP  
PHILIPPINES ENERGY  
STORAGE CO. LTD. (FOR  
REGULATING RESERVE),  
WITH PRAYER FOR THE  
ISSUANCE OF  
PROVISIONAL  
AUTHORITY**

**ERC CASE NO. 2021-056 RC**

**NATIONAL GRID  
CORPORATION OF THE  
PHILIPPINES (NGCP) and  
SMCGP PHILIPPINES  
ENERGY STORAGE CO.  
LTD. (SPESCL),**

*Applicants.*

X- - - - - X

**Promulgated:**  
January 06, 2022

**ORDER**

Before the Commission for resolution is the prayer for the issuance of provisional authority incorporated in the *Application* dated 18 June 2021, filed by the National Grid Corporation of the Philippines (NGCP) and the SMCGP Philippines Energy Storage Co. Ltd. (SPESCL) on 19 July 2021, for the approval of their Ancillary Services Procurement Agreement (ASPA) for Regulating Reserve (RR).

**FACTUAL ANTECEDENTS**

In support of the Applicants' prayer for the issuance of provisional authority, NGCP submitted the *Judicial Affidavit of Engr. Lisaflor Bacani-Kater* dated 18 June 2021, explaining the need for the

issuance of such authority. The pertinent portion of the said *Judicial Affidavit* are hereunder quoted as follows:

**Q23. What would be the effect to the Visayas Grid if the ASPA is approved by the Honorable Commission, either through a provisional approval, interim relief or final approval?**

**A.** Consistent with the declared policy of the State (Section 2b, EPIRA), the quality, reliability, security and affordability of the supply of electric power operation of the Mindanao Grid<sup>1</sup>[sic] will be ensured. 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.

### **Proceedings Conducted by the Commission**

On 10 August 2021, the Commission issued an *Order* and a *Notice of Virtual Hearing* both dated 27 July 2021, setting the instant *Application* for the determination of compliance with the jurisdictional requirements and expository presentation on 10 September 2021, and pre-trial conference and presentation of evidence on 17 September 2021, through virtual hearings.

On 19 August 2021, the National Association of Electricity Consumers for Reforms, Inc. (NASECORE) filed a *Petition for Intervention* dated 16 August 2021.

On 24 August 2021, co-Applicant SPESCL filed an *Ex-Parte Motion for Extension of Time to File Opposition*, to the *Petition for Intervention* filed by the NASECORE.

On 26 August 2021, NGCP filed its *Comment/Opposition (to the Petition for Intervention of NASECORE)*. On 31 August 2021, SPESCL filed its *Opposition (Re. Petition for Intervention dated 16 August 2021)* to the *Petition for Intervention* of NASECORE.

---

<sup>1</sup> According to Atty. Bienz Que, in-house counsel of NGCP, in his email reply on 05 Oct. 2021, the right answer is Visayas Grid. He said that the error in the Judicial Affidavit is a clerical error and will be corrected during the direct examination of the witness.

On 03 September 2021, the SN Aboitiz Power-Magat, Inc. (SNAP-MI) and the Visayan Electric Co. (VECO) filed their respective *Petitions to Intervene*. On even date, the Applicants filed their *Joint Pre-trial Brief*.

On 06 September 2021, SNAP-MI filed its *Pre-trial Brief* and the *Judicial Affidavit* of its witness, Mr. Justin C. Valencia.

On 08 September 2021, SPESCL filed an *Opposition (Re. Petition to Intervene of SN Aboitiz Power-Magat, Inc. dated 2 September 2021)* and an *Opposition (Re. Visayan Electric Company Inc. Petition to Intervene dated 1 September 2021)*. Likewise, on even date, NGCP filed a *Motion for Extension of Time to File Opposition (To the Petition for Intervention of SNAP-MI and Visayan Electric)*.

On 10 September 2021, VECO filed its *Pre-trial Brief*.

During the 10 September 2021 hearing, the Applicants, NASECORE, SNAP-MI, VECO, and Atty. Edison John A. Arriola (Atty. Arriola) appeared. The National Transmission Corporation (TransCo), the MINERGY, the AC Energy, and the Department of Energy (DOE) entered their respective appearances as observers.

The Applicants presented their proof of compliance with the Commission's posting and publication requirements. After perusal of the documents submitted by the Applicants,<sup>2</sup> the Commission determined that it complied with the jurisdictional requirements of the Commission as contained in its 27 July 2021 *Order*. Thus, the Commission declared that it acquired jurisdiction over the instant case.

Thereafter, the Applicants conducted their expository presentation through Engr. Lisaflor Bacani-Kater and followed by Mr. Gonzalo B. Julian, Jr. Their presentations discussed in detail the Applicants' application for the approval of their ASPA for RR, which explained the following: (i) the statutory and legal basis of the *Application*; (ii) the overview and reactive power support; (iii) SPESCL's offer for RR; (iv) the salient features of subject ASPA; (v) the AS rates; (vi) the rate impact to the Grid; and (vii) the locational map of the subject facility. The said presentations were delivered under oath and formed part of the presentors' respective direct testimonies.

---

<sup>2</sup> Exhibits "A" to "F", inclusive.

In the course of the presentation, NASECORE, SNAP-MI, Atty. Arriola, and the Commission propounded clarificatory questions relative thereto and the same were answered by the afore-named presentors.

Due to the lack of time, the conduct of the clarificatory questions on the expository presentation was suspended and was scheduled to continue on 17 September 2021.

On 13 September 2021, Atty. Edison John A. Arriola (Atty. Arriola) filed a *Petition for Intervention* dated 10 September 2021.

On the 17 September 2021 hearing, the Applicants, NASECORE, SNAP-MI, VECO, and Atty. Arriola appeared. Observers TransCo, MINERGY, and AC Energy likewise appeared. NASECORE, VECO, Atty. Arriola, and the Commission continued with their respective clarificatory questions. Thereafter, the Commission directed the Applicants to submit additional documents.

Due to time constraints, the Commission has set another hearing on 01 October 2021, for the continuation and completion of the expository presentation.

On 17 September 2021, NGCP filed a *Consolidated Comment/Opposition (to the Petitions to Intervene Filed by VECO, SNAP-MI and Mr. Arriola)*.

On 20 September 2021, SPESCL filed an *Opposition (Re. Petition for Intervention dated 10 September 2021)* dated 18 September 2021, to the *Petition for Intervention* of Atty. Arriola.

On 21 September 2021, VECO filed a *Consolidated Reply to SPESCL's Opposition dated 08 September 2021 and NGCP's Consolidated Comment/Opposition dated 17 September 2021*.

*(This space is intentionally left blank.)*

## DISCUSSION

After due deliberation and thorough evaluation of all the documents submitted, the Commission hereby resolves to **GRANT** the Provisional Authority prayed for by the Applicants.

### **Authority of the Commission to Grant Provisional Authority in the Instant Application**

The authority of the Commission to grant provisional authority or interim relief is provided for in Section 8 of Executive Order No. 172,<sup>3</sup> *to wit*:

Sec. 8. Authority to Grant Provisional Relief. The Board may, upon the filing of an application, petition or complaint or at any stage thereafter and **(1) without prior hearing, on the basis of supporting papers duly verified or authenticated, grant provisional relief on motion of a party in the case** or **(2) on its own initiative, without prejudice to a final decision after hearing,** should the Board find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support the provisional order: Provided, That the Board shall immediately schedule and conduct a hearing thereon within thirty (30) days thereafter, upon publication and notice to all affected parties. (*Emphasis and underscoring supplied.*)

The transfer of the Energy Regulatory Board's (ERB) authority to issue provisional authority or interim relief to the Commission was upheld by the Supreme Court in the landmark case of *Freedom from Debt Coalition (FDC) v. Energy Regulatory Commission (ERC)*:<sup>4</sup>

The ERC is endowed with the statutory authority to approve provisional rate adjustments under the aegis of Sections 44 and 80 of the EPIRA. The sections read, thus:

SEC. 44. Transfer of Powers and Functions. —  
The powers and functions of the Energy Regulatory Board not inconsistent with the

---

<sup>3</sup> Entitled, "Creating the Energy Regulatory Board".

<sup>4</sup> G.R. No. 161113, 15 June 2004.

provisions of this Act are hereby transferred to the ERC. The foregoing transfer of powers and functions shall include all applicable funds and appropriations, records, equipment, property and personnel as may be necessary.

Sec. 80. Applicability and Repealing Clause. — The applicability provisions of Commonwealth Act No. 146, as amended, otherwise known as the “Public Services Act;” Republic Act 6395, as amended, revising the charter of NPC; Presidential Decree 269, as amended, referred to as the National Electrification Decree; Republic Act 7638, otherwise known as the “Department of Energy Act of 1992;” Executive Order 172, as amended, creating the ERB; Republic 7832 otherwise known as the “Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994;” shall continue to have full force and effect except insofar as they are inconsistent with this Act.

xxx

Similarly, Sections 8 and 14 of E.O. No. 172 or the ERB Charter continue to be in full force by virtue of Sections 44 and 80 of the EPIRA.

Relative thereto, the *Revised Rules of Practice and Procedure of the Energy Regulatory Commission* (Revised RPP),<sup>5</sup> particularly Sections 2, 3, and 4 of Rule 14 thereof, provide that:

**Section 2. Allegations in the Motion and Supporting Documents.** - The motion must allege such facts and circumstances that would justify the Commission’s exercise of discretion in granting **provisional authority** or interim relief prior to a final decision. Such motion shall be accompanied by affidavits and documents in support of the allegations therein.

**Section 3. Action on the Motion.** - The Commission shall act on the motion for provisional authority or interim relief on the basis of the allegations in the application or petition, supporting documents and other pieces of evidence that the applicant or petitioner has submitted, as well as the comments or oppositions filed by interested persons, if there be any.

---

<sup>5</sup> Resolution No. 01, Series of 2021, dated 17 December 2020, entitled, “A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission”.

Motions for provisional authority or interim relief may be acted upon with or without hearing.

The Commission may act on the motion for provisional authority within **seventy-five (75) days from the filing of the application or petition**. If the Commission, through an order, acts on the motion without hearing, it shall schedule and start the hearing on the application or petition within thirty (30) days from date of issuance of the order. If such motion is included in the application or petition covered by Section 1, Rule 6 of these Rules, the Commission shall hold in abeyance its resolution on the said motion until after the lapse of thirty (30) days from the receipt of a copy of the application or petition by the Offices of the Governor, Mayor, and the *Sanggunian* concerned within the franchise and/or affected areas or publication of the application or petition in a newspaper of general circulation, whichever comes later.

**Section 4. Effect of Final Determination.** – The **provisional authority** or interim relief granted by the Commission shall be subject to adjustment, if upon final evaluation of the case, the Commission determines that the applicant or petitioner was not entitled to the full amount of the provisional or interim rate allowed. The Commission may likewise impose such other conditions as it may deem necessary.

*(Emphasis supplied.)*

It should be recalled that the ASPA subject of the instant *Application* was entered into to address the reliability of the grid. Considering that the RR is one of the Ancillary Services (AS) that is essential in ensuring the power quality and reliability of the grid, the necessity of allowing NGCP to contract for AS in the form of RR is important as it will help maintain the required power quality and voltage level in the Visayas Grid.

Recognizing the situation of the Visayas Grid and the pivotal role of SPESCL's operation, the Commission, in the exercise of its quasi-judicial power and after due consideration and deliberation, deems it necessary to grant a provisional authority in the instant case.

As elucidated by the Supreme Court in the case of *Romeo Gerochi et al. v. Department of Energy et al.*,<sup>6</sup> the Commission understands that “electric power generation and distribution is a traditional

---

<sup>6</sup> G.R. No. 159796, 17 July 2007.

instrument of economic growth that affects not only a few but the entire nation. It is an important factor in encouraging investment and promoting business. The engines of progress may come to a screeching halt if the delivery of electric power is impaired. Billions of pesos would be lost as a result of power outages or unreliable electric power services”.

Significantly, in the same case, the Supreme Court declared that “the State thru the Energy Regulatory Commission (ERC) should be able to exercise its police power with great flexibility, when the need arises.”

This flexibility was reiterated in *National Association of Electricity Consumers for Reforms (NASECORE) v. Energy Regulation Commission*,<sup>7</sup> wherein the Supreme Court held that the ERC, as regulator, should have sufficient power to respond in real time to changes wrought by multifarious factors affecting public utilities.

This is consistent with Section 41<sup>8</sup> of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) that mandated the Commission to promote and protect the interest of all electricity consumers against possible future power supply curtailment.

### **Basis for the ASPA Application**

Under the EPIRA, the National Transmission Corporation (TRANSCO) is mandated to “ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid”<sup>9</sup> and to “adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system.”<sup>10</sup>

The NGCP, as the concessionaire of TRANSCO, and the entity granted the franchise to operate and maintain the transmission network, is equally tasked under the EPIRA to enforce such mandate.

Section 4(b) of the EPIRA defines Ancillary Service as “services that are necessary to support the transmission of capacity and energy

---

<sup>7</sup> G.R. No. 163935, 2 February 2006, 481 SCRA 480, 515-516, citing *Freedom from Debt Coalition v. Energy Regulatory Commission*.

<sup>8</sup> Section 41. Promotion of Consumer Interests. – The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.

<sup>9</sup> Section 9(c), Republic Act. No. 9136 or EPIRA.

<sup>10</sup> Section 9(d), *Ibid*.

from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code.” Such services are essential in ensuring not only the reliability in the operation of the transmission system as a whole, but also in the supply of electricity throughout the Luzon, Visayas, and Mindanao Grids.

On 09 May 2006, the Commission issued an *Order* dated 29 March 2006 in ERC Case No. 2002-253,<sup>11</sup> approving TRANSCO’s proposed Ancillary Service Procurement Plan (ASPP). In the same *Order*, the Commission directed TRANSCO to file a separate application for the approval of its Ancillary Services-Cost Recovery Mechanism (AS-CRM).

In consonance with this directive, on 12 September 2006, TRANSCO filed an application under ERC Case No. 2006-049 RC<sup>12</sup> which sought the Commission’s approval of its proposed mechanism to recover costs accruing from procurement of AS.

On 03 October 2007, the Commission issued its *Decision*<sup>13</sup> wherein it approved, with finality, TRANSCO’s AS-CRM, subject to certain conditions, *to wit*:

---

<sup>11</sup> Entitled, “Application for the Approval of the Proposed Rules, Terms and Conditions for Open Access Transmission Service (OATS) and Proposed Rates, Terms and Conditions of Ancillary Services”.

<sup>12</sup> Entitled, “In the Matter of the Application for the Approval of the Ancillary Services-Cost Recovery Mechanism (AS-CRM) of the Ancillary Services Procurement Plan (ASPP) With Prayer for Provisional Authority”.

<sup>13</sup> The dispositive portion of the said *Decision* is hereunder quoted as follows:

WHEREFORE, the foregoing premises considered, the application for approval of the Ancillary Services-Cost Recovery Mechanism (AS-CRM) of the Ancillary Services Procurement Plan (ASPP) filed by the National Transmission Corporation (TransCo) with prayer for provisional authority is hereby APPROVED subject to the following conditions:

1. The following changes should be incorporated on the proposed AS-CRM of the ASPP:
  - a. The cost of procuring the Ancillary Services (AS) under the ASPP shall be recovered 100% from the load customers but only until such time that such AS is already traded in the Wholesale Electricity Market (WESM);
  - b. The use of the Billing Determinant (BD) as proposed in the AS-CRM should continue until a new BD has been established and TransCo’s recommendations have been considered by the Commission starting 2010;
2. All contracts for the procurement of AS entered into by and between TransCo and AS providers shall be submitted on or before December 28, 2007; and
3. The implementation of the AS-CRM shall be made effective starting March 26, 2008 after incorporating therein the proposed changes particularly on the allocation of the cost.

Further, TransCo is hereby directed to:

- a. The cost of procuring the ancillary services under the ASPP shall be recovered 100% from load customers, but only until such time that such ancillary services are already traded in the Wholesale Electricity Spot Market; and
- b. All contracts for the procurement of ancillary services shall be submitted to the Commission for approval.

Following its obligation pursuant to the EPIRA and its concession agreement, as well as the Commission-approved ASPP and AS-CRM, NGCP entered into an ASPA with SPESCL.

In the said ASPA, NGCP agreed to procure from SPESCL the AS in the form of RR for the Visayas Grid.<sup>14</sup>

Hence, Applicants filed the instant *Application* for the approval of their ASPA.

### **Commission's Evaluation for the Issuance of Provisional Authority**

The final resolution of the instant *Application* shall continue to be pursued by the Commission with the end-view of ensuring grid reliability. However, pending final resolution and after initial evaluation of the submissions of the Applicants, the Commission finds that the factual milieu surrounding the instant *Application*, as discussed herein, satisfied the substantial requirements for the issuance of provisional authority. Thus, the Commission deems that the prayer for the issuance of provisional authority contained in the *Application* of the instant case be granted for reasons discussed in detail below.

*(This space was intentionally left blank.)*

- 
- a. Make amendments in the terminology used for consistency with the 2006 Revised OATS Rules;
  - b. Include provision for annual post-verification of the Commission of the contracted vis-à-vis actual recovered AS costs; and
  - c. Provide the requirement for the Commission's approval prior to the implementation of any AS Contract Agreement.

<sup>14</sup> Paragraph no. 10, page 3 of the *Application*.

**A. Justification for the Provisional Authority**

In the subject *Application*, NGCP and SPESCL prayed for the issuance of a provisional authority to implement the subject ASPA to maintain the present reliability and security of the grid.

In the *Judicial Affidavit* executed by Engr. Lisaflor Bacani-Kater, it was stated that the provision for AS in the form of RR from SPESCL will improve the availability of AS in the Visayas grid.<sup>15</sup> Also, the quality, reliability, security, and affordability of the supply of electric power operation of the Visayas Grid will be ensured. NGCP claimed that it has the mandate to procure the required AS and guarantee the availability of AS.<sup>16</sup> Accordingly, to NGCP, the approval of the instant *Application* allowing SPESCL to provide AS will ensure the reliability of the grid and the integrity of the system in order to protect the interests of the public.<sup>17</sup>

NGCP and SPESCL likewise stressed that absence of system reliability and stability will discourage investments and growth, as the demand for power in Visayas increases and more Variable Renewable Energy plants are commissioned, thereby increasing the requirements of the system to maintain the reliability and security of the grid.<sup>18</sup>

In support to their prayer for issuance of a provisional authority, NGCP and SPESCL provided the actual scheduled and required RR in the Visayas Grid for the period of May 2020 to April 2021, as shown in Table 1.

**Table 1. Available Regulating Reserve in the Visayas Grid**

Month	Regulating Reserve			
	Scheduled (ΣMWh)	Required (ΣMWh)	Availability (%)	Deficiency (%)
May 2020	35,064	45,601	76.89	23.11
June 2020	33,231	49,035	67.77	32.23
July 2020	35,083	46,495	75.46	24.54
August 2020	36,200	47,312	76.51	23.49
September 2020	29,747	48,674	61.11	38.89
October 2020	23,427	46,021	50.91	49.09
November 2020	20,986	47,678	44.02	55.98
December 2020	22,854	46,194	49.47	50.53

<sup>15</sup> Answer 24 in the *Judicial Affidavit* of Engr. Lisaflor Bacani-Kater.

<sup>16</sup> Answer 23, *Ibid*.

<sup>17</sup> Paragraph no. 25, page 7 of the *Application*.

<sup>18</sup> *Ibid*.

Month	Regulating Reserve			
	Scheduled (ΣMWh)	Required (ΣMWh)	Availability (%)	Deficiency (%)
January 2021	24,165	46,887	51.54	48.46
February 2021	26,722	46,952	56.91	43.09
March 2021	18,736	44,283	42.31	57.69
April 2021	16,662	50,564	32.95	67.05

As shown in Table 1, the Commission takes note that there is deficiency in the available levels of RR in the Visayas Grid for the periods of May 2020 to April 2021. This deficiency resulted when the Scheduled Energy is less than the Required Energy for AS levels. The deficiencies in Table 1 demonstrate the percentage equivalent of the lacking RR capacity in the Visayas Grid.

**B. Procurement of the Ancillary Service Procurement Agreement (ASPA)**

Pursuant to its mandate, NGCP published its Notices of Invitation on 07, 14, 21, and 28 October 2019 in the Philippine Daily Inquirer newspapers;<sup>19</sup> and on 04 and 11 November 2019 in the Manila Times newspapers,<sup>20</sup> inviting all grid-connected merchant plants and independent power producers to participate in the provision of AS. NGCP published these invitations due to the deficiency in AS requirement in the Visayas grid, as shown in Table 1.

As a result of these invitations, NGCP received a favorable response from SPESCL. Accordingly, ASPA negotiations between NGCP and SPESCL commenced.

During the period of negotiation, NGCP conducted several tests on SPESCL's Kabankalan Battery Energy Storage System (BESS). Based on the submitted AS Certification, the generating unit is capable of providing RR, and have met and complied with the Standard AS Technical Requirements of the ASPP.

Finally, the Applicants signed the ASPA covering the Kabankalan BESS on 06 May 2021. NGCP agreed to procure and SPESCL agreed to provide AS in the form of RR under a firm arrangement.<sup>21</sup> The term

---

<sup>19</sup> Paragraph no. 9 of the *Application*.

<sup>20</sup> *Ibid.*

<sup>21</sup> Firm arrangement under this ASPA shall be scheduled at all times except when the unit is not available due to technical reasons.

and effectivity of the ASPA shall be for five (5) years,<sup>22</sup> subject to the grounds of termination under Clause 12 of the ASPA.

The Commission notes that the ASPA contract subject of this Application was signed by the applicants on 06 May 2021. The applicable DOE Circular on the procurement of ASPA contracts then is DOE DC 2019-12-0018. Section 12 thereof provides the responsibilities of the System Operator, including its responsibility of maintaining grid reliability through central dispatch of energy and AS, in accordance with the PGC, PDC, WESM Dispatch Protocol, and other relevant issuances. Section 12.4 thereof also provides that the System Operator shall “ensure the prudent and least-cost contracting of AS, considering the optimal mix of contracts, Reserve Market sourcing and solicitation of offers from various AS providers.”

DOE Circular 2021-10-0031 which prescribes the “policy for the transparent and efficient procurement of ancillary services by the system operator” was adopted on 04 October 2021; thus the applicable procurement policy with respect to the subject contract is DOE DC 2019-12-0018. The Commission notes that NGCP went through the solicitation of offers from various AS providers.

### **C. Salient Features of the ASPA**

The salient features<sup>23</sup> of the ASPA of NGCP with SPESCL are the following:

1. **Term:** The term of the ASPA shall be for a period of five (5) years and shall commence on NGCP’s next billing period from receipt of an order granting Provisional Authority (PA), Interim Relief (IR), or Decision, whichever comes first, unless otherwise directed by the ERC,<sup>24</sup> subject to Clause 12<sup>25</sup> of the ASPA;
2. **Proposed Rates:** The proposed capacities and rates under Schedule 1 (Ancillary Services to be Provided Under

---

<sup>22</sup> Clause 2.1, Ancillary Service Procurement Agreement of NGCP and SPESCL dated 06 May 2021.

<sup>23</sup> Answer number 11 in the *Judicial Affidavit* of Engr. Bacani-Kater.

<sup>24</sup> Clause 2.2, *Ibid.*

<sup>25</sup> Termination.

the Agreement) and Schedule 3 (Applicable Rates) are shown in Table 2 below:

**Table 2. Proposed Rates for RR Type of Ancillary Service**

<b>Type of Ancillary Service</b>	<b>Contracted Capacity (MW)</b>	<b>Applicable Rate</b>
Regulating Reserve (Firm)	40MW	PhP2.20/kW/hr <sup>26</sup>

Based on Schedule 1 of the *Application*, the Generation Facility of SPESCL can discharge up to 20,000 kW into the grid or draw up to 20,000 kW from the grid. Thus, according to Applicants, the Kabankalan BESS can provide a Firm Contracted Resource Capacity of 40,000 kW of Regulating Reserve, 24 hours per day at the 138 kV of the Generation Facility.

Based on the *Application*, the capacity listed above is the maximum ancillary service capacity that can be provided by SPESCL. However, the nomination and schedule of RR capacity shall be based on the latest AS Accreditation Certificate.

Further, the Firm Contracted Capacity is subject to the Constraint Guidelines as outlined in Schedule 7.

3. **Annual Performance Evaluation:** Schedule 5 of the ASPA provides that the Annual Performance Evaluation, which is required by NGCP as a basis of monitoring and evaluating the performance of the service provider for its provision of AS, shall be the following:

- a. The total number of Hours Complied by an AS provider shall be at least 97% of the total number of Scheduled Hours in a year.

Formula: (Total no. of Hours Complied in a year/total no. of hours scheduled in a year) x 100  
 $\geq 97\%$

---

<sup>26</sup> Under Schedule 3 of the ASPA with prayer to treat as confidential information.

Likewise, Section 11.1 of ASPA provides safeguards should the AS provider fail to conform with the standards set in Schedule 5, *to wit*:

*In the event that the Service Provider fails in any of the standards set in Schedule 5 of this Agreement, NGCP may terminate this Agreement upon written notice to the Service Provider, effective upon receipt of such notice.*

#### **D. Prayer for Confidential Treatment**

NGCP prayed that the following information contained in the Application be treated as confidential within the purview of Rule 4 of the Commission's Revised RPP, which prescribes the guidelines for the protection thereof:

- a) Schedules 3 (Applicable Rate) and 7 (Constraint Guidelines) of Annex A;
- b) Annexes A-1 (Initial Implementing Guidelines);
- c) Annex C (Rate Impact Simulation Summary Report);
- d) Annex C-1 (Details of Rate Impact Simulation);
- e) Portions of Annex D (Provisional Authority to Operate) specifically Annex B (Technical Specifications);
- f) Annex I (True Cost of Generation); and
- g) Annex K (Single Line Diagram).

Moreover, Applicants prayed for providing the procedures to be observed in handling the confidential information upon the close of the proceedings and its return/delivery to the Applicant SPESCL within the purview of Rule 4 of the Revised RPP.

#### **E. ASPA Rate Proposal**

Based on Schedule 3 (Applicable Rate)<sup>27</sup> of the ASPA, NGCP and SPESCL proposed for the following tariffs for the RR Firm Capacity Payment and the Incidental Energy Payment in case of dispatch, *to wit*:

---

<sup>27</sup> With prayer to treat as confidential information in the *Application*.

**A. Capacity Payment**

*Capacity Payment = Undispatched Scheduled  
Capacity (in kW) x PhP2.20/kW  
per hour*

**B. Incidental Energy Payment**

*Incidental Energy Payment = (G x AR) – (REV<sub>WESM</sub>  
– PMT<sub>WESM</sub>) + VOM*

*Where:*

*G = Dispatched energy which is the  
summation of the absolute value of  
energy charged and discharged by  
the BESS, in kWh*

*AR = Applicable AS Rate (Maximum of  
P2.20/kW/hour)*

*VOM = All actual costs and charges  
incurred by the AS provider in  
provision of ancillary services.*

- a) DOE ER 1-94 Financial Benefits*
- b) WESM Market Fees*
- c) WESM Adjustment Billings*
- d) NGCP Transmission Charges*
- e) Local Distribution Charges*
- f) Other applicable charges, if any.*

*REV<sub>WESM</sub> = Summation of WESM Revenue  
based on the Trading Amount of  
the AS Provider's trading node  
arising from "G" as provided in the  
final settlement data from IEMOP.*

*PMT<sub>WESM</sub> = Summation of WESM Payment  
based on the Trading Amount of  
the AS Provider's trading node  
arising from "G" as provided in the  
final settlement data from IEMOP.*

As discussed earlier, the subject ASPA is on a firm basis. Applicants proposed a firm RR contracted capacity of 40 MW from SPESCL's Kabankalan BESS. This AS shall be made available at all times for NGCP's instruction and dispatch, except upon the existence of any of the circumstances specified in the ASPA.

#### **F. ASPA Rate Derivation**

According to NGCP, its end goal in establishing the ASPA rates is to lower the cost to consumers. AS are pass-through costs and are revenue neutral for NGCP. Thus, according to NGCP, as the counter party for the ASPA, it was necessary for it to procure the ASPA at the lowest possible rate for the benefit of the end-users.

In deriving the proper rate for the instant ASPA, NGCP considered rates that it deemed appropriate by using the New Build Methodology. NGCP needed to encourage generators to sign and commit their capacity, for as long as the rates fall within NGCP's benchmark range.

In the 2013 ASPA *Application* of NGCP and San Roque Power Corporation docketed under ERC Case No. 2013-009 RC,<sup>28</sup> the proposed rates were based on the New Build Methodology. In this methodology, NGCP considered the cost of building a new hydro-electric plant (dam type) that could provide all AS.

A hydro-electric plant was chosen by NGCP because of its capability to provide all AS, namely, Regulating Reserve, Contingency Reserve, and Dispatchable Reserve. It is also the desirable type of technology in view of its minimal fuel cost.

For comparison, NGCP believes that the build cost of San Roque Power Plant was the most appropriate benchmark for the following reasons: (a) the same was built fairly recently in 2003, compared to Magat Dam which was built in 1983 and/or the CBK (1950-1982); (b) it has a fairly large size (411 MW); and (c) the plant is certified for all three (3) aforementioned services.

San Roque Build Cost	:	US\$ 1.17 bn <sup>29</sup>
Installed Capacity	:	411 MW

---

<sup>28</sup> Entitled, "In the Matter of the Application for Approval of the Ancillary Services Procurement Agreement Between the National Grid Corporation of the Philippines and San Roque Power Corporation, with Prayer for the Issuance of Provisional Authority".

<sup>29</sup> [http://www.eca-watch.org/problems/asia\\_pacific/philippines/sanroqueproject.html](http://www.eca-watch.org/problems/asia_pacific/philippines/sanroqueproject.html).

Actual Build Cost	:	US\$2.89/MW
Range	:	+/- 15%
New Build Cost Range	:	US\$ 2.17-3.33mn per MW
Weighted Average Cost of Capital (WACC)	:	15%
Plant Life	:	25 years
Estimated Capital Cost	:	PhP 1.57 – PhP 2.41/kWh

Based on the actual build cost to construct a hydroelectric power plant, and applying a range of plus or minus 15%, a return on capital of 15%, and with a projected plant life of 25 years, NGCP estimated the range of reasonable capacity payment to be between PhP1.57/kWh to PhP2.41/kWh. NGCP used this range as a guide in setting the rates for each AS type. The same assumptions were used by NGCP in determining the ASPA rate it offered to SPESCL.

However, NGCP submitted the rate offered by SPESCL of PhP2.20/kW/hour which is the same offer received from the same BESS technology. Given that the Generation Facility was constructed for the dedicated purpose of supplying AS to the Grid, NGCP emphasized that the ASPA rate and term provide a reasonable recovery on its capital, taking into consideration the risk attendant to this investment.

However, considering the difference in technology and period of operation of SPESCL to San Roque Power Plant, the applicability of the rate derivation of the NGCP and SPESCL shall still be subject to the review of the Commission.

### **G. ASPA Rate Impact<sup>30</sup>**

NGCP and SPESCL simulated the rate impact of the subject ASPA using the billing determinants from May 2020 to April 2021, as actual figures.

Table 3 shows a summary of the average billing determinants in the Visayas Grid for the abovementioned periods.

---

<sup>30</sup> Annex “C” of the *Application* with prayer to treat as confidential information.

**Table 3. Average Billing Determinants**

<b>Billing Determinants</b>	<b>VISAYAS</b>	<b>Unit</b>
Billing Determinant Demand	1,866	MW
Billing Determinant Energy	931	GWh

Using the data in Table 3, NGCP and SPESCL were able to derive the following: a) estimated AS cost contribution of SPESCL; and b) the indicative rate impact in the Visayas Grid. The results are summarized in Table 4.

**Table 4. Simulated Indicative Rate Impact**

<b>Ancillary Service</b>	<b>Cost, PhP Mn</b>	<b>Indicative Rate Impact</b>	
		<b>PhP/ kW-mo.</b>	<b>PhP/kWh equivalent</b>
Regulating Reserve (RR)	852.07	38.0490	0.0762

Based on the data in Table 4, the indicative rate impact with SPESCL resulted to PhP38.0490/kW-mo. to be reflected every billing cycle or equivalent to a PhP0.0762/kWh for RR.

## **H. The Commission’s Findings**

### **1. Power Plant of SPESCL**

SPESCL is the owner and operator of the 20MW Kabankalan BESS located at Brgy. Binicuil, Kabankalan City, Negros Occidental. The said generating facility was issued a Provisional Authority to Operate (PAO) by the Commission on 05 May 2021, which is valid for a period of one (1) year from 05 May 2021 to 04 May 2022.<sup>31</sup> The following are the pending compliance and documents for submission indicated in the PAO:

- a. Amended Wholesale Electricity Spot Market (WESM) Registration no later than thirty (30) days prior to the expiration of the PAO;
- b. Amended Certificate of Endorsement certifying that the Kabankalan BESS is consistent with the Power Development Plan (COE-PDP), under the name of SPESCL to be issued by the Department of Energy (DOE), no later than thirty (30) days

---

<sup>31</sup> Annex “D” of the *Application*.

prior to the expiration of the PAO, and submission of proof of filing of Amended COE-PDP within sixty (60) days from the receipt of the PAO;

- c. Wastewater Discharge Permit (WDP) to be issued by the Department of Environment and Natural Resources (DENR) no later than thirty (30) days prior to the expiration of the PAO, and submission of a proof of WDP filing within sixty (60) days from receipt of the PAO; and
- d. Water Permit, to be issued by the National Water Resources Board (NWRB) no later than thirty (30) days prior to expiration of the PAO.

Based on the aforesaid PAO, the Kabankalan BESS has a dependable capacity of  $\pm 20$ MW, a maximum capacity (Pmax) of 20MW, and a minimum capacity (Pmin) of 0MW. The Commission deemed that the validity of the approval of the subject ASPA shall be contingent on the validity of the Accreditation Certificate issued by NGCP and the validity of the Certificate of Compliance (COC) or PAO issued by the Commission.

NGCP issued Accreditation Certificate (Certification) No. 2021-V0042 for SPESCL's Kabankalan BESS Unit 1, indicating that Kabankalan BESS Unit 1 has the capability to provide  $\pm 20$ MW Regulating Reserve in Automatic Generation Control (AGC) Mode.

The said Certification was issued pursuant to the following rules:

- (1) Section 4.3 of the ASPP under ERC Case No. 2002-253,<sup>32</sup> which provides:

x x x

Section 4.3. Qualification of Ancillary  
Service Providers

TRANSCO, as the System Operator, may  
use reasonable endeavors to procure and

---

<sup>32</sup> Entitled, "Application for the Approval of the Proposed Rules, Terms and Conditions for Open Access Transmission Service (OATS) and Proposed Rates, Terms and Conditions of Ancillary Services".

enter into “Ancillary Services Procurement Agreement” with qualified generation companies to provide sufficient ancillary services to the Grid.

X X X

- (2) Grid Operations (GO) 6.6.5 (Primary Reserve), GO 6.6.6 (Secondary Reserve), and GO 6.6.7 (Tertiary Reserve) of the 2016 Philippine Grid Code (PGC) which provide that these AS, in the form of Reserves, shall be provided by Generating Units certified by the System Operator;

- (3) Section 4.4.2 of the ASPP, which states that:

X X X

Section 4.4.2. Testing of Ancillary Service Providers

Scheduled tests shall be conducted to confirm the compliance of generating units’ capability and availability to deliver the Ancillary Services that the Generator had agreed to provide.

X X X

- (4) Lastly, GO 6.11.1.1 of the 2016 PGC which provides:

X X X

Tests shall be conducted, in accordance with the agreed procedure and standards, to confirm the compliance of Generating Units for the following:

- a. Capability of Generating Units to operate within their registered Generation parameters;
- b. Capability of the Generating Units to meet the applicable requirements of the Philippine Grid Code;
- c. Capability to deliver the Ancillary Service that the Generation Company had agreed to provide;
- d. Availability of Generating Units in accordance with their capability declaration; and

- e. Annual testing of Over Frequency Relays (OFR) and Under Frequency Relays (UFR).

Based on the submitted Certification, SPESCL was certified by NGCP to have met and complied with the above-mentioned Standard Ancillary Services Technical Requirements of the System Operations during the actual testing of the SPESCL's Kabankalan BESS Unit 1. The Commission deemed that the AS capacity indicated in the Certification of  $\pm 20$  MW shall be used for the nomination and scheduling of dispatch of the RR.

Further, SPESCL proposed to avail of the Outage Hours Allowance (OHA) for firm contracted capacity in accordance with Schedule 6 [*Outage Hour Allowance for Firm (OHA) for Firm Contracted Capacity*] of the ASPA as shown in Table 5.

**Table 5. Proposed Outage Hours Allowance (OHA)**

Year	Outage Allowance (hours/year)
	UNIT 1
1	360
2	360
3	360
4	600
5	600

Applicants proposed that for major maintenance activities, including major overhaul, an additional 600 hours will be allocated which can be availed of during any of the 5-year term, subject to a year-ahead notification by the Service Provider. The Commission will validate such activities on the proposed OHA and on the proposed Maintenance Program under *Annex A-2* of the *Application* to determine its appropriateness once the Applicants submit the documents pertinent thereto, as directed during the 17 September 2021 hearing.

In relation thereto, the Commission's Resolution No. 10, Series of 2020<sup>33</sup> indicates the allowed outages per plant technology. Article V of the said Resolution specifies the

---

<sup>33</sup> Entitled, "A Resolution Adopting the Interim Reliability Performance Indices and Equivalent Outage Days per Year of Generating Units".

allowable number of outage days for each type of plant, to wit:

**ARTICLE V – RELIABILITY PERFORMANCE INDICES  
AND EQUIVALENT OUTAGE DAYS**

**Table 6. Allowable Planned and Unplanned Outage Days**

	<b>Pulverized Coal</b>	<b>Circulating Fluidized Bed</b>	<b>Combined Cycle</b>	<b>Gas Turbine</b>	<b>Diesel</b>	<b>Geo-thermal</b>	<b>Hydro-electric</b>	<b>Oil-Fired Thermal</b>	<b>Biomass</b>
<i>No. of Days Unavailable</i>	44.7	32.3	20.2	29.2	<b>19.0</b>	19.7	29.9	58.6	39.7
<i>No. of Days of Planned Outage</i>	27.9	15.4	12.5	6.5	<b>5.0</b>	6.0	23.1	30.8	32.7
<i>No. of Days of Unplanned Outage</i>	16.8	16.9	7.7	22.7	<b>14.0</b>	13.7	6.8	27.8	7.0

*ERC recognizes the technical capabilities of the SO and the TNP, being the primary entities in maintaining and ensuring the security and reliability of the grid, in so far as the determination of the reasonable planned outages are concerned. For this reason, the SO and the TNP shall utilize the allowable planned outage days in Table 1 as guide in preparing the GOMP. However, if the SO and the TNP shall utilize planned outages beyond what is allowable in Table 1 hereof, the same shall provide a report as to the reason for such consideration. This report shall be incorporated in the Quarterly Submission of the GOMP by the SO to the ERC.*

As the Energy Storage System (ESS) is considered a new technology that was not yet considered in Resolution No. 10, Series of 2020, the Commission considered an interim OHA that will be applicable to SPESCL’s plant. The Commission determined this interim OHA by computing a ratio and proportion based on the proposed OHA of SPESCL in connection with the abovementioned recommended benchmark, wherein the ratio of the OHA for years 1 to 3 and that of years 4 and 5 were derived. Consequently, the allowable number of OHA for years 1 to 3 shall be 270 hours and for years 4 to 5 it shall be 450 hours.

Likewise, the Commission deemed that the standards set in Schedule 5 (Annual Performance Evaluation) by NGCP shall be met by SPESCL. Otherwise, the subject ASPA shall be subject to termination as provided in Section 11.1 of the said ASPA.

In the Certification issued by the Independent Electricity Market Operator (IEMOP), SPESCL is a direct Wholesale Electricity Spot Market (WESM) Member (Generator Category) and a Trading Participant since 14 April 2020, with a registered maximum capacity of 20 MW and a minimum capacity of zero (0) MW for the Kabankalan BESS, as provided in *Annex H* of the *Application*.

**2. Existing Bilateral Contracts of SPESCL**

Currently, SPESCL has no existing power supply contract for its Kabankalan BESS as indicated in the Certification executed on 27 May 2021 by Ms. Elenita D. Go, Managing Partner and CEO of SPESCL, as provided in *Annex E* of the *Application*.

Although SPESCL has no existing power supply contract, the Kabankalan BESS can provide the necessary RR as indicated in the Initial Implementing Guidelines (Annex A-1).<sup>34</sup> Likewise, the SO uses Supervisory Control and Data Acquisition (SCADA) to determine the status of the circuit breaker in order to find out if the plant is synchronized from the start and end of the intervals when it is scheduled by the NGCP.

**3. Actual Required, Scheduled, and Contribution of Kabankalan BESS**

Figure 1 shows the Actual Required, Actual Scheduled, and Anticipated RR contribution of Kabankalan BESS in the Visayas Grid for the periods of May 2020 to April 2021, as provided by the Applicants.



**Figure 1. Visayas Regulating Reserve Availability**

---

<sup>34</sup> With prayer to treat as confidential information.

Based on Figure 1, there is a significant deficiency in the RR in the Visayas Grid for the periods of May 2020 to April 2021. The Commission finds that the contracted AS capacity for RR is needed to augment the deficiency of the AS reserve capacity. This is necessary to maintain the reliability in the operation of the transmission system and the reliability of the electricity supply in the Visayas Grid.

In this regard, without the availability of the RR, the whole Visayas Grid may be compromised and thus, present potential risks that would result to the necessary implementation of automatic load dropping by the NGCP.

#### **4. Special Protection Output Optimization (SPOO)**

Based on the *Initial Implementing Guidelines*,<sup>35</sup> a Special Protection Output Optimization (SPOO) will be temporarily integrated in the operation of the Kabankalan BESS until the completion of the 230kV Cebu-Negros-Panay interconnection project of the NGCP.

The Commission recognizes the importance of the SPOO or the System Integrity Protection Scheme (SIPS) to ensure the integrity of the Grid, as provided under Section 7.7.1 of The Philippine Grid Code<sup>36</sup> (PGC), as follows:

X X X

*GPR7.7.1 SIPS shall be installed to preserve the integrity of the Grid or strategic portions thereof lacking Single Outage Contingency (N-1) security, determined to be exposed to a high degree of probability of a secondary Contingency (N-1-1), and subsequent Multiple Outage Contingency (N-k) during abnormal system conditions such as instability, thermal overloading, and voltage collapse. The prescribed action automatically performed by the schemes to protect system integrity may require opening of one or more lines, tripping of generators, intentional shedding of Loads, or other mitigation measures that will alleviate the problem.*

---

<sup>35</sup> Annex "A-1" with prayer to treat as confidential information.

<sup>36</sup> 2016 Edition.

X X X

To stress, the SPOO or SIPS are supposed to be temporary solutions until the 230kV Cebu-Negros-Panay interconnection project is completed, pursuant to Section 7.7.3 of the 2016 PGC Grid Protection (GPR), to wit:

X X X

*GPR 7.7.3 SIPS should not be installed as a substitute for good electric power system design or operating practices. Their implementation is generally limited to temporary conditions involving multiple Outage of critical Equipment or change in the configuration of the Grid. This shall be deactivated once the permanent solution is already in place.*

X X X

## 5. RR Availability in the Visayas Grid

Table 7 shows the existing ASPA in the Visayas Grid, highlighting the deficiency in the available reserves vis-à-vis the requirements as outlined in Table 2 and Figure 1 above.

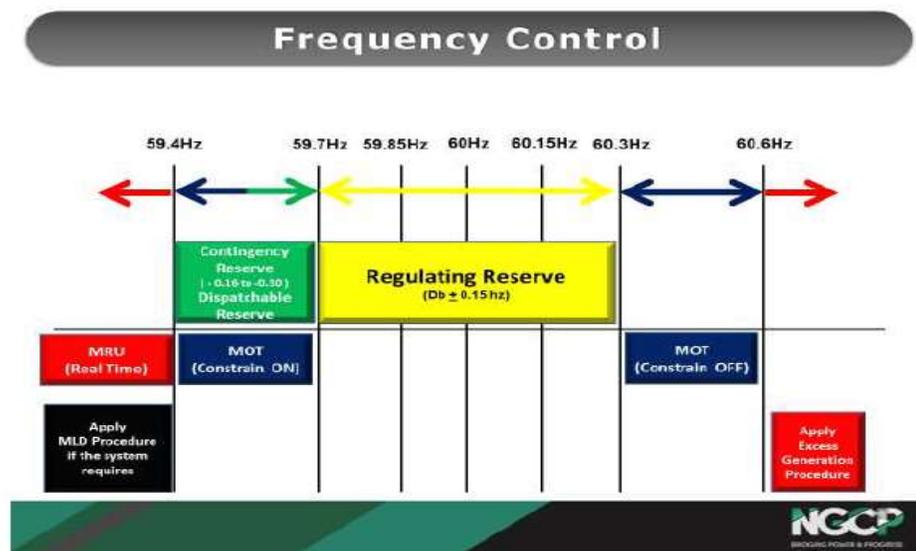
**Table 7. Existing Contracted RR Provider in Visayas**

ASPA No.	Case No.	AS Provider	Regulating Reserve	
			Firm	Non-Firm
1	2017-024 RC	Green Core Geothermal Inc. (GCGI)		30
2	2017-025 RC	Energy Development Corp. (Nasulo GPP)		20
3	2021-056 RC*	SPESCL (Kabankalan BESS)	±20	
<b>TOTAL</b>			<b>±20</b>	<b>50</b>

\*New Application

Without SPESCL's Kabankalan BESS, therefore, the contracted Non-Firm Capacity as shown in Table 7 will have a continuous deficiency for the required RR level of 4%. Thus, the Commission, based on the AS Certificate, determined that the ±20MW capacity for Firm RR of SPESCL's Kabankalan BESS can contribute to alleviate the deficiency in the requirement of RR in the Visayas Grid.

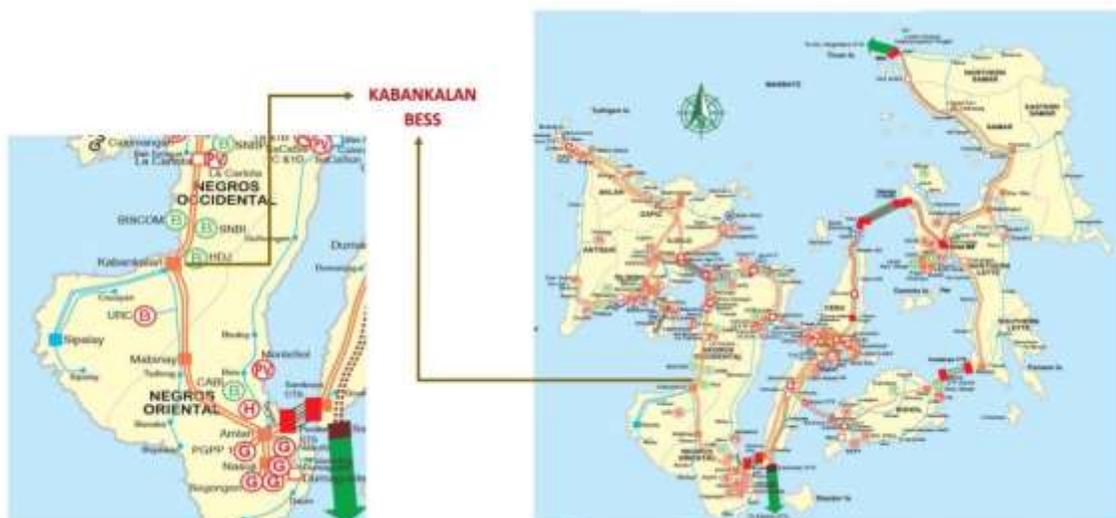
Figure 2 hereunder shows that the provision for the RR in the subject ASPA is within the range of 59.7 Hz to 60.3 Hz. The System Operator (SO) will schedule the available RR Providers as necessary during the trading interval. During the hearing on 17 September 2021, NGCP was directed to provide the protocol for the schedule and dispatch of the RR during over and under frequency. This is to determine the mix on the dispatch of the RR by the accredited AS providers based on the economic and technical considerations.



**Figure 2. Frequency Control for AS**

Note that for the RR provision of BESS, the charging state is to balance the supply and demand during over frequency. A similar ASPA<sup>37</sup> was issued a Provisional Authority and Interim Relief through the Orders dated 11 April 2018 and 06 October 2020, respectively, allowing the same charging/discharging for RR provision. For conventional generation, a similar effect would be achieved by lowering its generation output. Thus, the SO should optimize and consider the least cost for the dispatch of the RR, as required by the Grid during over/under frequency.

<sup>37</sup> ERC Case No. 2018-010 RC, entitled, “In the Matter of the Application for the Approval of the Ancillary Services Procurement Agreement Between the National Grid Corporation of the Philippines (NGCP) and Masinloc Power Partners Co. Ltd. (MPPCL), with Prayer for Issuance of Provisional Authority,” NGCP and MPPCL, Applicants.



**Figure 3. Locational Map of SPESCL's Kabankalan BESS**

Figure 3 illustrates the location of SPESCL's Kabankalan BESS. It will serve its RR Service to augment the deficiency of the ancillary service reserve capacity to maintain the reliability of the Visayas Grid. The Kabankalan BESS is connected to the Visayas Grid through a direct connection to NGCP's Kabankalan Substation in Negros Occidental via a 138kV transmission line.

## **6. Modifications on the Proposed Formula**

The Commission notes that the proposed formula by the Applicants for the payment of the RR in the subject ASPA is not consistent with the previous ASPA approval by the Commission, particularly in the component of the  $IE_{RR}$  formula.

The Commission identified that some components in the formula for the Incidental Energy (IE) for the RR needs clarification/modification. In the meantime, for purposes of issuing a provisional authority, the Commission reviewed the said proposed formula under Schedule 3 (Applicable Rate) of the subject ASPA. Based on the said review, the Commission finds that Applicants need to observe the formula of the IE as appearing below in order to be consistent with the previous ASPA<sup>38</sup> for BESS. Thus, the Incidental Cost Payment will reflect as follows:

---

<sup>38</sup> *Ibid.*

$$\text{Incidental Energy Payment} = G \times (AR + VOM) - (REV_{WESM} - PMT_{WESM})$$

*Where:*

*G* = Summation of the absolute value of energy charged and discharged by the BESS, in kWh, in the provision of RR

*AR* = Applicable AS Rate (Maximum of P2.20/kW/hour)

*VOM* = All actual costs and charges incurred by the AS provider in provision of ancillary services.

- a) DOE ER 1-94 Financial Benefits*
- b) WESM Market Fees*
- c) WESM Adjustment Billings*
- d) NGCP Transmission Charges*
- e) Local Distribution Charges*
- f) Other applicable charges, if any.*

*REV<sub>WESM</sub>* = Summation of WESM Revenue based on the Trading Amount of the AS Provider's trading node arising from "G" as provided in the final settlement data from IEMOP.

*PMT<sub>WESM</sub>* = Summation of WESM Payment based on the Trading Amount of the AS Provider's trading node arising from "G" as provided in the final settlement data from IEMOP.

The Commission has already directed the Applicants to provide details on the components of the Variable Operation and Maintenance (VOM) to ascertain the cost/s attributed to it. Likewise, the Commission directed the Applicants to clarify the dispatched/absorption of the IE during under/over frequency and their associated costs to ensure that there is no double recovery, particularly during the charging of the BESS. These clarifications should be

reflected in the Implementing Guidelines <sup>39</sup> as an addendum.

Thus, for the purpose of the provisional approval, the scheduling and provision of RR capacity shall be on a per dispatch/absorption requirement of the grid. This means that during under frequency there will be dispatch of energy as RR capacity from Kabankalan BESS, which should not be more than +20 MW; while during over frequency there is absorption of energy from the grid as RR capacity from Kabankalan BESS, which should not be more than -20MW, in accordance with the AS Certificate and subject to Constraint Guidelines under Schedule 7<sup>40</sup> of the ASPA.

Further, consistent with the previous ruling of the Commission, in the event that the net result between the WESM revenue and the payment exceeds the calculated Monthly Minimum Incidental Energy Cost, the excess shall be used to off-set any positive amount determined within the relevant period or to the succeeding billing month.

**7. Rate Comparison**

In determining the reasonableness of the proposed rates for the grant of provisional authority, the Commission compared the proposed maximum rates with that of the previously approved ASPA rates, as shown in Table 8, *to wit*:

**Table 8. Comparison of SPESCL’s Proposed RR Maximum Rate and the Previously Approved ASPA Rates of other Generation Companies**

<b>Ancillary Service</b>	<b>SPESCL</b> (ERC Case No. 2021-056 RC <sup>41</sup> )	<b>Prime Meridian Powergen Corporation (PMPC)</b>	<b>Masinloc Power Partners Co. Ltd. (MPPCL)</b> (ERC Case No. 2018-010 RC <sup>43</sup> )	<b>Panasia Energy Inc. (PANASIA)</b> (ERC Case No. 2017-083 RC <sup>44</sup> )
--------------------------	--	---	--	---

<sup>39</sup> Annex “A-1” of the *Application*.

<sup>40</sup> Confidential document

<sup>41</sup> Instant *Application*.

<sup>43</sup> Entitled, “In the Matter of the Application for Approval of the Ancillary Services Procurement Agreement (ASPA) Between the National Grid Corporation of the Philippines (NGCP) and Masinloc Power Partners Co. Ltd. (MPPCL) with Prayer for the Issuance of Provisional Authority”.

<sup>44</sup>Entitled, “In the Matter of the Application for Approval of the Ancillary Services Procurement Agreement (ASPA) Between the National Grid Corporation of the Philippines (NGCP) and Panasia Energy Inc. (Panasia) with Prayer for the Issuance of Provisional Authority”.

		(ERC Case No. 2019-051 RC) <sup>42</sup>		
<b>RR (Firm)</b>	PhP2.20/kW/hr	PhP2.25/kW/hr	PhP2.20/kW/hr	PhP2.25/kW/hr

As can be seen in Table 8, SPESCL’s proposed RR maximum rate is the same with the previously approved maximum rate of existing RR provider using BESS technology and lower than that of the existing RR providers using different technologies.

In the final evaluation of this case, however, the Commission will address the issue on the appropriate benchmark to use for different power plant technologies to establish the reasonableness of the proposed ASPA rates.

**8. Transition Period**

The subject ASPA is governed by the Open Access Transmission Service (OATS) Rules, the PGC, and other relevant issuances, orders, rules and regulations as promulgated by proper government agencies and authorities. The approval, however, of the 2016 PGC on 05 October 2016 called for an amendment of the ASPP, to harmonize its provisions with the 2016 PGC.

The 2016 PGC adopted the latest international standards and practices in the operation of Ancillary Services. Also, the 2016 PGC amended the current types of reserves and introduced new types of reserves and the order of priority. It also provided the respective modes and frequency controls that must be reflected in the ASPP. Thus, NGCP filed with the Commission on 31 March 2017 a petition seeking the approval of its proposed amended ASPP under ERC Case No. 2017-005 RM.<sup>45</sup>

Pending the resolution of the proposed amended ASPP, Applicants NGCP and SPESCL are hereby allowed to

---

<sup>42</sup> Entitled, “In the Matter of the Application for Approval of the Ancillary Services Procurement Agreement (ASPA) Between the National Grid Corporation of the Philippines (NGCP) and Prime Meridian PowerGen Corporation with Prayer for the Issuance of Provisional Authority”.  
<sup>45</sup> Entitled, “In the Matter of the Petition for the Approval of Amended Ancillary Services Procurement Plan”.

continue using the current type of AS under the existing ASPP and 2001 PGC (Amendment 1).

In turn, the following shall apply during the transition period as proposed by NGCP in the amended ASPP, *to wit*:

All approved and existing ASPA shall remain in full force and effect until the termination date, unless the accredited power plant of the AS Provider cannot comply with the technical requirements provided in the 2016 PGC. Accordingly, the AS categories of the ASPA will be converted as follows:

- i. Contingency Reserve - Primary Reserve
- ii. Dispatchable Reserve - Tertiary Reserve
- iii. Regulating Reserve - Secondary Reserve

However, the AS Provider with an existing ASPA may opt to renegotiate its offer in a new ASPA that will be filed to the Honorable Commission for approval.

The EPIRA mandated TRANSCO (now NGCP) to ensure and maintain the reliability, adequacy, security, stability, and integrity of the nationwide electrical grid in accordance with the performance standards for the operations and maintenance of the grid, as set forth in the PGC, including grid interconnections and ancillary services.

On the other hand, Section 43(i) of the EPIRA mandates the Commission to:

x x x

Allow the TRANSCO to charge user fees for ancillary services to all electric power industry participants or self-generating entities connected to the grid. Such fees shall be fixed by the ERC after due notice and public hearing; x x x

Upon implementation of the amended ASPP and other relevant rules of the Commission, the Commission will review the existing ASPA to determine if the ASPA is compliant therewith. Should the ASPA be deemed non-compliant with the amended ASPP, the

*Application* for the approval of the ASPA shall be dismissed upon due notice, and without prejudice to re-filing.

Further, DOE Circular 2019-12-0018 entitled *Adopting a General Framework Governing the Provision and Utilization of Ancillary Services in the Grid* was adopted, creating a Technical Working Group (TWG) co-chaired by the Commission and the DOE. The Circular aims to harmonize the AS issuances (the ASPP, AS-CRM, OATS and ASRS or Ancillary Service Requirement and Specification) and address various issues through the general framework, including aligning the new classification of reserves based on the 2016 PGC.

**WHEREFORE**, the foregoing premises considered, the National Grid Corporation of the Philippines (NGCP) and the SMCGP Philippines Energy Storage Co. Ltd. (SPESCL) are hereby **GRANTED PROVISIONAL AUTHORITY** to implement their Ancillary Services Procurement Agreement (ASPA), subject to the following conditions:

1. Applicable Rate:

SPESCL shall nominate the corresponding price for the Regulating Reserve (RR) capacity to NGCP.

The AS capacity indicated in the valid Accreditation Certificate shall be used for the nomination and scheduling of dispatch of RR. In the event that the said nominated capacity is scheduled for Ancillary Service (AS), the pricing shall be as follows:

***a. Scheduled capacity without energy dispatched***

NGCP shall pay SPESCL the corresponding nominated price of that scheduled capacity, which should not be more than the indicated capacity of  $\pm 20$  MW in the AS Certificate, per RR provision. Provided, however, that the nominated price shall in no case exceed the following rate without minimum cost:

<b>Ancillary Service</b>	<b>Applicable Rate (Maximum Hourly Rate)</b>
	<b>Firm</b>
Regulating Reserve (RR)	PhP2.20/kW/hr

***b. Scheduled capacity with energy dispatched***

Based on actual dispatch, the cost of generation shall be recovered through settlement in the Wholesale Electricity Spot Market (WESM). Thus, the Incidental Energy (IE) Cost for the RR based on actual dispatch shall be calculated using the following formula:

Incidental Energy Cost Payment

$$\mathbf{IE = G \times (AR + VOM) - (REV_{WESM} - PMT_{WESM})}$$

In the event that the IE resulted to a negative amount due to a higher net result between WESM revenue and payment, said negative amount shall be used to off-set any positive amount determined within the relevant period or to the succeeding billing month.

2. The Firm RR capacity is  $\pm 20$  MW from the Kabankalan Battery Energy Storage System of SPESCL, or as indicated in the valid AS Certificate;
3. The implementation of the ASPA shall be contingent on the validity of the Accreditation Certificate issued by NGCP and the validity of the Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) issued by the Commission;
4. SPESCL shall be allowed an Outage Hours Allowance (OHA) per year of 270 hours for years 1 to 3, and 450 hours for years 4 to 5;
5. SPESCL shall comply with the standards set in Schedule 5 (Annual Performance Evaluation) by NGCP.
6. NGCP is directed to optimize economic and technical dispatch of the available Ancillary Service (AS) capacity wherein it shall schedule a mix of hourly AS capacity, at the least cost, for a reserve needed to maintain power quality, security, reliability, and integrity of the grid;

7. The rate to be paid by NGCP as Ancillary Services cost shall be passed on to its customers in accordance with the approved Ancillary Services-Cost Recovery Mechanism (AS-CRM).

Further, NGCP is directed to submit its monthly computation of AS rates that it passed on to its customers, with supporting documents on or before the 5th day of the month after the computed billing month;

8. NGCP must ensure that the AS rates applied by SPESCL should not exceed that of the approved maximum AS rates by the Commission. In the event that the final rate is lower than the provisionally granted rate, the amount corresponding to the reduction shall be refunded by SPESCL to NGCP and the latter shall pass it on to its customers; and
9. The above rate shall be effective on the next billing cycle of NGCP from receipt of this *Order*.

**SO ORDERED.**

Pasig City, 30 September 2021.

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

(On Leave)  
**ALEXIS M. LUMBATAN**  
*Commissioner*

  
**CATHERINE P. MACEDA**  
*Commissioner*

  
**FLORESINDA G. BALDO-DIGAL**  
*Commissioner*

  
**MARKO ROMEO L. FUENTES**  
*Commissioner*

LS: ema /arg/mccg.2021-056RC NGCP-SPESCL.PA Order.doc

  
ROS: RAED/MABN/NVP/AJMO/LLG

**ERC CASE NO. 2021-056 RC**  
**ORDER/30 SEPTEMBER 2021**  
**PAGE 36 OF 38**

---

Copy furnished:

1. Atty. Rich L. Almario  
*Counsel for NGCP*  
NGCP Bldg., Quezon Ave., cor. BIR Rd.,  
Diliman, Quezon City  
Email address: [rlalmario@ngcp.ph](mailto:rlalmario@ngcp.ph)
2. Attys. Nonalyn S. Superable and Iris Clara R. Pajarito  
*Counsels for SPESCL*  
10/F 8 Rockwell, Hidalgo corner Plaza Drive  
Rockwell Center, Makati City, Metro Manila  
Tel No. 8840-5025  
Fax No. 810-0890  
Email: [pjs@pjslaw.com](mailto:pjs@pjslaw.com)
3. SMCGP Philippines Energy Storage Co. Ltd.  
*Co-Applicant*  
10/F 8 Rockwell, Hidalgo corner Plaza Drive  
Rockwell Center, Makati City, Metro Manila  
Tel No. 8840-5025  
Fax No. 810-0890  
Email: [pjs@pjslaw.com](mailto:pjs@pjslaw.com)
4. National Grid Corporation of the Philippines (NGCP)  
*Applicant*  
NGCP Bldg., Quezon Ave., cor. BIR Rd.,  
Diliman, Quezon City
5. National Association of Electricity Consumers for Reforms, Inc. (NASECORE)  
*Petitioner-Intervenor*  
Roxas Seafront Garden, Roxas Blvd. cor. Ortigas St.  
Pasay City  
Email Add: [pete49ilagan@gmail.com](mailto:pete49ilagan@gmail.com)
6. SN Aboitiz Power-Magat, Inc. (SNAP-MI)  
*Petitioner-Intervenor*  
Magat Hydro Electric Plant, Magat River,  
Barangay Aguinardo, Ramon, Isabela
7. Visayan Electric Co. (VECO)  
*Petitioner-Intervenor*  
J. Panis St., Banilad, Cebu City
8. Atty. Edison John A. Arriola  
*Petitioner-Intervenor*  
4112 Cebu One Oasia, Pres. Magsaysay Ext.,  
Kasambagan, Cebu City  
Email Add: [earriola@alawfirm.org](mailto:earriola@alawfirm.org)
9. Office of the Solicitor General  
134 Amorsolo Street, Legaspi Village  
Makati City, Metro Manila
10. Commission on Audit  
Commonwealth Avenue  
Quezon City, Metro Manila
11. Senate Committee on Energy  
GSIS Building, Roxas Boulevard  
Pasay City, Metro Manila
12. House Committee on Energy  
Batasan Hills, Quezon City, Metro Manila
13. Office of the City Mayor  
San Fernando City, La Union

**ERC CASE NO. 2021-056 RC**  
**ORDER/30 SEPTEMBER 2021**  
**PAGE 37 OF 38**

---

14. Office of the LGU legislative body  
San Fernando City, La Union
15. Office of the City Mayor  
Binan City, Laguna
16. Office of the LGU legislative body  
Binan City, Laguna
17. Office of the City Mayor  
Iligan City, Lanao del Norte
18. Office of the LGU legislative body  
Iligan City, Lanao del Norte
19. Office of the City Mayor  
Cebu City, Cebu
20. Office of the LGU legislative body  
Cebu City, Cebu
21. Office of the City Mayor  
Davao City, Davao del Sur
22. Office of the LGU legislative body  
Davao City, Davao del Sur
23. Office of the City Mayor  
Quezon City
24. Office of the LGU legislative body  
Quezon City
25. Office of the City Mayor  
Pasig City
26. Office of the LGU legislative body  
Pasig City
27. Office of the City Mayor  
Kabankalan City, Negros Occidental
28. Office of the LGU legislative body  
Kabankalan City, Negros Occidental
29. Office of the Governor  
Province of Negros Occidental
30. Office of the LGU legislative body  
Province of Negros Occidental
31. Office of the Governor  
Province of La Union
32. Office of the LGU legislative body  
Province of La Union
33. Office of the Governor  
Province of Laguna
34. Office of the LGU legislative body  
Province of Laguna
35. Office of the Governor  
Province of Cebu

**ERC CASE NO. 2021-056 RC**  
**ORDER/30 SEPTEMBER 2021**  
**PAGE 38 OF 38**

---

36. Office of the LGU legislative body  
Province of Cebu
37. Office of the Governor  
Province of Lanao del Norte
38. Office of the LGU legislative body  
Province of Lanao del Norte
39. Office of the Governor  
Province of Davao del Sur
40. Office of the LGU legislative body  
Province of Davao del Sur
41. National Transmission Corporation (TRANSCO)  
Quezon Avenue corner BIR Road, Diliman, Quezon City
42. Power Sector Assets and Liabilities Management Corporation (PSALM)  
24<sup>th</sup> Floor Vertis North Corporate Center 1  
Astra corner Lux Drives, Vertis North, Quezon City