

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 KING
ENERGY GENERATION, INC.
(SURIGAO DEL SUR POWER
PLANT), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL AUTHORITY**

ERC CASE NO. 2021-058 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES (NGCP) AND
KING ENERGY
GENERATION, INC. (KEGI),
*Applicants.***

Promulgated:
September 02, 2021

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 23 July 2021, National Grid Corporation of the Philippines (NGCP) and King Energy Generation, Inc. (KEGI) filed an *Application* dated 18 June 2021, seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA) through the Surigao del Sur Power Plant, with prayer for the issuance of provisional authority.

The pertinent portions of the said *Application* are hereunder quoted, as follows:

NATURE OF THE CASE

1. This Application is for the approval of the Ancillary Services Procurement Agreement (“ASPA”) between the NGCP and KEGI dated 21 May 2021, and pursuant to the Decision dated 3 October 2007 in ERC Case No. 2006-049RC 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.”*

THE 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. 9511¹ 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 KEGI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal place of business Barangay San Luis, Gingoog, Misamis Oriental. It may be served with orders, notices, and other legal processes through its undersigned counsel. It is the owner and operator of the Surigao Del Sur Power Plant (“Generation Facility”) located at Brgy. Telaje, Tandag City, Surigao del Sur which has been certified and accredited by NGCP to be capable of providing Dispatchable Reserve (“DR”).

ANTECEDENT FACTS

4. Republic Act No. 9136 (“EPIRA”) 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”)², 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.³
5. Similarly, the PGC provides that NGCP, as System Operator, is responsible for determining, acquiring, and dispatching the

¹ 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

² Section 9 (c)

³ Section 9 (d)

capacity needed to supply the required Grid Ancillary Services and for developing and proposing Wheeling Charges and Ancillary Services tariffs to the ERC.⁴

6. Ancillary Services (also commonly referred to as “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 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 in 2018 and 2019⁵ on different dates and newspapers published the notice of invitation for prospective providers, inviting all grid-connected merchant plants and independent power producers to participate in the provision of AS. Upon receipt of the intention from KEGI to provide DR, NGCP commenced negotiation for the execution of an ASPA. As a result, NGCP agreed to procure, and KEGI agreed to supply DR. The copy of the *Ancillary Services Procurement Agreement between NGCP and KEGI* dated 21 May 2021 is attached as **Annex “A”**.
9. 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. The copy of NGCP Accreditation Certificate No.2019-M015 dated 06 November 2019 is attached as **Annex “B”**.

FIRM CONTRACTED CAPACITY RATE AND IMPACT SIMULATION

10. Under Clause 3 of the ASPA, KEGI shall provide NGCP with the following AS as specified in Schedule 1 of the ASPA, follows:

Firm Contracted Capacity:

Dispatchable Reserve – 7.5 MW, 16 Hours (0100H-1200H and 2100H-2400H)

⁴ Section 6.3.1.2

⁵ The copies of the newspaper clippings are attached as Attachment “B” to Annex “K”

Once the Power Supply Agreements with Distribution Utility has expired, Service Provider shall provide the 7.5MW DR for 24 hours

Note that the capacity listed above is the maximum ancillary service capacity that can be provided. However, nomination and schedule shall be based on the latest AS Accreditation Certificate.

11. The Applicable Rates for the capacities covered by the ASPAs as provided in both Schedule 3, are as follows:

A. FIRM CONTRACTED CAPACITY APPLICABLE RATES:

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

B. INCIDENTAL ENERGY PAYMENT

The Cost of Incidental Energy (“IE”) is the cost of actual energy generated for the Firm Scheduled Capacity which shall be paid and computed using the formula below:

During Pre-WESM regime:

$$IE_{DR} = G_{DR} \times (AR + VOM + \text{Actual Fuel Cost})$$

During WESM regime:

$$IE_{DR} = [G_{DR} \times (AR + VOM + \text{Actual Fuel Cost})] - REV_{WESM}$$

Where:

G = Summation of energy generated or dispatched due to Non-Firm Scheduled Capacity, in kWh

AR = Applicable Rate per AS type

VOM = PhP 0.5/kWh

Actual Fuel Cost = actual fuel consumption cost in Php/kWh

REV_{WESM} = Summation of WESM revenue based on Final Ex-post market clearing price of the Service Provider’s trading Node arising from G above, once WESM is implemented. This will be set to ZERO while WESM is not yet in place in the Mindanao Grid.

**Note: Fuel consumption rate = 0.26 Li/kWh or whichever is lower when computed from fuel inventory data*

12. Applicants submit that the rates represent a reasonable recovery of its opportunity cost in making available generation capacity to provide the procured AS.
13. The rates under ASPA was subjected to a simulation by NGCP, the results of which are as follows:

Ancillary Service	Indicative Rate Impact	
	PhP/kW-month	PhP/kWh equivalent
DR w/ WESM	2.9663	0.0064
DR w/o WESM	3.7674	0.0081

The copies of the Rate Impact Simulation for King Energy Generation, Inc. – (Surigao Del Sur Power Plant) and Details of the Rate Impact Simulation are attached as **Annexes “C” and “C-1”**, respectively.

14. 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 AS shall be recovered from all the load customers in the Mindanao.
15. The ASPA shall be effective for a period of five (5) 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.
16. KEGI, as a generation company, falls within the ambit of Sections 6 of the EPIRA. Attached are copies of relevant documents proving KEGI’s due registration as a generation company, relevant permits to operate the Generation Facility and audited financial statements, as follows:

Document	Annex
Summary of Existing Power Supply Agreement	“D”
Amended Article of Incorporation (Company Registration No. CS201019693)	“E” series
2021 General Information Sheet	“F”
Audited Financial Statement (for the year ended 31 December 2020)	“G”
Certificate of Compliance	“H”
Certification issued by Independent Electricity Market Operator of the Philippines, Inc., dated 31 st of May 2021	“I”
Surigao Sur Power Plant (SSPP) True Cost	“J”
Single Line Diagram	“K” and series

17. While KEGI is a co-applicant, it manifests that the instant Application shall neither modify, diminish or constitute a waiver of KEGI’s rights nor expand its obligations and responsibilities as a generation company under EPIRA.

**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. A copy of the relevant actual data showing the required and available levels of DR in the Mindanao Grid, entitled as: “*Mindanao Dispatch Reserve Availability (Average MW)*” is attached as **Annex “L”**. Accordingly, Applicants executed the ASPA.
20. As the demand for power in the Mindanao increases, the requirements of the system to ensure stability, reliability, and security likewise increases. 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. The importance of AS, from KEGI to ensure and maintain the reliability, adequacy, security, stability and integrity of the Mindanao Grid cannot be overemphasized.
21. Applicants respectfully submit that the immediate approval of the ASPA by this Honorable Commission is a necessity to maintain the reliability, adequacy, security, stability and integrity of the Mindanao Grid. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Engr. Engr. Lisaflor Bacani Kater of the Revenue and Regulatory Affairs Department of NGCP, which is attached as **Annex “M”**.

PRAYER

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

- a) Immediately **ISSUE** a provisional authority to implement the ASPA between NGCP and KEGI dated 21 May 2021; and
- b) **APPROVE**, after notice and hearing, the subject ASPA.

Applicants pray for other just and equitable relief.

On 10 August 2021, the Commission issued an *Order* and a *Notice of Virtual Hearing*, both dated 05 August 2021, setting the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference and presentation of evidence on 22 and 29 September 2021.

However, on 19 August 2021, the Applicants sent through electronic mail (e-mail) a *Joint Manifestation with Motion (for the Issuance of a Revised Order, Notice of Virtual Hearing with alternative Motion to Reset)* [Motion] dated 18 August 2021, seeking for the summary correction of the typographical and clerical errors in the document descriptions of some of the Annexes attached to the *Application*, pursuant to Section 3, Rule 7⁶ of the Commission's Revised Rules of Practice and Procedure (RRPP). According to the Applicants, the correct descriptions of Annexes "F," "G," and "I" are consistent with the MS Word copy of the *Application* as published in The Manila Times newspaper issue dated 30 June 2021, submitted to the Commission during the pre-filing process. Thus, the Applicants prayed for the issuance of a new Order and Notice of Virtual Hearing reflecting the corrected document descriptions under the same schedule; or for the initial hearing scheduled on 22 September 2021 to be cancelled and reset to 29 September 2021 for the determination of compliance with jurisdictional requirements and conduct of Expository Presentation, while the Pre-trial Conference and Presentation of Evidence be reset to 06 October 2021, or such other schedule as the calendar of the Commission permits.

In the *Notice of Virtual Hearing* dated 05 August 2021, it may be noted that the Commission adopted the document descriptions as provided in the PDF copy of the *Application* considering that the same is the official docketed copy of the *Application*, as evidenced by the official docket number and filing date stamped thereon. However, upon confirmation that the years and date as indicated in Annexes "F," "G," and "I" are clearly those as alleged in the *Motion*, the Commission deemed it appropriate to summarily correct the same pursuant to Section 3, Rule 7 of ERC Revised Rules of Practice and Procedure.

IN VIEW OF THE FOREGOING, the Commission has set anew the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,⁷ dated 24 September 2020 and Resolution No. 01, Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure)⁸:

⁶ Section 3. Formal Amendments. – A defect in the designation of the parties and other **clerical or typographical errors may be summarily corrected by the Commission at any stage of the proceedings**, motu proprio or upon motion of any party, provided no prejudice is caused thereby to the adverse party.

⁷ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

⁸ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

Date	Platform	Activity
29 September 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
06 October 2021 (Wednesday) at nine o'clock in the morning (9:00 A.M.)		Pre-trial Conference and Presentation of Evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled initial virtual hearing, via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph. 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.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- 3) A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial virtual hearing and subject to the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure. No particular form of Opposition or Comment is

required, but the document, letter, or writing should contain the following:

- 1) The name, mailing address, and e-mail address of such person;
- 2) A concise statement of the Opposition or Comment; and
- 3) The grounds relied upon.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 24th day of August 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO


LS: RSPV/ARG/MCCG

