

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



**IN THE MATTER OF THE
APPLICATION OF THE
NATIONAL GRID
CORPORATION OF THE
PHILIPPINES FOR THE
APPROVAL OF FORCE
MAJEURE (FM) EVENT
REGULATED FM PASS-
THROUGH FOR THE
BOMBING / SABOTAGE
INCIDENTS IN MINDANAO
AND LUZON, AND
LIGHTNING / THUNDER
INCIDENT IN LUZON IN
ACCORDANCE WITH THE
RULES FOR SETTING
TRANSMISSION
WHEELING RATES, WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2018-100 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES,**

Applicant.

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D O C K E T E D
Date: NOV 15 2018
By: W

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 2 October 2018, Applicant National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 14 September 2018, seeking the Commission's approval of its force majeure event (Regulated FM Pass-Through) for the bombing/sabotage incidents in Mindanao and Luzon, and the lightning/thunder incident in Luzon, with prayer for issuance of provisional authority.

In the said *Application*, NGCP alleged, among others, the following:

1. It is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at NGCP Building, Quezon Avenue corner B.I.R Road, Diliman, Quezon City. It is the concessionaire that operates and maintains the nationwide transmission system pursuant to Section 21 of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).¹
2. Under Republic Act No. 9511,² NGCP was granted a franchise to construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.
3. Pursuant to Section 10.1.1 of Resolution No. 21, Series of 2001,³ NGCP is allowed to recover the cost incurred for the repair, restoration, rehabilitation of its transmission assets and other related facilities damaged as a result of a force majeure event (FME), as defined in Article I of RTWR.

**Allegations on Bombing /
Sabotage Incident in
Mindanao as FME**

4. On 3 October 2017, Tower No. 106 of the Kibawe-Tacurong/Sultan Kudarat 138 kV line, located at Barangay Manarapan, Carmen, Cotabato, was bombed causing the complete collapse of the tower. Due to its force, the bombing caused damage to NGCP's transmission assets and other related facilities in Mindanao. A copy of the Memorandum dated 4 October 2017, issued by the Chief of Police of Carmen, Cotabato is attached and made integral part of the Application.
5. In compliance with Article X of the RTWR, NGCP filed an FME Notice dated 18 December 2017, duly stamped "Received" by the Commission.

¹ Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry Amending for the Purpose Certain Laws and for Other Purposes"

² Republic Act No. 9511 entitled "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 or Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes"

³ Resolution No. 21, Series of 2001 entitled, "Rules for Setting Transmission Wheeling Rates (RTWR)"

**Allegations on Bombing /
Sabotage Incident in
Luzon as FME**

6. On 10 October 2017, fully-armed men entered the premises of HEDCOR-Sabangan Substation at Sitio Lukong, Otucan Norte, Bauko, Mountain Province, and installed and detonated improvised explosive devices at the control room. This resulted in damage to the facilities, including NGCP's transmission assets and related facilities, as well as power outage in the whole of Mountain Province and nearby areas. A copy of the Memorandum dated 11 October 2017 issued by the Chief of Police of Bauko, Mountain Province is attached and made integral part of the Application.
7. In compliance with Article X of the RTWR, NGCP filed an FME Notice dated 18 December 2017, duly stamped "Received" by the Commission, a copy of which is attached to the Application as Annex "D." The Commission acknowledged receipt of the FME Notice in its Letter dated 4 January 2018.

**Allegations on Lightning
Incident in Luzon as FME**

8. On 14 November 2017, heavy rains with frequent intense lightning and thunder were observed at the La Trinidad Substation in Benguet Province, followed by an explosion. As a result, NGCP's transmission assets and other related facilities were damaged. A copy of the Certification dated 17 November 2017, issued by the Punong Barangay of Beckel, La Trinidad, Benguet is attached and made integral part of the Application.
9. In compliance with Article X of the RTWR, NGCP filed an FME Notice dated 5 January 2018, duly stamped "Received" by the Commission. Likewise, the Commission acknowledged receipt of the FME Notice in its Letter dated 5 February 2018.

FME Claim

10. Immediately after the devastation caused by the foregoing incidents, NGCP started the repair, restoration and rehabilitation of its damaged transmission assets and other related facilities in order to restore transmission service to its customers and the public. As a result, NGCP incurred additional costs for the repair, restoration and rehabilitation of the said damaged transmission assets.

11. Under Section 1.3(a) of the RTWR, an FME is defined as a “typhoon, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or an act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions.”
12. Based on the Memoranda issued by the Chief of Police of Carmen, Cotabato and the Chief of Police of Bauko, Mountain Province, respectively dated 4 October 2017 and 11 October 2017, and the Certification issued by the Punong Barangay of Beckel, La Trinidad, Benguet dated 17 November 2017, the unexpected and disruptive bombing/sabotage incidents in Mindanao and Luzon, as well as the lightning/thunder incident in Luzon (subject force majeure events) occurred, thus, falling within the definition of an FME in accordance with Section 1.3 of the RTWR.
13. Pursuant to Section 10.1.1 of the RTWR, NGCP is allowed to recover the cost it incurred in the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged by the subject force majeure events through an FM Pass-Through Amount.
14. Within three (3) months after the occurrence of the subject force majeure events, NGCP filed before the Commission FME Notices for the bombing/sabotage incident in Mindanao and Luzon on 18 December 2017, and the FME Notice for the lightning/thunder incident in Luzon on 5 January 2018 pursuant to Sections 10.2.1 and 10.2.2 of the RTWR.
15. Thereafter, within twelve (12) months after the occurrence of the subject force majeure events, NGCP filed the instant FME Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM Pass-Through Amount Computation

16. NGCP has not recovered from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the year 2017, the cost that it incurred in the repair, restoration, and rehabilitation of the transmission assets and other related facilities damaged by the subject force majeure events, considering that the affected assets are not covered by the IAR, the total cost of damage being below the One (1) Million US Dollars deductible amount. Thus, it is but proper for NGCP to file the instant

ERC CASE NO. 2018-100 RC
NOTICE OF PUBLIC HEARING/ 12 NOVEMBER 2018
PAGE 5 OF 9

FME Application to recover the cost it incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the subject force majeure events pursuant to the RTWR.

17. The total cost NGCP incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the subject force majeure events is Three Million Four Hundred Sixteen Thousand Seven Hundred Twelve Pesos and 11/100(PhP3,416,712.11). Further, the recoverable values of the assets destroyed (Net Fixed Asset Value) is Four Million Three Hundred Thirty-One Thousand Eighty-Nine Pesos and 77/100 (PhP4,331,089.77). The breakdown of the expenses is shown in the table below:

FME	CAPEX* (PhP)	NFAV (PhP)	TOTAL (PhP)
Bombing/Sabotage in Mindanao	1,110,772.77	1,064,576.04	2,175,348.81
Bombing/Sabotage in Luzon	175,613.87	2,016,309.38	2,191,923.25
Lightning/Thunder in Luzon	2,130,325.47	1,250,204.35	3,380,529.82
Total	3,416,712.11	4,331,089.77	7,747,801.88

* Capital Expenditures: Inclusive of VAT, exclusive of Permit Fees

18. NGCP proposes the FM Pass-Through Amounts, in PhP/kW-month, as additional network charges starting November 2018 billing month until December 2020 for, or until such time that the amounts incurred are fully recovered, computed as shown in the table below:

LUZON	2018	2019	2020
PhP/kW-mo.	0.08	0.01	0.02
PhP/kWh	0.00016	0.00003	0.00003
MINDANAO			
PhP/kW-mo.	0.16	0.03	0.03
PhP/kWh	0.0003	0.0001	0.0001

Note: PhP/kWh in this table is only the equivalent PhP/kWh of the FME Pass-Through amounts in PhP/kW-mo. used to determine paragraph 21 of this Application.

19. NGCP proposes the FM Pass-Through Amounts for the years 2018 to 2020 to allow the recovery of the expenditures incurred by NGCP relative to the subject force majeure events.

20. The proposed FM Pass-Through Amounts can be recovered pursuant to Section 10.1.1 of the RTWR, wherein NGCP is allowed to recover the cost incurred for the repair, restoration, and rehabilitation of damage sustained by its transmission assets and other related facilities as a result of a force majeure event. A copy of the FM Pass-Through Amount Computation is attached and made integral part of this Application.
21. Further, the FM Pass-Through Amounts in this Application do not breach the Force Majeure Threshold Amount (FMTA) of PhP0.0357/kWh in accordance with the RTWR. A copy of the FMTA Computation is attached and made integral part of this Application.
22. Also, NGCP considered the NFAV of the transmission assets and other related facilities damaged by the subject force majeure events given that NGCP would have normally fully recovered the return of capital on said assets for the duration of their economic lives had these assets not been damaged or destroyed by the subject force majeure events.

**JUSTIFICATION FOR THE ISSUANCE OF
PROVISIONAL AUTHORITY**

23. NGCP moves for the issuance of provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the 2006 ERC Rules of Practice and Procedure.
24. NGCP needs to immediately recover the actual expenses incurred for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities. It must be emphasized that the rehabilitation of the assets damaged by the subject force majeure events required capital infusion, the recovery of which should be allowed immediately in order to avoid any financial strain in the operation of NGCP and to allow the continuous provision of transmission service to the grid customers.
25. In addition, the timely implementation of the FM Pass-Through Amounts will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost.
26. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Head, Tariff Design and Billing Management Division, Revenue and

ERC CASE NO. 2018-100 RC
NOTICE OF PUBLIC HEARING/ 12 NOVEMBER 2018
PAGE 7 OF 9

Regulatory Affairs, in support of the instant Application, is attached and made integral part of the Application.

27. NGCP prays of this Commission to, after due notice and hearing:
- a. Declare the bombing/sabotage incidents in Mindanao and Luzon, as well as the lightning/thunder incident in Luzon as Force Majeure Events (FME);
 - b. Grant provisional approval to implement and bill the FM Pass-Through Amounts to Mindanao and Luzon customers starting November 2018 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered;

LUZON	2018	2019	2020
PhP/kW-mo.	0.08	0.01	0.02
PhP/kWh	0.00016	0.00003	0.00003
MINDANAO			
PhP/kW-mo.	0.16	0.03	0.03
PhP/kWh	0.0003	0.0001	0.0001

- c. Approve the FME CAPEX amounting to Three Million Four Hundred Sixteen Thousand Seven Hundred Twelve Pesos and 11/100 (PhP3,416,712.11) incurred by NGCP for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities due to the subject force majeure events;
- d. Approve the proposed FM Pass-Through Amount to be collected from the Mindanao and Luzon customers starting November 2018 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered, as follows:

LUZON	2018	2019	2020
PhP/kW-mo.	0.08	0.01	0.02
PhP/kWh	0.00016	0.00003	0.00003
MINDANAO			
PhP/kW-mo.	0.16	0.03	0.03
PhP/kWh	0.0003	0.0001	0.0001

- e. Approve and allow the recovery of the Net Fixed Asset Value of the transmission assets and other related

ERC CASE NO. 2018-100 RC
NOTICE OF PUBLIC HEARING/ 12 NOVEMBER 2018
PAGE 8 OF 9

facilities damaged by the subject force majeure events amounting to Four Million Three Hundred Thirty One Thousand Eighty-Nine Pesos and 77/100 (PhP4,331,089.77) given that it would have been fully recovered by NGCP if these transmission assets and other related facilities have not been damaged or destroyed by the subject force majeure events; and

- f. Exclude the proposed Pass-Through Amounts from the side constraint calculation.

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and venues:

Date and Time	Venue	Particulars
LUZON		
15 January 2019 (Tuesday) at nine o'clock in the morning (9:00 A.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional and Expository Presentation
MINDANAO		
16 January 2019 (Wednesday) at nine o'clock in the morning (9:00 A.M.)	ERC Mindanao Field Office (MFO), Mezzanine Floor, Mintrade Building, Monteverde Avenue cor. Sales Street, Davao City	Expository Presentation and Pre-Trial Conference
LUZON		
24 January 2019 (Thursday) at nine o'clock in the morning (9:00 A.M.)	ERC Hearing Room, 15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-trial Conference and Evidentiary Hearing

All persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission a verified Petition to Intervene at least five (5) days prior to the initial hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name and address;
- 2) The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such

interest is affected by the issues involved in the proceeding;
and

- 3) A statement of the relief desired.

All other persons who may want their views known to the Commission with respect to the subject matter of the case may file their Opposition or Comment thereon at any stage of the proceeding before Applicant rests its case, subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

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

All such persons who wish to have a copy of the *Application* may request from Applicant that they be furnished with the same, prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, subject to the reimbursement of reasonable photocopying costs. Any such person may likewise examine the *Application* and other pertinent records filed with the Commission during the standard office hours.

WITNESS, the Honorable Chairperson and CEO **AGNES VST DEVANADERA** and the Honorable Commissioners **ALEXIS M. LUMBATAN** and **CATHERINE P. MACEDA**, Energy Regulatory Commission, this 12th day of November 2018 in Pasig City.


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


LS: MFD/ARQ/GLO