

**Order on ERC Case No. 2017-116 RC**

On 22 December 2017, NGCP filed an application with the Energy Regulatory Commission (ERC) entitled, *In the Matter of the Application for the Approval of Force Majeure Event Regulated FM Pass-Through for Typhoon Nina in Luzon, in accordance with the Rules for Setting Transmission Wheeling Rates, with Prayer for Provisional Authority*, docketed as ERC Case No. 2017-116 RC.

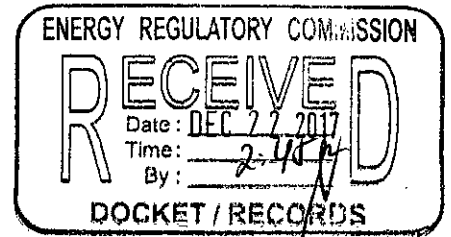
The application was filed by NGCP pursuant to Section 19, in relation to Section 43 (f) of Republic Act No. 9136 which provides that Transmission Charges shall be filed with and approved by the ERC. In computing the proposed charges, NGCP was guided by the provisions of the Rules for Setting Transmission Wheeling Rates (RTWR), which prescribe for, among others, the methodology for calculating the Force Majeure (FM) Pass Through Amount to recover the reasonable costs incurred for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities due to the occurrence of an FME.

The ERC set the case for jurisdictional hearing, expository presentation, pre-trial conference, and presentation of evidence on **31 July 2018, Tuesday, at ten o'clock in the morning (10:00 AM), at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

This Customer Bulletin was prepared by the Tariff Design and Billing Management Division of the Revenue and Regulatory Affairs Department (RRAD). For any questions/inquiries, you may contact telephone no. 863-7554.

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

IN THE MATTER OF THE APPLICATION FOR THE APPROVAL OF FORCE MAJEURE EVENT REGULATED FM PASS-THROUGH FOR TYPHOON NINA IN LUZON, IN ACCORDANCE WITH THE RULES FOR SETTING TRANSMISSION WHEELING RATES, WITH PRAYER FOR PROVISIONAL AUTHORITY

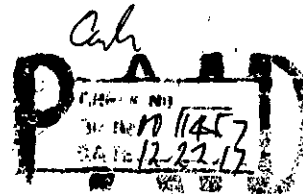


ERC CASE NO. 2017-116 RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,

Applicant.

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APPLICATION

Applicant **NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP)**, by counsel, respectfully states:

1. NGCP 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 BIR Road, Diliman, Quezon City. It is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. (RA) 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).¹

2. Under RA 9511,² NGCP was granted a franchise to construct, install, finance, manage, improve, expand, operate,

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"

maintain, rehabilitate, repair and refurbish the present nationwide transmission system of the Republic of the Philippines.

3. On 15 January 2009, NGCP assumed the transmission functions of TRANSCO, including the operation, management and maintenance of the nationwide electrical grid.

STATEMENT OF FACTS

4. From 23 to 27 December 2016, Typhoon Nina was inside the Philippine Area of Responsibility (PAR) with maximum winds of 185 kilometers per hour (kph) and gustiness of 225 kph. Due to heavy rains and gusty winds, NGCP's transmission assets and other related facilities in Luzon were damaged causing widespread power interruption over the area. A copy of the Certification dated 22 March 2017 issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached hereto as **Annex "A."**

5. In compliance with Article X of the Rules for the Setting of Transmission Wheeling Rates (RTWR), NGCP filed with this Honorable Commission a Force Majeure Event (FME) Notice dated 15 March 2017, copy is attached hereto as **Annex "B,"** receipt of which was acknowledged by the Honorable Commission in its letter dated 29 March 2017, copy is attached hereto as **Annex "C."**

6. Immediately after the devastation of Typhoon Nina in Luzon, 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.

FORCE MAJEURE EVENT CLAIM

7. 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."

8. Nina was categorized by PAGASA as a "Typhoon" in its Certification dated 22 March 2017, thus, falling within the definition of an FME in accordance with Section 1.3 of the RTWR.

9. 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 Typhoon Nina in Luzon through an FM Pass-Through Amount.

10. Within three (3) months after the occurrence of Typhoon Nina, NGCP filed before the Honorable Commission FME Notice dated 15 March 2017, pursuant to Sections 10.2.1 and 10.2.2 of the RTWR.

11. Thereafter, within twelve (12) months after the occurrence of the FME Typhoon Nina in Luzon, NGCP hereby files the instant FME Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

12. It must be noted that NGCP has not recovered from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the year 2016 the cost NGCP incurred in the repair, restoration and rehabilitation of the transmission assets and other related facilities damaged by the FME Typhoon Nina, considering that the affected assets are located beyond the 1,000 meters radius from the nearest substation perimeter fence, and that the total cost of damage is below the One (1) Million US Dollars deductible amount. Thus, it is but proper for NGCP to file the instant FME Claim Application to recover the cost it incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the FME Typhoon Nina in Luzon pursuant to the RTWR.

13. The cost NGCP incurred as additional FME Capital Expenditure (CAPEX) for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by Typhoon Nina in Luzon is **One Hundred Thirty-Four Million Four Hundred Two Thousand Eight Hundred Eighty-Four Pesos (PhP134,402,884.00)**.

14. Further, the recoverable value or the Net Fixed Asset

Value (NFAV) of the assets destroyed by Typhoon Nina in Luzon is **One Hundred Ninety-Three Million One Hundred Fourteen Thousand Three Hundred Eighty Pesos (PhP193,114,380.00)**.

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

Luzon	2018	2019	2020
P/kW-mo.	0.83	0.86	0.90
P/kWh	0.0016	0.0016	0.0017

16. NGCP proposes the FM Pass-Through Amounts for the years 2018 to 2020 to allow the recovery of the CAPEX incurred relative to the FME Typhoon Nina, pending the reset process for the Transmission Services for the Fourth Regulatory Period.

17. Considering that FM Pass-Through Amounts are not included in NGCP's Final Determination for any regulatory period, the proposed FM Pass-Through Amounts can be recovered pursuant to Section 10.1.1 of the RTWR where 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 an FME. A copy of the FM Pass-Through Amount Computation is hereto attached as **Annex "D."**

18. 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 hereto attached as **Annex "E."**

19. Also, NGCP considered the NFAV of the transmission assets and other related facilities damaged by the FME Typhoon Nina in Luzon 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 said FME.

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JUSTIFICATION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

20. NGCP respectfully moves for the issuance of a provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the ERC Rules of Practice and Procedure.

21. 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 FME Typhoon Nina in Luzon 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.

22. 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.

23. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Head, Tariff Design and Billing Management Division, Revenue and Regulatory Affairs, in support of the instant Application, is hereto attached as **Annex "F."**

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Commission to:

1. **DECLARE** Typhoon Nina in Luzon as Force Majeure Events (FME);

2. Immediately **GRANT Provisional Approval** to implement and bill the following FM Pass-Through Amounts starting January 2018 billing month to December 2020 for Luzon, or until such time that the amounts incurred are fully recovered:

Luzon	2018	2019	2020
P/kW-mo.	0.83	0.86	0.90
P/kWh	0.0016	0.0016	0.0017

3. **APPROVE** the FME CAPEX amounting to **One Hundred Thirty-Four Million Four Hundred Two Thousand Eight Hundred Eighty-Four Pesos (PhP134,402,884.00)** incurred by NGCP for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities due to FME Typhoon Nina in Luzon;

4. **APPROVE**, after due notice and hearing, the proposed FM Pass-Through Amounts to be collected from the Luzon customers starting January 2018 billing month or until such time that the amounts incurred are fully recovered, as follows:

Luzon	2018	2019	2020
P/kW-mo.	0.83	0.86	0.90
P/kWh	0.0016	0.0016	0.0017

5. **APPROVE** and **ALLOW** the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FME Typhoon Nina in Luzon amounting to **One Hundred Ninety-Three Million One Hundred Fourteen Thousand Three Hundred Eighty Pesos (PhP193,114,380.00)**, 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 said FME; and

6. **EXCLUDE** the proposed Pass-Through Amounts from the side constraint calculation.

NGCP prays for other relief deemed just and equitable under the premises.

Quezon City for Pasig City, 14 December 2017.

OFFICE OF THE GENERAL COUNSEL
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BIR Road, Diliman, Quezon City
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By:



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COURTESY COPY FURNISHED TO:

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**POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION**

Office of the President
Quezon Avenue cor. BIR Road
Diliman, 1101 Quezon City

REPUBLIC OF THE PHILIPPINES)
Quezon City) S. S.

VERIFICATION

I, **MA. CYNTHIA Y. MANRIQUE**, after having been duly sworn to in accordance with law, hereby depose and say that:

1. I am presently the Head of the Revenue Regulatory Affairs Department of the National Grid Corporation of the Philippines (NGCP);

2. I am duly authorized to sign the Verification and Certification of Non-Forum Shopping for and in behalf of NGCP as evidenced by the Secretary's Certificate hereto attached as **Annex "A-Verification"**;

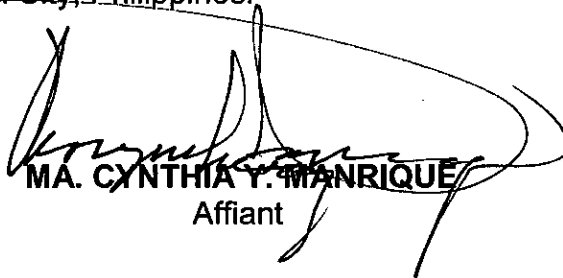
3. I have caused the preparation of the foregoing Application;

4. I have read the foregoing Application and I attest that the allegations therein are true and correct based on my personal knowledge and based on authentic records;

5. I further attest that NGCP has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein;


6. If I should thereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact to this Commission within five (5) days therefrom.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 14 December 2017, in Quezon City, Philippines.


MA. CYNTHIA Y. MANRIQUE
Affiant

SUBSCRIBED AND SWORN to before me this 14 December 2017, affiant exhibited to me her Passport with No. EC0371531 issued at Quezon City.

Doc. No. 110;
Page No. 23;
Book No. 3;
Series of 2017.


LUISITO A. TRINIDAD
Commission - AM No NP078 (2016-2017)
Notary for Quezon City until 31 Dec. 2017
NGCP Bldg Quezon Ave cor EIR Road Diliman, Q.C.
Roll No. 38451 - 13 May 1993
IEP Lifetime No. 013977 - 08 Jul 2015

PTR 3663626-06Jan2017