

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

**IN THE MATTER OF THE
 APPLICATION FOR
 APPROVAL OF THE
 ANCILLARY SERVICES
 PROCUREMENT
 AGREEMENT BETWEEN
 THE NATIONAL GRID
 CORPORATION OF THE
 PHILIPPINES AND PHINMA
 ENERGY CORPORATION,
 WITH PRAYER FOR THE
 ISSUANCE OF
 PROVISIONAL AUTHORITY,**

ERC CASE NO. 2017-070 RC

**NATIONAL GRID
 CORPORATION OF THE
 PHILIPPINES (NGCP) AND
 PHINMA ENERGY
 CORPORATION (PHINMA),
 Applicants.**

X-----X

DOCKETED
 Date: OCT 26 2017
 By: [Signature]

ORDER

On 03 August 2017, National Grid Corporation of the Philippines (NGCP) and PHINMA Energy Corporation (PHINMA) filed an *Application* dated 27 July 2017 (Application) for the approval of their Ancillary Services Procurement Agreement (ASPA) with prayer for the issuance of provisional authority.

NGCP and PHINMA alleged the following in their *Application*:

1. This Application is for the approval of the Ancillary Services Procurement Agreement (ASPA) between the NGCP and PHINMA, 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 PHINMA is a corporation organized and existing under and by virtue of the Philippine laws with principal office address at Level 11, PHINMA Plaza, 39 Plaza Drive, Rockwell Center, Makati City. It may be served with orders, notices, and other legal processes through its undersigned counsel. It is the owner and operator of the 2x32MW Diesel Power Plant (Power Barges 101 and 102) in Barrio Obrero, Iloilo City, which was certified and accredited by NGCP as capable of providing Dispatchable Reserve (DR).

ANTECEDENT FACTS

4. Republic Act No. 9136 provides that it is the responsibility of NGCP to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for its operations and maintenance, as set forth in the Philippine Grid Code (PGC), adopted and promulgated by the Honorable Commission, and to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services through the transmission system².
5. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid Ancillary Services and for developing and proposing Wheeling Charges and Ancillary Service tariffs to the ERC³.
6. Ancillary services (AS) as defined in Section 4b 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.

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) and (d);

³Section 6.3.1.2;

8. Pursuant to its mandate, NGCP invited and negotiated with all prospective generation companies capable of providing ancillary services, one of which is PHINMA.
9. On 25 August 2016, NGCP issued *Accreditation Certificate No. 2016-V0010* for Units 3 and 4 of the Power Barge (PB) 101; and *Accreditation Certificate No. 2016-V0014* for Units 1, 2, 3 and 4 of the PB 102, certifying that the power plants have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP. Copies of the Accreditation Certificate Nos. 2016-V0011 and 2016-V0014, dated 25 August 2016 are attached as **Annexes "A"** and **"A-1"**, respectively.
10. At present, Power Barges 101 and 102 have no existing power supply agreements with any customer.
11. Consequently, on 21 July 2017, NGCP and PHINMA entered into an Ancillary Services Procurement Agreement ("ASPA") for PHINMA to provide the Visayas Grid, on a non-firm basis for up to 32MW each of Dispatchable Reserve (DR) from PB 101 and PB 102 for a period of five (5) years. A copy of the ASPA is attached as **Annex "B."**

**CONTRACTED CAPACITY RATES AND IMPACT
SIMULATION**

12. The Applicants agreed for an Hourly Maximum Rate of PhP1.25/kW/Hr. PHINMA respectfully submits that the proposed rates represent a reasonable recovery of the opportunity cost in making available generation capacity to provide the procured AS.
13. The rate under the ASPA were subjected to a simulation with the following results:

AS Type	SIMULATION	
	P/kW-mo	P/kWh
DR (Non-Firm)	17.1192	0.0356

A copy of the said Rate Impact Simulation (PHINMA Energy Corporation for PB 101 and PB 102) is attached as **Annex "C."**

14. Consistent with the AS-CRM, all the related and incidental expenses which will be incurred as a result of the procurement and operation of the ancillary services shall be recovered from all the load customers in the Visayas Grid.

**ALLEGATIONS IN SUPPORT OF THE
PRAYER FOR PROVISIONAL AUTHORITY**

15. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power (*Section 2b, EPIRA*). 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.
16. Based on the current levels of available contracted AS in the Visayas Grid, the DR has not yet met the required levels of the ASPP. The

copy of the Visayas DR Availability showing the required and available level of DR is attached as **Annex "D."**

17. The available AS must be guaranteed on a daily basis to assure reliability and security of the grid. Also, as the demand for power in the Visayas 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.
18. As system operator, NGCP needs the capacity of PHINMA to provide DR. With this ASPA, the Visayas Grid is assured of DR for 5 years or until 2022.
19. Hence, Applicants respectfully submit that the immediate approval of the ASPA by this Honorable Commission is a necessity to maintain the present reliability and security of the Grid. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Engr. Lisaflor Bacani-Kater, which is attached as **Annex "E."**

PRAYER

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

- a) Immediately **ISSUE** a provisional authority to implement the subject ASPA;
- b) **APPROVE**, after notice and hearing, the subject ASPA.

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

Finding the said *Application* sufficient in substance with the required fees having been paid, the *Application* is hereby set for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **23 November 2017 (Thursday) at ten o'clock in the morning (10:00 A.M.) at Seda Atria Hotel, Pison Avenue, Atria Park District, Barangay San Rafael, Mandurriao, Iloilo City.**

Accordingly, NGCP and PHINMA are hereby directed to:

- 1) Cause the publication of the attached Notice of Public Hearing in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;

- 2) Furnish the Offices of the City Mayor and the Local Government Unit (LGU) legislative body within the affected franchise area with copies of this Order and the attached Notice of Public Hearing for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected franchise area of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon, by any other means available and appropriate;
- 4) Furnish the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress with copies of the Application, and this Order and the attached Notice of Public Hearing. They are hereby requested, if they so desire to send their duly authorized representatives at the scheduled hearing; and
- 5) Furnish all those making requests with copies of the Application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing, Applicants must submit to the Commission their written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached Notice of Public Hearing consisting of affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this Order and the attached Notice of Public Hearing consisting of certifications issued to that effect, signed by the aforementioned Mayor and LGU legislative body or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of the means employed by Applicants to inform the consumers within the affected franchise area of the filing of the Application, its reasons therefor, and of the scheduled hearing thereon;

- 4) The evidence of receipt of copies of the Application, and this Order and the attached Notice of Public Hearing by the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the Application and their attachments by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

Applicants and all interested parties are also required to submit, at least five (5) days before the date of initial hearing and Pre-Trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

Failure of Applicants to submit the required Pre-Trial Brief and Judicial Affidavits of their witnesses within the prescribed period shall be a ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from the said date of cancellation.

NGCP and PHINMA must also be prepared to make an expository presentation of the instant *Application*, aided by whatever communication medium that they may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, what the *Application* is all about and the reasons and justifications being cited in support thereof.

SO ORDERED.

Pasig City, 03 October 2017.

FOR AND BY AUTHORITY
OF THE COMMISSION:



ALFREDO J. NON
OIC – Chairman and CEO

LS: /LSI/APV

Copy Furnished:

1. Attys. Luis Manuel U. Bugayong, Ronald Dylan P. Concepcion, Mark Anthony S. Actub and Raycell D. Baldovino
Counsel for Applicant NGCP
Office of the General Counsel
NGCP Building, Quezon Avenue corner BIR Road
Diliman, Quezon City
2. National Grid Corporation of the Philippines
Applicant
NGCP Building, Quezon Avenue corner BIR Road
Diliman, Quezon City
3. Attys. Alan T. Ascalon and John Henry C. Liqueste
Counsel for Applicant PHINMA
Level 3, PHINMA Plaza, 39 Plaza Drive
Rockwell Center, Makati City
4. PHINMA Energy Corporation (PHINMA)
Applicant
Level 11, PHINMA Plaza, 39 Plaza Drive
Rockwell Center, Makati City
5. Office of the City Mayor
Quezon City
6. Office of the Local Government Unit (LGU) legislative body
Quezon City

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7. National Association of Electricity Consumers for Reforms, Inc. (NASECORE)
Petitioner
No. 85 Independencia Street, Tacloban City
8. Office of the Solicitor General
134 Amorsolo Street, Legaspi Village, Makati City
9. Commission on Audit
Commonwealth Avenue, Quezon City
10. Senate Committee on Energy
GSIS Bldg. Roxas Blvd., Pasay City
11. House Committee on Energy
Batasan Hills, Quezon City
12. Philippine Chamber of Commerce and Industry (PCCI)
3rd Floor, Chamber and Industry Plaza (CIP), 1030 Campus Avenue corner Park Avenue,
McKinley Town Center, Fort Bonifacio, Taguig City

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D O C K E T E D
Date: OCT 26 2017
By: _____

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

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PRAYER

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

The Commission has set the *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on **23 November 2017 (Thursday) at ten o'clock in the morning (10:00 A.M.), at Seda Atria Hotel, Pison Avenue, Atria Park District, Barangay San Rafael, Mandurriao, Iloilo City.**

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 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 Applicants rest their case, subject to the requirements under Rule 9 of the 2006 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 Applicants that they be furnished with the same prior to the date of the initial hearing. Applicants are hereby directed to furnish all those making such request with copies of the *Application* and their 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 OIC – Chairman and CEO **ALFREDO J. NON**, and the Honorable Commissioners **GLORIA VICTORIA C. YAP-TARUC**, and **GERONIMO D. STA. ANA**, Energy Regulatory Commission, this 3rd day of October 2017 in Pasig City.

FOR AND BY AUTHORITY
OF THE COMMISSION:


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Oversight Commissioner for Legal