

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

IN THE MATTER OF THE
APPLICATION FOR THE MAXIMUM
ALLOWABLE REVENUE FOR
CALENDAR YEAR 2012 (MAR
2012) AND THE PERFORMANCE
INCENTIVE SCHEME (PIS)
COMPLIANCE IN ACCORDANCE
WITH THE ALTERNATIVE FORM
OF RATE SETTING
METHODOLOGY UNDER THE
RULES FOR SETTING THE
TRANSMISSION WHEELING
RATES, WITH PRAYER FOR
PROVISIONAL AUTHORITY

ERC CASE NO. 2011-140 RC

NATIONAL GRID CORPORATION
OF THE PHILIPPINES (NGCP),
Applicant.
x-----x

DOCKETED
Date: NOV 15 2011
[Signature]

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on October 17, 2011, the National Grid Corporation of the Philippines (NGCP) filed an application for the approval of the Maximum Allowable Revenue (MAR) for Calendar Year (CY) 2012 and the Performance Incentive Scheme (PIS) compliance in accordance with the alternative form of rate setting methodology under the Rules for Setting the Transmission Wheeling Rates (RTWR), with prayer for 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 BIR Road, Diliman, Quezon City. It is the corporate vehicle of the consortium which was awarded the concession to assume the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 or the EPIRA";
2. Under Republic Act No. 9511 (R.A. 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,*" it 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. On January 15, 2009, it assumed the transmission functions of TRANSCO, including the operation, management and maintenance of the nationwide electrical grid;

STATEMENT OF THE CASE

4. On September 22, 2009, the Commission implemented the RTWR, which provides for the methodologies to be used by it in setting its transmission wheeling rates;
5. Following the methodology provided under Article VII thereof, on December 18, 2009, it filed an Application¹ for the approval of its MAR for the Third Regulatory Period (2011-2015) docketed as ERC Case No. 2009-180 RC. Pursuant to the RTWR, the Commission issued a Final Determination (FD) in the said case in a Decision dated November 22, 2010 where its Smoothed MAR (SMAR) for CY 2012 was determined at Php44,872.55 Mn;
6. The instant application is filed for the approval of the translation of the said SMAR into its regulated transmission rates to be charged to its customers from December 26, 2011 to December 25, 2012 in accordance with the methodology provided in Article VI of the RTWR;
7. It submits the following financial and demand information for the 12-month period ending August 2011, together with the required

¹ In the Matter of the Application for the Approval of the Maximum Annual Revenue for the Third Regulatory Period (2011 to 2015) of the National Grid Corporation of the Philippines (NGCP) During the Regulatory Reset Process for the Third Regulatory Period in Accordance with the Alternative Form of Rate Setting Methodology under the Rules in Setting the Transmission Wheeling Rates (RTWR)

economic values for Consumer Weighted Index (CWI) computed for the four (4) quarters ending August 2009 and August 2010.

TIMELINESS OF THE FILING OF THE APPLICATION

8. Article VI, Section 6.2.1 (b) of the RTWR provides that on or before October 31 in the Calculation Year, the Regulated Entity must submit to the Commission its proposal for the maximum transmission wheeling rates that may be charged by it for the provision of Regulated Transmission Services during the application year. In the abovementioned Decision², however, the deadline was moved to 17th October in view of the Supreme Court Decision in the case of NASECORE, et al vs. ERC and MERALCO³;

DISCUSSIONS

9. **The Formula.** In computing the MAR_{2012} , it adopts the formula in Section 5.2.3 of the RTWR which provides that: "following a public consultation process, the formula in Section 4.2.1 shall be changed to the following for the Third Regulatory Period (3rd RP), relying upon the definitions of terms provided in that Section 4.2.1, unless further amended by the ERC following due process:

$$MAR_t = [MAR_{t-1} \times \{1 + CWI_t - X\}] - K_t$$

Where:

MAR_t	Maximum Allowable Revenue of application year or MAR_{2012}
MAR_{t-1}	Maximum allowable revenue of last year or MAR_{2011}
CWI_t	Change in weighted index
X	Productivity of efficiency factor
K_t	Over or under recovery of revenue

- 9.1. **CWI Computation.** The CWI_t combines two (2) adjustments: an adjustment for exchange changes and an adjustment for CPI (domestic price changes). The proportion of the adjustment driver by exchange rates is set by the W2 which was set in 2003 when the Commission first promulgated the Transmission Wheeling Rates Guidelines (now RTWR). The CWI_t assumes

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³ GR. No. 163975, August 16, 2006

that 54.5% of its costs are directly impacted on exchange rate movements and that any indirect impacts will be felt through changes in domestic prices which are measured by the CPI change. Rule 3.3 of the RTWR sets weighted indices of 0.455 and 0.545 for the W1 and W2, respectively. These weightings will apply as the exchange rate trigger condition set in Rule 12.9 of the RTWR occurs;

- 9.2. The price control formula in Rule 5.2.3 sets the MAR for each Regulatory Year by rolling forward the previous year's revenue, making an adjustment for inflation and exchange rate movements (the CWI_t factor), and deducting the X factor. The intent of these adjustments is that the regulated entity is compensated for actual changes in prices and exchange rates. However, because of regulatory interventions by the Commission to address the under-recoveries from the Second Regulatory Period (2nd RP), the CWI_t as applied by the Commission has unreasonably worked against it;
- 9.3. Rule 5.2.2 of the RTWR requires the Commission to review the values of W1 and W2. However, this requirement was overlooked during the last reset process. Adopting the W2 factor of 0.545 will result to a CWI_t of negative 0.1801%;
- 9.4. In its Omnibus Motion for Reconsideration and Clarification in ERC Case No. 2010-152 RC⁴ filed on September 2, 2011, it proposed the adoption of a revised and corrected W1 and W2 weightings. The US\$ component of capital expenditure approved in the 3rd RP Final Determination amounted to only about 11.7% of the approved SMAR. Hence, W2 factor should be set at 0.117 and W1 factor should be 0.883;
- 9.5. Further, in the same Omnibus Motion for Reconsideration, it proposes that it will be more correct and realistic to use actual US\$ exchange rates (Actual ERC_USER) that were used by the Commission in the review of its expenditure compliance during the 2nd RP provided in the 3rd RP Final Determination;
- 9.6. Adopting these corrections will result to CWI_t of 3.1155% rather than the negative 0.1801%. The detailed computation of the CWI is attached to the Application as Annex "A";
- 9.7. **X Factor.** In Section 7.6.1 of the Final Determination, the Commission set the revenue smoothing of X factor at three percent (3%) in positive value for the whole 3rd RP (2011 to 2015);
- 9.8. **K_t Computation.** In the computation of the K_{t-1} , it adopts the formula provided in Section 5.3.3 of the RTWR which provides:

$$TR_{t-1} = CR_{t-1} + MR_{t-1} + RBR_t$$

⁴ Application for MAR 2011

Where:

RBR_t A portion (expressed in PhP) of the net income derived, during the 12 month period ending on 30 September in Regulatory Year t-1, from each related business engaged in by the Regulated Entity or (if the Regulated Entity does not include TRANSCO) by TRANSCO, which business utilizes assets that form part of the regulatory asset base (see Section 4.6.8), being a portion that is determined by the ERC pursuant to Section 20 of the EPIRA and that may vary as between such businesses but which, for each such business, does not exceed 50% of the net income that is so derived from that business

- 9.9 For the RBR_t, it proposes the amount of PhP7.16 Mn representing 50% of its reported revenue from co-location and rental of equipment. Some of these revenues are derived from rental and joint pole attachment to specific sub-transmission facilities;
- 9.10 Section 5.3.4 of the RTWR prescribed that the K_t shall be subject of an interest rate adjustment (*i_t*) equivalent to the simple average of the monthly 180 day weighted-average Manila Reference Rate (MRR_{Aug}) translated into real interest rate using the Fisher equation;
- 9.11 The amount of K_t to be considered in the computation of the MAR₂₀₁₂ is proposed at PhP2,353.61 (negative value). The detailed computation of the K_t is attached to the Application as Annex "B";
10. Following the price control formula, values and parameters, it proposes a MAR₂₀₁₂ of PhP47,775.38 Mn;

Table A. Computation of the MAR₂₀₁₂

Particulars	Values and Parameters	
MAR _{t-1} PhP, Mn	45,369.38	MAR 2011 adopting corrected values for WI and W2 (ERC Case No. 2010-152 RC)
CWI _t %	3.12%	Annex A
X %	3%	Final Determination, Section 7.6.1
K _t	(2,353.61)	Annex B
MAR ₂₀₁₂	47,775.38	Price Control Formula, Section 5.3.3 of RTWR

11. It submits its actual and forecast financial data and demand (kW) for the 12-month period ending August 2010 and for the 12-month period ending August 2011, respectively. The detailed computation of Table A is attached to the Application as Annex "C";

RECOVERY OF PROPOSED MAR₂₀₁₂

12. **Customer Segments.** Following the Commission's Order dated August 2, 2006 in ERC Case No. 2005-041 RC, it adopts the three-customer segments, namely: Luzon, Visayas and Mindanao. The customers in these three (3) major grids will be billed with different power delivery service rates designed and computed based on the ERC-approved OATS Rules;
13. **Compliance with Side Constraints Limitations.** Section 6.4 of the RTWR provides that: "the maximum transmission wheeling rates that may be charged by the Regulated Entity for the provision of Regulated Transmission Services during an Application Year to a Customer Segment (k) must comply with the following condition:

$$FCR_{k,t} / CR_{k,t-1} \leq (1 + CWI_t + SC_t) \times FQ_{k,t} / AQ_{k,t-1}$$

Where:

FCR_{k,t} the total amount forecast to be billed to all Customers in Customer Segment k for the provision by the Regulated Entity, during the Forecast Period, of Regulated Transmission Services, as provided under Section 6.3.3 (c)

CR_{k,t-1} the total amount billed to all Customers in Customer Segment k for the provision by the Regulated Entity, during the Historical Period, of Regulated Transmission Services, as provided under Section 6.3.2(a)

" <= " less than or equal to

SC_t the Side Constraint for Regulatory Year t, xxx

- 13.1 In the determination of its compliance with the Side Constraint, it adopts the Commission's interpretation of the term Forecast Period as "...the Forecast Period is taken to be re-defined as the Application Year, which is a calendar year", embodied in its Orders dated June 13, 2006, August 24,

2006, December 14, 2006 and February 2, 2007, in ERC Case No. 2006-041RC;

- 13.2 In page 5 of paragraph 1.4 of the Final Determination, the Commission set the Side Constraint at CPI of two percent in positive value (+2%);

Table B. Compliance with Side Constraint

	CWIt	SCt	FQk,t	AQk,t-1	SC Conditions	SC Limitations	SC Limitations Revenue	MAR 2012
Luzon	3.12%	2%	93,955	91,335	1.0491	1.0813	36,079.8	34,977.8
Visayas	3.12%	2%	15,855	15,173	1.0582	1.0984	6,281.1	6,046.6
Mindanao	3.12%	2%	17,226	16,609	1.0479	1.0902	7,029.4	6,751.1
Philippines	3.12%	2%	127,036	123,117	1.0501	1.0846	49,390.2	47,775.4

The detailed computation for Table B is attached to the Application as Annex "D".

- 13.3 Based on Table B, it may be noted that MAR₂₀₁₂ did not breach the Side Constraint computation;
- 13.4 The calculation of the Side Constraint excluded the impact of the Intra-Regional Grid Cross Subsidy Charge, which was totally phased-out as of September 26, 2005, and no billing or collection from these charges were made during the application year;
- 13.5 As provided in Clauses F (AI) 2.2 and F (AI) 3.2 of the OATS Rules, in the computation of the Side Constraint Condition, it used the current definition of billing determinant as "average of the 12 monthly non-coincident peak in kW measured in fifteen (15) minute intervals". In terms of implementation, this refers to the rolling average of the customers' 12 monthly demand (kW) peaks;
14. **Indicative Rate.** Using the forecast demand (in kW), Table C below shows the indicative rates of the proposed MAR₂₀₁₂:

Table C. Indicative Rates

	MAR 2011	MAR 2012
<i>in PhP Mn</i>		
Forecast Demand (MW)	47,893.16	47,775.38
Forecast Energy (GWh)	123,327.97	127,035.90
	60,102.37	62,529.08
Indicative Average PhP/kW	388.34	376.08
<i>Inc/(Dec)</i>		(12.26)
<i>% Inc/(Dec)</i>		(3.16%)
Indicative Average PhP/kWh	0.797	0.764
<i>Inc/(Dec)</i>		(0.033)
<i>% Inc/(Dec)</i>		(4.12%)

15. **Regulated Transmission Services.** Consistent with the provisions of the Final Determination and the OATS Rules, it shall continuously recover the MAR₂₀₁₂ through charges on the following Regulated Transmission Services:

- Power Delivery Service Charge (PDS)
- System Operator Charge (SOC)
- Metering Service Provider Charge (MSPC)

15.1 The System Operations (SO) and Metering Services Provider (MSP) tariffs or rates are designed and computed using the pertinent provisions of Module F: Rates, Methodology, Billing and Settlement of the Revised OATS Rules;

15.2 Consistent with the OATS Rules, the Power Delivery Service (PDS) Charge per customer segment shall be an allocation of the Commission's approved MAR_t, after deducting the derived revenue from System Operator and Metering Services Provider charges. The PDS rate shall be determined on a monthly basis, taking into consideration the actual total billing determinants⁵;

15.3 For CY 2012, it shall bill customers with the following System Operator and Metering Service Provider charges:

Table D. System Operator Charge for CY 2012

FIRM (PhP/kW-mo.)	NON-FIRM (PhP/kW/day)
17.55	0.5770

Note: Non-firm rate is computed as Firm rate x (12months/365 days)

⁵ Billing Determinants shall refer to the rolling 12-month non-coincident peak of the customers

Table E. Schedule of MSP Charges

Per Voltage Level	Proposed 2012 MSP Rates	
	Full	Meter Only
500/230 kV	38,256	19,715
138/115 kV	25,788	16,677
69 kV	16,753	8,587
34.5/23 kV	9,675	6,791
13.8 kV and below	5,054	3,246
Common Charge	2,786	

Note: Based on 3rd RP SKM's unit cost based of voltage levels

- 15.4 The parameters and values used in the calculation for the SO and MSP Charges are attached to the Application as Annexes "E" and "F", respectively;
16. **Performance Incentive Computation.** Consistent with its Performance-Based Regulation provided in the RTWR and the Final Determination, it proposes a net performance incentive of PhP503.12 Mn to be billed in CY 2012;
- 16.1 The PIS is based on the RTWR and most explicitly anchored in the Commission's Final Determination for the 3rd RP where the Commission states that '(t)he actual reward or penalty will be determined during the annual rate adjustment process...'⁶
- 16.1.1 The PIS rewards or penalizes it to the extent that the actual level of performance of the grid or the regulated entity for a regulatory year exceeds or fails the target levels of performance of the grid or the regulated entity as defined in the Final Determination;
- 16.2 The computed sum of the net incentives of PhP322.00 Mn is below the maximum reward of PhP1,322.37 Mn defined in Clause 1.7, Chapter 1 of the Final Determination. The summary report and detailed computation are attached to the Application as Annex "G";
- 16.3 Consistent with its previous applications on the PIS Adjustments, it computed the limits of the rewards or penalties with reference to the three percent (3%) of the annual revenue requirement (ARR) of the Application Year.⁷

⁶ Paragraph 1, page 9 of the Final Determination dated November 22, 2010
⁷ The regulatory year that immediately follows the calculation year

Accordingly, the ARR for CY 2012 of PhP44,052.98⁸ was used in the computation;

In compliance with directive of the Commission in the Final Determination⁹ for it to commence measuring its performance on Ancillary Services Availability Index (ASAI), it submits recorded data from February 1, 2011 to August 31, 2011 in Table F below:

Table F. Monthly Performance Measures for ASAI

Grid	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11
Luzon	5.7460	6.6592	3.3602	0.5208	2.4866	1.0417	3.9651
Visayas	3.6626	7.8497	3.7298	0.2431	0.4032	0.9375	2.2513
Mindanao	33.9400	29.9500	35.7200	31.4500	40.3200	47.8100	54.3000

It proposes that the computation of the ASAI parameters for the 3rd RP Regulatory be based on a longer period instead of the eight-month period prescribed by the Commission in order to achieve statistically sound targets for this measure. Further, under Section 9.4.2 of the Philippine Grid Code, the initial reliability targets shall be set to the mean value of the particular Grid's reliability performance for the last five (5) years. While it would not be workable to collect ASAI data starting 2006, it proposes instead that the monitoring and measurement for this particular indicator be extended up to August 31, 2012 and thereafter, the parameters shall accordingly be computed.

The discussion and other information details are part of the summary report attached to the Application as Annex "G".

17. **Historical and Forecast Financial and Operational Data.** Sections 6.3.2 and 6.3.3 require it to provide a range of information to demonstrate its compliance with its MAR. These information are provided in Annexes "H" and "I", respectively. It forecasts that it intends to earn the MAR given the methodology outlined in the OATS Rules and its current demand forecasts;
18. **Other Parameters.** Section 6.5 of the RTWR requires it to demonstrate its compliance with the following:
 - 18.1 It is fully compliant with the Commission's Orders dated June 26, 2002 and September 20, 2002 in ERC Case No. 2001-901, in so far as such Orders are not inconsistent with the OATS Rules;
 - 18.2 **Commission's Issuances in Relation to System Losses.** Consistent with the Commission's Orders in ERC Case Nos.

⁸ Table 7.4, page 134 of the Final Determination (dated June 13, 2006) ERC Case No. 2005-041 RC

⁹ Section 4.9.3 of Final Determination (dated November 22, 2010) ERC Case No. 2009 – 180 RC

2001-901, 2002-253 and 2005-041RC, it has adopted the same methodology for the treatment of system losses or loss factors as defined in the OATS Rules as they affect the data presented in the instant application;

19. **Management Approval.** The filing of the instant application has been approved by its Management on October 13, 2011;
20. The proposed MAR₂₀₁₂ and PIS were designed and developed in accordance with the provisions of the RTWR and other pertinent issuances of the Commission for a fair and reasonable transmission rates that will serve the public interest and convenience and signal the efficient utilization of transmission facilities that will ultimately redound to the best interest and benefit of the public;

ALLEGATIONS IN SUPPORT OF THE APPLICATION FOR PROVISIONAL AUTHORITY

21. It repleads the foregoing allegations insofar as they may be applicable hereunder and further states that:
22. The RTWR expressly provides under Clause 6.2.1 (f) the following:
 - a. That once ERC is satisfied that the rates comply with the requirements of the RTWR and OATS Rules, the Regulated Entity must implement those rates with effect from December 26 of the Calculation Year; and
 - b. That should the ERC be not satisfied that the rates do comply with the RTWR and OATS Rules, there will be a necessity of amending the proposed rates and the Regulated Entity must implement the amended rates by 15 days after the ERC gives direction but not earlier than 26 December of the Calculation Year.
23. The timely implementation of the rate/tariffs changes will allow the equal or even spread of the increases or decreases in tariffs for the 12-month billing periods. Should the rates be an increase, a delay of one (1), two (2), three (3) months or more will bring about a significant and abrupt increase in the rates upon its implementation;
24. While there will be a minimal change in the rates, the timely implementation of the changes will temper the changes in rates/tariffs. Accordingly, a smooth change of rates from month to month will be experienced after its initial implementation;
25. The timely implementation of the rate changes will reduce, if not eliminate, the risk of under-recovery which may be substantial to it;
26. In support of these allegations, it submits a copy of the Judicial Affidavit of Ms. Ma. Cynthia Y. Manrique which is attached to the Application as Annex "K";

27. It prays that:

- a. a provisional authority be issued authorizing it to implement and commence the billing and collection of the MAR₂₀₁₂ in the amount of PhP47,775.38 Mn and the PIS in the amount of PhP503.12 Mn beginning the billing period December 26, 2011 to January 25, 2012;
- b. after due notice and hearing, the full recovery of the MAR₂₀₁₂ in the amount of PhP47,775.38 Mn and the PIS in the amount of PhP503.12 Mn to all transmission customers beginning the billing period December 26, 2011 to January 25, 2012 be approved;
- c. the System Operator and Metering Service Provider Charges to be applied and charged to its customers in CY 2012 be approved; and
- d. the fifty percent (50%) of PhP14.32 (or PhP7.16 Mn) as RBR_t from co-location and rental of equipment be approved.

The Commission has set the application for initial hearing, pre-trial conference, expository presentation and evidentiary hearing on the following dates and venue:

DATE	TIME	VENUE	PARTICULARS
December 12, 2011 (Monday)	Two o' clock in the afternoon (2:00 P.M.)	15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional Hearing and Expository Presentation
January 19, 2012 (Thursday)	Nine o' clock in the morning (9:00 A.M.)	ERC Visayas Field Office, Machay Building, Gorordo Avenue, Cebu City	Expository Presentation
January 26, 2012 (Thursday)	Nine o' clock in the morning (9:00 A.M.)	ERC Mindanao Field Office, Mintrade Building, Monteverde Avenue corner Sales Street, Davao City	Expository Presentation

January 30, 2012 (Monday)	Two o' clock in the afternoon (2:00 P.M.)	15 th Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Pre-trial Conference and Evidentiary Hearing
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All persons who have an interest in the subject matter of the proceeding may become a party by filing, at least five (5) days prior to the initial hearing and subject to the requirements in the ERC's Rules of Practice and Procedure, a verified petition with the Commission giving the docket number and the title of the proceeding and stating: (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 proceeding may file their opposition to the application or comment thereon at any stage of the proceeding before the applicant concludes the presentation of its evidence. No particular form of opposition or comment is required, but the document, letter or writing should contain the name and address of such person and a concise statement of the opposition or comment and the grounds relied upon.

All such persons who may wish to have a copy of the application may request the applicant, prior to the date of the initial hearing, that they be furnished with a copy of the application. The applicant is hereby directed to furnish all those making such request with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs. Likewise, any such

person may examine the application and other pertinent records filed with the Commission during the usual office hours.

WITNESS, the Honorable Chairperson, **ZENaida G. CRUZ-DUCUT**, and the Honorable Commissioners, **MARIA TERESA A.R. CASTAÑEDA**, **JOSE C. REYES**, **ALFREDO J. NON** and **GLORIA VICTORIA C. YAP-TARUC**, Energy Regulatory Commission, this 10th day of November, 2011 at Pasig City.


MVA/NJS


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III