

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 TYPHOONS BASYANG AND
JUAN IN ACCORDANCE WITH THE
RULES FOR SETTING TRANSMISSION
WHEELING RATES, WITH PRAYER
FOR PROVISIONAL AUTHORITY

ERC CASE NO. 2011-112 RC

NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP),

Applicant.

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NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on August 9, 2011, the National Grid Corporation of the Philippines (NGCP) filed an application for the approval of the Force Majeure Event (FME) regulated FM pass through for typhoons Basyang and Juan in accordance with 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, 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;
4. Pursuant to Section 10.1.1 of the RTWR, it is allowed to recover the costs incurred for the restoration, rehabilitation and repair of the damage sustained by its transmission facilities as a result of the FME;

Allegations for the First Cause of Action: Typhoon Basyang

5. On July 12 to 14, 2010, Typhoon Basyang battered North and South Luzon with heavy rains and maximum sustained winds of 120 kph and gustiness up to 150 kph. Basyang maintained its strength as it moved from the Province of Catanduanes towards the Provinces of Aurora and Quezon, then, to Metro Manila, Bataan, Zambales and until finally exiting towards the direction of Southern China;
6. Due to its intensity, Typhoon Basyang caused damage to its transmission facilities in North and South Luzon which led to a Luzon Grid system blackout;
7. On October 8, 2010, in compliance with Article X of the RTWR, it filed an FME Notice for Typhoon Basyang, a copy of which was attached to the Application as Annex "A";

Allegations for the Second Cause of Action: Typhoon Juan

8. On October 16 to 21, 2010, Typhoon Juan packing maximum sustained winds of 225 kph near the center and gustiness of up to 260 kph caused severe damage to life and property due to strong winds and heavy downpour over North Luzon. After its landfall over Isabela, it crossed Apayao, Kalinga, Mt. Province, Benguet and exited in the La Union-Ilocos Sur area towards the South China Sea;
9. Due to its intensity, it caused damage to its transmission facilities in North Luzon;

10. On January 11, 2011, in compliance with the above-mentioned provision, it filed an FME Notice for Typhoon Juan, a copy of which was attached to the Application as Annex "B";

Allegations Common to the Two (2) Causes of Action

11. The complete details of the intensity and movement of the two (2) typhoons are discussed in the Certification issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA), a copy of which was attached to the Application as Annex "C";
12. Immediately after the wrath of Typhoons Basyang and Juan, it started the repair and rehabilitation of its damaged transmission facilities in order to continue serving its customers. Some activities are still in progress up to the present in some areas;
13. The costs of Capital Expenditure (CAPEX) that it incurred and to be incurred in the rehabilitation, repair and restoration of its facilities are as follows:

| Typhoon | Total (PhP) ¹ |
|--------------|--------------------------|
| Basyang | 12,296,980.12 |
| Juan | 67,997,630.24 |
| Total | 80,294,610.37 |

Copies of the Details of Activities of Typhoons Basyang and Juan (with attached pictures) are attached to the Application as Annexes "D" and "D-1," respectively;

14. Notwithstanding that the damaged assets are owned by TRANSCO, a co-assured of the Power Sector Assets and Liabilities Management Corporation's Industrial All Risk Insurance Policy (IAR) with the Government Service Insurance System (GSIS), the cost of the rehabilitation, repair and restoration of the damaged transmission facilities is not covered by the IAR and, therefore, not compensable. A copy of the Certification in support of such allegation is attached to the Application as Annex "E";
15. There is a need to realign its CAPEX projects to recover the cost it incurred for the restoration, rehabilitation and repair of the damaged transmission facilities;

Computation of the FME Pass-Through Cost

¹ Inclusive of the permit fees

16. It proposes to pass-through the FME claim as additional network charges in Luzon starting the billing period of October 2011 up to December 2015 or until such time that the amount incurred is fully recovered, as follows:

| FME - Peso/kW | 2011 | 2012 | 2013 | 2014 | 2015 | Total |
|---------------|--------|--------|--------|--------|--------|--------|
| Luzon | 0.1306 | 0.1724 | 0.1725 | 0.1725 | 0.1721 | 0.8201 |

17. Although the said FME claim is not included in its 3rd Regulatory Reset Application, the same can be recovered during the 3rd Regulatory Period pursuant to Section 10.1.1 of the RTWR wherein it is allowed to recover the cost incurred for the restoration, repair and rehabilitation of damage sustained by its transmission facilities as a result of the FME²;

18. The FME Claim does not breach the Force Majeure Threshold Amount (FMTA)³;

19. It moves for the issuance of a provisional authority for the immediate recovery of the FME claim⁴. It needs to immediately recover the actual expenses incurred for the rehabilitation of the damaged transmission facilities. The occurrence of the aforementioned FMEs required or requires substantial capital infusion, the recovery of which should be allowed in order not to put a financial strain in the transmission system operator and to allow it to continuously provide the necessary transmission service to the grid customers;

20. The timely implementation of the pass-through amount will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost; and

21. It prays that:

- a. The Typhoons Basyang and Juan be declared as FMEs;
- b. The expenditures incurred for the restoration, rehabilitation and repair of the damaged transmission facilities and proposed pass-through amount representing return on and of CAPEX associated with the emergency responses and the repair and rehabilitation of facilities damaged due to the said events be approved;
- c. A provisional authority to implement and bill the FME Pass-Through Amount to Luzon customers from September 26, 2011 to December 25, 2015 or until such time that the amount incurred is fully recovered be issued; and
- d. The proposed Pass-Through Amount be excluded from the Side Constraint calculation.

² A copy of Calculation of the FME Claim is attached to the Application as Annex "F"

³ A copy of the FMTA is attached to the Application as Annex "G"

⁴ A copy of the Judicial Affidavit of Ma. Bernadette R. Gan, Head, Tariff Administration Section Tariff Design and Billing Management Division, Regulatory Revenue Affairs, in support thereof is hereto attached as Annex "H".

The Commission has set the application for initial hearing, pre-trial conference, expository presentation and evidentiary hearing on **November 17, 2011 (Thursday) at two o' clock in the afternoon (2:00 P.M.) at the ERC Hearing Room, 15th Floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

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 17th day of October, 2011 at Pasig City.


ATTY. FRANCIS SATURNINO C. JUAN
Executive Director III


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