

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 APPROVAL OF
THE MAXIMUM ALLOWABLE
REVENUE (MAR) FOR CALENDAR
YEAR 2010 IN ACCORDANCE WITH
THE ALTERNATIVE FORM OF RATE
SETTING METHODOLOGY UNDER
THE RULES FOR SETTING
TRANSMISSION WHEELING RATES
(RTWR), WITH PRAYER FOR
PROVISIONAL AUTHORITY

ERC CASE NO. 2009-160 RC


NATIONAL GRID CORPORATION OF
THE PHILIPPINES (NGCP),

Applicant.

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Date: JAN 25 2010

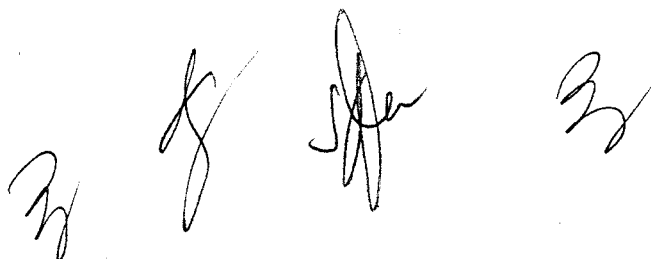
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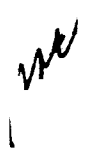
ORDER

On November 16, 2009, the National Grid Corporation of the Philippines (NGCP) filed an application for approval of its Maximum Allowable Revenue (MAR) for Calendar Year 2010 in accordance with the alternative form of rate setting methodology under the Rules for Setting 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 Philippines, with principal office address at 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) through a public bidding conducted pursuant to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 or the EPIRA.

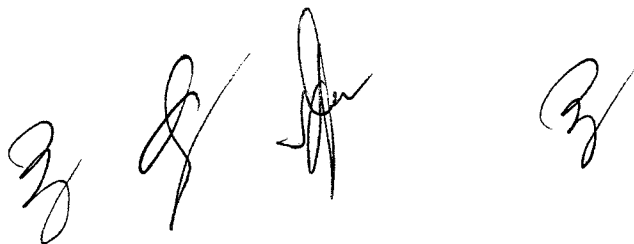




2. Under Republic Act No. 9511, entitled: "An Act Granting the National Grid Corporation of the Philippines A Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-bone System or Interconnected Transmission Lines, Substations and Related Facilities, and For Other Purposes", it holds 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. Under the Concession Agreement among NGCP, Power Sector Assets and Liabilities Management Corporation (PSALM) and TRANSCO, which took effect on January 15, 2009 (Concession Agreement), PSALM granted NGCP, on an exclusive basis, the rights and responsibilities to: a) construct, install, finance, manage, improve, expand, operate, maintain, rehabilitate, repair, refurbish and replace TRANSCO's transmission assets; b) for its own account, bill and collect from transmission customers such charges as it, as a regulated entity, may lawfully demand; c) take over and operate the whole of TRANSCO's regulated transmission business as a going concern; and d) as between TRANSCO and itself, be the sole representative of the regulated entity before the Commission.
4. Under the Concession Agreement, it is mandated to provide open and non-discriminatory access to its transmission system to all electricity users and accordingly, assess and collect transmission charges subject to the approval of the Commission.

Nature of the Application

5. Pursuant to Section 43(f) of the EPIRA and Section 5(a) of the Implementing Rules and Regulations (IRR) thereof, the Commission promulgated the Rules for Setting of Transmission Wheeling Rates for 2003 to around 2027 (RTWR). The RTWR sets out the methodology to be used in setting the maximum transmission wheeling rates that may be charged for the provision of its regulated transmission services.
 - 5.1 The RTWR is an amendment to the Guidelines on the Methodology for Setting of Transmission Wheeling Rates (TWRG), which likewise sets the methodology for setting its transmission wheeling rates under the Maximum Annual Revenue cap.
6. The RTWR provides that there shall be regulatory periods designated as First Regulatory Period [to end on December 31, 2005], Second Regulatory Period [to end on the fifth (5th) anniversary of the First Regulatory Period End Date] and Subsequent Regulatory Periods [each of which must be five (5) calendar years in duration].



7. Under Article VI of the RTWR, the maximum transmission wheeling rates that it may charge for the provision of regulated transmission services during a regulatory year may be changed, following an annual review, provided that the said change of rates and annual review are in accordance with Article VI of the RTWR and the Open Access Transmission Service (OATS) Rules.
8. Consistent with Article VI of the RTWR and the OATS Rules, it hereby applies for approval of its **Maximum Allowable Revenue for Calendar Year 2010 (MAR₂₀₁₀) of PhP58,838.5 Million** and of its **net performance incentive of PhP234 Million**.
 - 8.1 Further, it applies for the provisional authority to bill and recover the said MAR₂₀₁₀ and net performance incentive, starting the billing period of December 26, 2009 to January 25, 2010.

Proposed Maximum Allowable Revenue for Calendar Year 2010

9. The proposed estimated MAR₂₀₁₀ is illustrated below:

Table 1: Proposed MAR₂₀₁₀ with Indicative Average Transmission Rates at PhP/kW

Particular	PhP, Million	Indicative Average PhP/kW
Proposed MAR ₂₀₁₀	58,838.5	487.55

10. In deriving the proposed MAR₂₀₁₀, it adopted the following MAR Price Control Formula, values and parameters consistent with various Orders of the Commission, as discussed below.
 - 10.1 In the Order dated December 18 2006 in ERC Case No. 2006-061RC, entitled: "In the Matter of the Setting of the Maximum Allowable Revenue (MAR) for Calendar Year 2007 in Accordance with the Alternative Form of Rate Setting Methodology under the Transmission Wheeling Rates Guidelines (TWRG), TRANSCO – Applicant", the MAR Price Control Formula¹ is set as follows:

$$MAR_t = [MAR_{t-1} \times \{1 + CWI_t - X\}], \text{ then } MAR_{200^*} = MAR_t - K_t - RBR_t$$

- 10.1.1 The Commission's re-interpretation of the Price Control Formula in Sections 3.2.1 and 4.2.1 of the then TWRG is intended to eliminate the perceived double counting of the inflation effect in the K_t which would lead to double recovery of the inflation adjustment to under-recoveries of revenue.

¹ Page 5 of the Order dated December 18, 2006

10.1.2 To reiterate, its proposed MAR₂₀₁₀ of PhP58,838.5 Million, exclusive of its proposed net performance incentive, is based on the Commission's re-interpreted Price Control Formula. The Table below summarizes the values attributed to the components of the Price Control Formula:

Table 2: Computation of Proposed MAR for CY 2010

Particulars	2006	2007	2008	2009	2010
	In Million Pesos, unless otherwise specified				
MAR _{t-1}	27,085.7	35,805.5	37,928.8	36,571.0	36,423.6
P _o	6,415	0	0	0	0
CWI _t	7.88%	6.93%	(2.55%)	0.5968%	8.4155
X in %	1	1	1	1	1
MAR _t	35,805.5	37,928.8	36,571.0	36,423.6	39,124.6
MRR in %	10.19	9.51	8.90	8.00	7.67
K _t	(1,452.2)	(10,486.5)	(17,219.2)	(20,508.7)	(19,718.2)
RBR _t	0	3.6	2.5	254	4.9
MAR for the Year	37,257.7	48,411.8	53,787.8	56,677.7	58,838.5
Collection to end August	27,682.0	32,600.2	34,798.6	38,363.6	
(Under)/Over Recovery	(9,575.7)	(15,811.7)	(18,989.1)	(18,314.1)	

* Note: Amount may not total due to rounding off

10.1.3 It submits its actual financial data (results of operations) and demand (kW) for the twelve (12)-month period ending August 2009. The details on its actual financial data and demand are attached to the application.

10.2 **Computation of CWI_t.** The values of the CWI_t or the change in weighted index for the Regulatory Year is calculated using the formula:

$$CWI_t = \{(W1 \times \Delta CPI_t) + (W2 \times \Delta USER_t)\}$$

10.2.1 In the computation, it used the TWRG assigned values of 0.455 and 0.545 for the W1 and W2, respectively. This is applied as the exchange rate trigger condition appears to have occurred. In this regard, Section 12.9.1 of the RTWR states:

"...the PhP/\$US exchange rate for a Quarter within the Second Regulatory Period is less than 90%, or more than 110%, of the PhP/\$US exchange rate for that Quarter which is approved by the Commission for

the purposes of the capital expenditure program that is approved by the Commission under Section 4.10.5 (see also Section 12.5.3), then this Section 12.9.1 applies in respect of the Regulatory Year that immediately follows the Regulatory Year in which that Quarter occurs (Section 3.3.1 specified the consequences of Section 12.9.1 applying)."

10.2.2 The computed CWI_t used in this application is 8.4155% (positive value) using the formula and values for eight (8) quarters adjusted to the end of August of the applicable years. It notes that there are several quarters where the exchange rates (PhP/US\$) breached the ten percent (10%) trigger condition, as shown below:

Table 3: Quarterly Changes of USER vs. Commission's Final Determination US:PhP Levels

Quarter		Average USER (of the last 5 business days of the last month of the Quarter)	Commission's Final Determination's USER	% USER/Commission USER
USER (Q4, 2007)	November 2007	42.969	52.8	81.38%
USER (Q1, 2008)	February 2008	40.521	52.5	77.18%
USER (Q2, 2008)	May 2008	43.646	52.5	83.13%
USER (Q3, 2008)	August 2008	45.732	52.5	87.11%
USER (Q4, 2008)	November 2008	49.513	52.5	94.31%
USER (Q1, 2009)	February 2009	48.162	52.5	91.74%
USER (Q2, 2009)	May 2009	47.251	52.5	90.00%
USER (Q3, 2009)	August 2009	48.187	52.5	91.78%
USER (Q4, 2009)	November 2009	49.513	52.5	94.31%

10.2.3 The detailed computation of the CWI_t is attached to the application.

10.3 **Determination of K_t .** The K_t is the correction factor to adjust the over (under) recovery of revenue in Regulatory Year-1. It is computed using the formula:

$$DA_t = TR_{t-1} - MAR_{t-1}$$

If $DA_t < 0$

$$\text{Then } K_t = DA_t \times (1 + i_t / 100)$$

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10.3.1 In determining its MAR_{2010} , the total qualifying revenue billed to customers for the twelve (12)-month period ending August 2009 excludes the following:

10.3.1.1 The net performance incentive adjustments for the performance rating period ending August 2007 (PI2007) in the amount of PhP532 Million.² The said PI2007 was approved with finality by the Commission in its Order dated August 5, 2008, and was billed to the customers of Luzon, Visayas and Mindanao from September to December 2008 billing months.

10.3.1.2 The net performance incentive adjustments for the rating period ending August 2008 (PI2008) in the amount of PhP222.88 from the total approved PI2008 of PhP334 Million, equivalent to eight (8) billing periods from January to August 2009.

10.3.1.3 The Force Majeure Event (FME) Claim, in the amount of PhP373.14 Million, approved by the Commission in its Order dated December 15, 2008,³ billed in the January to August 2009 billing periods.

10.3.2 Under the RTWR, performance incentive adjustments and FME claims are not part of the MAR as computed using the Price Control Formula. The billed amounts are not part of the MAR_{t-1} (referring to the PhP56,677.7) which is considered in the computation of K_t or the under-recoveries.

10.3.3 In deriving the proposed MAR_{2010} , it computed the K_t or under-recoveries for the 12-month period ending August 2009, as illustrated below:

Table 4: Derivation of K_t for MAR for CY 2010

Particulars	Definition	Amount (PhP)
MAR_{t-1}	Commission approved MAR for 2009 (ERC Case No. 2008-056 RC entitled "In The Matter Of The Application Of The National Transmission Corporation Or Any Future Concessionaire Thereof For The Approval Of The Maximum Allowable Revenue (MAR) For Calendar Year 2009 In Accordance With The Alternative Form Of Rate Setting Methodology	56,677.70

² ERC Case No 2007-151 RC

³ ERC Case No.2007-148 RC

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Particulars	Definition	Amount (PhP)
	Under The Transmission Wheeling Rate Guidelines) ⁴	
$TR_{t-1} (CR_{t-1} + MR_{t-1})$	Total qualifying revenue for the 12-month ending August 2009, i.e. total P39,491.9Mn less the PI2007, PI2008 and FME Claim CR_{t-1} is equal to MR_{t-1} is equal to	38,363.90 0.00
DA_t	Under recovery (< 0)	18,313.80
i_t	The simple average of the monthly 180 day weighted-average Manila Reference Rate (MRR) in nominal percent per annum terms published by the Bangko Sentral ng Pilipinas for the period.	7.672%
K_t	Under Recovery of MAR2010	19,718.80

* Note: Amount may not total due to rounding

10.3.4 In accordance with the Commission's approach, the twelve (12)-month period ending August 2009 collections include its billings to employees residing inside or near its facilities.

10.3.5 The detailed computation of the K_t is attached to the application.

10.4 **Consideration in the RBR_t .** It manifests that it collects revenue from its co-location and rental of equipment utilizing assets that form part of its regulatory asset base (RAB). For the twelve (12)-month ending August 2009, it accounts for PhP9.76 Million gross revenue from such activities.

10.4.1 Following the intention of the EPIRA of lowering transmission wheeling rates, the RTWR explicitly requires that the amount not exceeding fifty percent (50%) of the net income from these activities shall be considered in the computation of the MAR_t .

10.4.2 It computes for fifty percent (50%) of the PhP9.76 Million as the RBR_t for the MAR for Calendar Year 2010, which amounts to PhP4.88 Million.

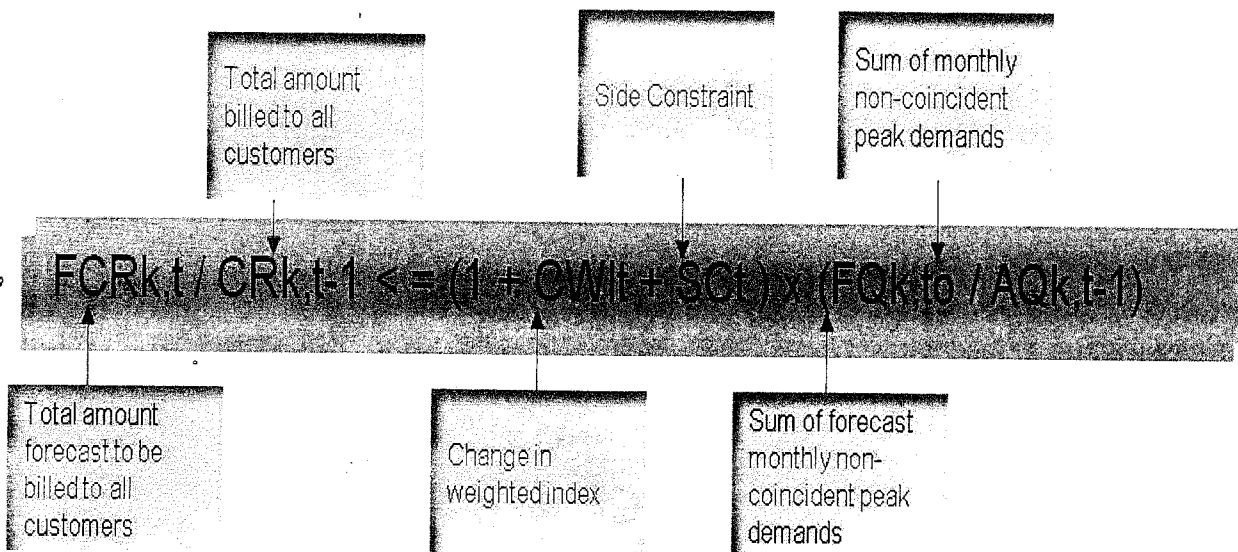
10.4.3 It thus moves that the RBR_t be set at fifty percent (50%) of all the identified revenue from related business, this rate being explicitly provided in the

⁴ Commission's Decision and Order dated December 15, 2008 and February 2, 2009, respectively

EPIRA. Applying such percentage, its RBR_t will amount to PhP4.88 Million.

10.4.4 The detailed computation of the RBR_t is attached to the application.

11. **Side Constraint on the Proposed Maximum Wheeling Rates.** Under Section 6.4 of the RTWR, the maximum transmission wheeling rates that it may charge for its regulated transmission services to a customer segment must comply with the following condition:



11.1 In the Orders dated June 13, 2006, August 24, 2006, December 14, 2006 and February 2, 2007 in ERC Case No. 2006-041 RC, entitled: "In the Matter of Undertaking a Revenue Reset for the National Transmission Corporation (TRANSCO) and Any Future Concessionaire Thereof for the Period 2006-2010 in Accordance with the Alternative Form of Rate Setting Methodology under the Transmission Wheeling Rates Guidelines (TWRG), TRANSCO – Applicant", the $FQ_{k,t}$ in the computation of Side Constraint Condition⁵ was interpreted by the Commission as follows:

"...the Forecast Period is taken to be re-defined as the Application Year, which is a calendar year".

11.2 In addition, the Commission also set the Side Constraint value for 2010 at two percent (2%)⁶ and the value of the X factor in the Price Control Formula at +1%.⁷

11.3 As shown in the table below, the forecast collection for the twelve (12)-month period ending August 2010 amounts to

⁵ Page 5 of the Order dated February 2, 2007; Page 6 of the Order dated 14 December 2006
⁶ Page 6 of the Order dated August 2, 2007
⁷ Page 138 of the Order dated June 13, 2006 - Final Determination

PhP51,359.2 Million. Notably, this forecast collection breaches the Side Constraint limitation.

Table 5: Forecast Collection for the Twelve (12)-Month Period Ending August 2010

Customer Segment	Total forecast to be billed during period ending August 31, 2010 (PhP, Million) ⁸	Total amount billed during period ending August 31, 2009 (PhP, Million) ⁹	Side Constraint Calculation	Side Constraint Limitation
Luzon	37,565.4	28,043.1	1.3396	1.1717
Visayas	6,495.4	4,847.3	1.3400	1.1718
Mindanao	7,298.44	5,473.4	1.3334	1.1697
Total	51,359.2	38,363.9	1.3387	1.1714

* Note: Amount may not total due to rounding off

- 11.4 The detailed computation of the foregoing table is attached to the application.
- 11.5 Using the SC_t factor of 2%, it computed its constrained MAR₂₀₁₀ to be PhP44,940.6 Million.
- 11.6 With the computed constrained MAR₂₀₁₀ of PhP44,940.6 Million, and using the revised demand forecast for Calendar Year 2010, the indicative average transmission rates for its regulated services of power delivery, system operations and metering services will only increase by approximately PhP32.08/kW or PhP0.0788/kWh. This translates into an increase in tariff of only 9.45%. The table below illustrates this comparative increase in the indicative average rate.

Table 6: Comparative Indicative Average Rate Increase, 2010 vs. 2009

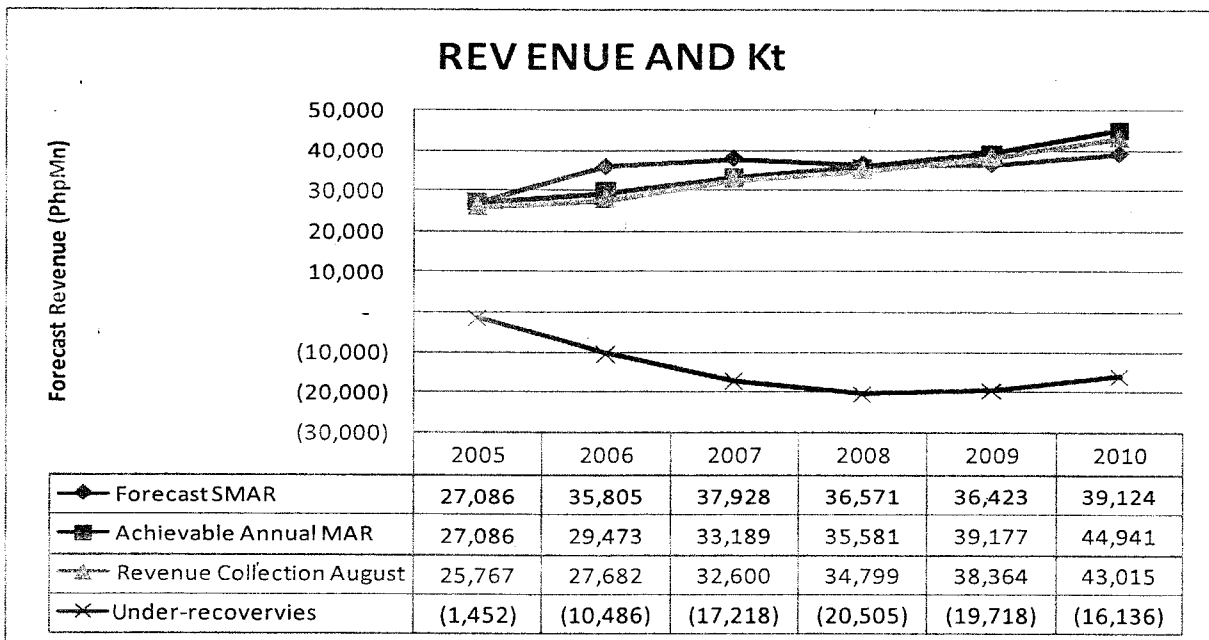
Particulars	PhP,Mn	Indicative Average Rate PhP/kW	Indicative Average Rate PhP/kWh
Computed Constrained MAR for Calendar Year 2010	44,940.6	372.38	0.7986
Constrained MAR ₂₀₀₉	39,176.6	340.30	0.7198
Inc (Dec)	5,746.0	32.08	0.0788
Inc (Dec) %	14%	9.45%	10.96%

⁸ 4/12 of Effective MAR₂₀₀₉ of PhP39 Billion plus 8/12 of computed MAR₂₀₁₀ of PhP58.83 Billion
⁹ Total collections for the twelve (12)-month ending August 2009 of PhP38 Million less PIS2007, 2008 and FME

11.7 Pursuant to Clauses F(AI)2.2 and F(AI)3.2 of the OATS Rules, it computed its constrained MAR for Calendar Year 2010 using the current definition of billing determinant of "average of the twelve (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' twelve (12) monthly peaks (kW).

11.8 **Proposed Full Recovery of Under-Recoveries.** If the SC_t value of two percent (2%) is applied in the computation of forecast revenue for Calendar Year 2010, it will result in under-recoveries (K_t) at an estimated amount of PhP16,135.9 Million at the end of 2010. The table below illustrates the estimated under-recoveries:

Table 7: Estimated Under-recoveries at the End of 2010

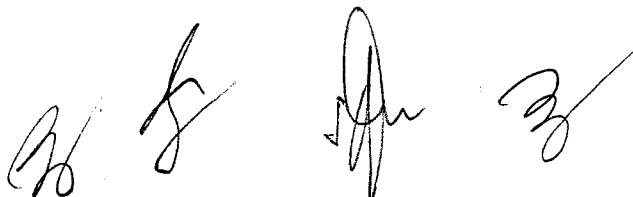


* Note that the amounts of K_t are 'slide forward' presentation; i.e., under-recovery of PhP19.7 Billion reported in the table as 2009 is the computed K_t that forms part of the MAR for Calendar Year 2010 computation. Thus, PhP16.1 Billion shown under year 2010 is under-recovery at the end of 2010

11.9 Section 5.14.2 of the RTWR states that for purposes of determining the revenue cap for the First Regulatory Year of the Third Regulatory Period, the amount of the Correction Factor for said year (which will be a negative amount) will be limited to five percent (5%) of the MAR_{2010} . Consequently, it will not be allowed to recover unrecovered revenue in excess of such limitation, whether in First Regulatory Year of the Third Regulatory Period or in any subsequent Regulatory Year.

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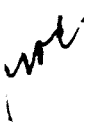
- 11.10 Thus, given the pre-determined five percent (5%) cap, it may be deprived of full recovery of the accumulated under-recoveries of PhP16,135.9 Million.
- 11.11 It stresses that any under-recoveries that cannot be recovered due the limit to the under-recoveries to be carried forward to 2011 [the limit being five percent (5%) of the MAR₂₀₁₀] will constitute foregone revenues, to which revenues it is fully entitled under prevailing law.
- 11.12 In this light, it moves that the Side Constraint limitation of two percent (2%) be lifted to allow it to fully recover its proposed MAR₂₀₁₀ of PhP58,838.5 Million. This will minimize the risk of foregoing revenue due to the aforementioned five percent (5%) cap.
- 11.12.1 It submits that the EPIRA and RTWR both recognize the need for the full recovery of the proposed MAR₂₀₁₀. Under Part III, Rule 15, Section 5 of the EPIRA, the Commission is mandated to, in the interest of the public, enforce a methodology for setting transmission and distribution wheeling rates that will allow the regulated entity such as the NGCP to recover just and reasonable costs and a reasonable return on its asset base to enable the entity to operate viably.
- 11.12.2 Consequently, the RTWR developed by the Commission is designed to allow the regulated entity to fully recover its maximum allowable revenue as approved in a regulatory period. The RTWR's Performance Based Regulation encapsulates such intent.
- 11.12.3 It notes further that the said under-recoveries are part of its allowed revenue already approved by the Commission in the past regulatory years, the said revenue having been determined to be fair and reasonable.
- 11.12.4 It submits that by the Commission's official and judicious approval of its maximum allowable revenue for past regulated years, it has proven the recovery of such costs as essential to its continued viable operations, and effectively been accorded a vested right to collect said approved revenue.
- 11.12.5 It notes the exigency for the full recovery of its previously approved MAR is brought about by the forthcoming Third Regulatory Reset, during which it will not be entitled to recover any under-recoveries



in excess of the aforementioned five percent (5%) limitation.

- 11.12.6 It further submits that, consistent with EPIRA's rationale for the setting of transmission wheeling rates allowing recovery of reasonable costs and a reasonable return for operational viability, its full recovery of its proposed MAR₂₀₁₀ will allow it to recover expenditures defrayed to fulfil its mandate to operate and maintain its transmission system, as well as a just and fair return. Consequently, such full recovery is essential to enable it to continuously finance its approved capital and operating expenditures needed to operate its transmission business viably.
- 11.12.7 It also submits that the full recovery of the proposed MAR₂₀₁₀ will allow it to have a fair return on its investments while providing quality and reliable service. The EPIRA recognizes the need for a fair return of investment for the regulated entity by mandating the Commission to "promote competition" and to "encourage market development."¹⁰
- 11.12.8 It stresses that revenue that may be foregone due to the said five percent (5%) limitation is not due to any fault or omission on its part.
- 11.12.9 Consequently, should the side constraints remain rigid, and it is unable to recover the entire proposed MAR₂₀₁₀ during the 2nd Regulatory period, it shall be constrained to propose a mechanism to fully recover the proposed MAR₂₀₁₀ of PhP58,838.5 Million in the subsequent regulatory reset, as may be appropriate.
- 11.12.10 Parenthetically, it submits that the increase in its proposed the MAR₂₀₁₀ of PhP58,838.5 Million is largely due to the under-recovery of its MAR for the previous years.
- 11.12.10.1 To illustrate, the said under-recoveries are due to the following major factors that are beyond the control of the regulated entity: a) changes in the timetable for the implementation of Final Determination, omission of the revalidation of 2nd process for the

¹⁰ Part I, Rule 3, Section 4(a) of the EPIRA



MAR for Calendar Year 2006 Annual Verification; and b) the imposition of the SC_t values of two percent (2%) for Calendar Year 2006, seven percent (7%) for 2007 and five percent (5%) for 2008 (Section 6.4 of the TWRG and the Order dated December 14, 2006).

11.12.11 At this juncture, it notes that, in the "Motion for Clarification" filed by TRANSCO, it also observed that the SC_t values prescribed by the Commission in its Order dated August 24, 2006, [i.e., seven percent (7%) for 2007, five percent (5%) for 2008, three percent (3%) for 2009 and two percent (2%) for 2010] are too restrictive to allow it to recover fully its approved maximum wheeling rates.¹¹

11.12.12 NGCP notes further that the Commission confirmed that the above-cited Side Constraints that it prescribed¹² are too restrictive to allow full recovery by the end of 2010.¹³ Consequently, the Commission allowed TRANSCO to undertake appropriate legal processes for justifiable adjustment to the SC_t limitations (i.e., to propose its preferred SC_t values) that will allow it to fully recover by 2010.

11.13 Given the foregoing, it moves that Side Constraint limitation of two (2%) be lifted, and that it be allowed to recover the proposed MAR_{2010} of PhP58,838.5 Million in full.

Recovery of the Proposed MAR_{2010}

12. It proposes to recover the subject MAR_{2010} from the Luzon, Visayas and Mindanao Grids in accordance with the OATS Rules, through its regulated transmission charge, as discussed below:

12.1 **Customer Segments.** It intends to adopt the three (3) customer segments of Luzon, Visayas and Mindanao, pursuant to the Order in ERC Case No. 2005-041RC dated August 2, 2006. It likewise intends to bill a different power delivery service rate for each customer segment. All power delivery service rates are, however, designed and computed based on the OATS Rules.

¹¹ "Motion for Clarification" filed on November 13, 2006

¹² Order dated August 24, 2006

¹³ Page 11, Paragraph 18 of the Decision in ERC Case No. 2005-041 RC dated February 2, 2007



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12.2 **Regulated Transmission Services.** Pursuant to the Order in ERC Case No. 2005-041 RC dated February 2, 2007 and the OATS Rules, it intends to recover the MAR₂₀₁₀ through charges on the following Regulated Transmission Services: Power Delivery Service (PDS), System Operator (SO) Service and Metering Services.

12.2.1 The SO and Metering Service Provider (MSP) tariffs or rates are designed and computed using the pertinent provisions of Module F (Rates, Methodology, Billing and Settlement) of the OATS Rules.

12.2.2 Consistent with the OATS Rules, the PDS charge per customer segment shall be an allocation of the Commission-approved MAR_t, after deducting the derived revenue from SO and MSP charges. The PDS rate shall be determined on a monthly basis, taking into consideration the actual total billing determinants.¹⁴

12.2.3 For Calendar Year 2010, it shall bill customers with the following SO and MSP charges:

Table 8: System Operator Charge for Calendar Year 2010

FIRM (PhP/kW/mo)	NON-FIRM (PhP/kW/day)
23.12	0.7601

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

Table 9: Metering Service Provider (MSP) Charge for Calendar Year 2010

Particular	PhP/month for each metering point/per month
Common Asset Charge	3,644

Voltage Delivery, kV	First Metering Point Charge ¹⁵ (PhP/month)	Second up to Last Metering Point Charge ¹⁶ (PhP/month)
500/230	38,808	22,283
138-115	26,069	19,067
69-67	12,673	4,352
34.5-23	7,331	4,352
13.8	5,539	4,352
Below 13.8	4,753	4,259

* Note: The computed charges are rounded to the nearest pesos

¹⁴ Billing Determinants shall refer to the rolling twelve (12)-month non-coincident peak of the customers

¹⁵ First Metering Points: For metering facilities fully provided by NGCP

¹⁶ Second up to last Metering Point: For metering facilities not fully provided by NGCP

12.2.4 The parameters and values used in calculating SO and MSP charges are attached to the application.

13. **Performance Incentive Computation (Article 8 of the RTWR).** As stated earlier, it prays for approval of its net performance incentive of PhP234 Million. Consistent with its Performance Based Regulation provided in the RTWR and the Final Determination,¹⁷ it qualifies for a net performance incentive of PhP234 Million billable for the Calendar Year 2010.

13.1 The table below shows a summary of the incentives and penalties under the Performance Incentive Scheme (PIS).

Table 10: Summary of Performance Incentive Scheme (PIS)

Indices	Luzon		Visayas		Mindanao		Philippines
	I/P/D	Amount (PhP, Million)	I/P/D	Amount (PhP, Million)	I/P/D	Amount (PhP, Million)	Amount (PhP, Million)
SISI	P	-118	D	0	I	39	-79
FOT	I	105	I	55	I	127	287
SA	D	0	I	43	I	7	50
FLC	D	0	D	0	P	-43	-43
VLC	D	0	D	0	I	19	19
Total	P	-13	I	98	I	149	234

Legend: I – Incentive P – Penalty D – Deadband

Note: Amount may not total due to rounding off

13.2 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.

13.3 The computed sum of the net incentives of PhP234 Million is below the maximum reward of PhP978.5 Million defined in Clause 8.8, Chapter 8 of the Final Determination. The summary report and detailed computation of the said net incentives are attached to the application.

13.4 In this application, consistent with 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. Accordingly, the ARR for Calendar Year 2010 of PhP43,543.5 Million¹⁸ was used in the computation.

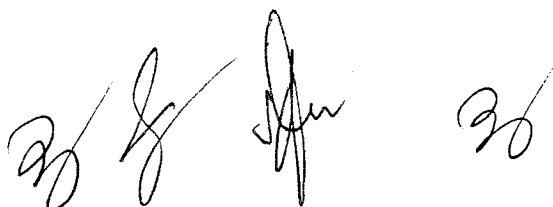
¹⁷ Annex A of the Decision on the Second Regulatory Period Application

¹⁸ Table 7.4, page 134 of the Final Determination (dated June 13, 2006), ERC Case No. 2005-041 RC

- 13.5 Notably, it exceeded the indices set by the Commission and thus is entitled to the said incentives. Its performance vis-à-vis the target levels are greatly attributable to the efforts of its employees.
14. **Historical and Forecast Financial and Operational Data.** Sections 6.3.2 and 6.3.3 of the RTWR require it to provide a range of information to demonstrate its compliance with its MAR. This information are attached to the application. It intends to recover the MAR given the methodology outlined in the Commission-approved OATS Rules and its current demand forecasts.
15. **Other Parameters.** In relation to Section 6.5 of the RTWR, it manifests the following:
- 15.1 It considers it is fully compliant with the 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 Commission-approved OATS Rules.
- 15.2 **Commission rulings in relation to system losses.** Consistent with the Orders in Case Nos. 2001-901, 2002-253 and 2005-041 RC, 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 this application.
16. **Management Approval.** The MAR₂₀₁₀ has been approved by its Board.
17. **Calendar Year Audit Requirement.** All reported data in this filing is still subject to review by an independent auditor and therefore cannot be treated as "final" until this review has been completed. It maintains a calendar year accounting cycle.
18. The proposed MAR₂₀₁₀ of PhP58,838.5 Million and the PIS adjustment of PhP234 Million, which were designed and developed in accordance with the provisions of the RTWR and its Reset Issues Paper and pertinent Commission Orders, set forth fair and reasonable transmission rates that will serve the public interest and convenience and signals the efficient utilization of transmission facilities that will ultimately redound to the best interest and benefit of the consuming public.

Allegations in Support of the Application for Provisional Authority

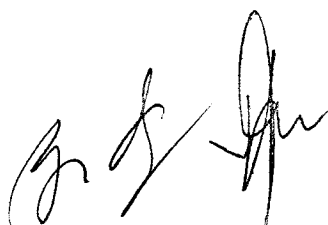
19. Sections 6.2.1 (f)(i) and (ii) of the RTWR expressly provides, that:
- 19.1. Once the Commission is satisfied that the rates comply with the requirements of the RTWR and the OATS Rules, the Regulated Entity must implement those rates with effect from 26 December of the Calculation Year.



- 19.2. Should the Commission be not satisfied that the rates do comply with the RTWR and the OATS Rules, the Regulated Entity must amend its proposed maximum transmission wheeling rates in accordance with such directions as the Commission (after consulting with the Regulated Entity) may give for the purposes of ensuring that said rates comply with the requirements of the said rules, and the Regulated Entity must implement the amended rates by fifteen (15) days after the Commission gives direction but not earlier than December 26 of the Calculation Year.
20. The timely implementation of the rate/tariffs changes will allow the equal or even spread of the increases or decreases in tariffs for the twelve (12)-month billing periods. Should the rates be an increase, a delay of one, two, three months or more will bring about a significant and abrupt increase in the rates upon its implementation.
21. While there will be an initial increase in the rates, the timely implementation of the rate changes will temper the increases in rates/tariffs. Accordingly, a smooth change of rates from month to month will be experienced after its initial implementation.
22. Furthermore, the timely implementation of the rate changes will reduce, if not eliminate, the risk of under-recovery which may be substantial to the Regulated Entity. It may be said that the delay or omission of the 2nd rate validation for MAR₂₀₀₆ could have contributed a material amount in the under-recovery for that year.

Prayer

23. Thus, it prayed for the Commission to:
- 23.1 Grant provisional authority to implement and recover the MAR₂₀₁₀ starting December 26 2009 – January 25, 2010 billing period as written and intended in Section 6.2.1(f);
- 23.2 Approve the full recovery of the MAR₂₀₁₀ of PhP58,838.5 Million computed based on the Price Control Formula as re-defined by the Commission;
- 23.3 Approve its performance incentive of PhP234 Million computed in accordance with the RTWR and Final Determination and its recovery from all its customers starting billing period of December 26, 2009 – January 25, 2010;
- 23.4 Approve the System Operator and Metering Service Provider Charges as provided in the instant application that are to be applied and charged to its customers in Calendar Year 2010; and
- 23.5 Allow a fifty percent (50%) (of the net income) of PhP4.88 Million for RBR.



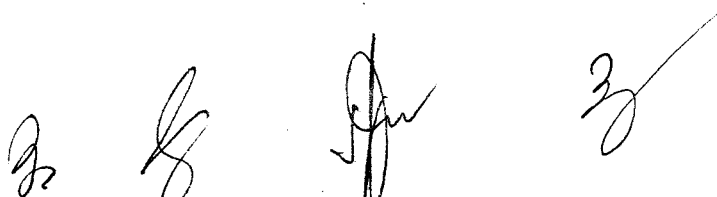
Having found said application sufficient in form and in substance with the required fees having been paid, an Order and a Notice of Public Hearing, both dated December 21, 2009, were issued setting the case for jurisdictional hearing, expository presentation and pre-trial conference on January 7, 2010 and evidentiary hearing on January 8, 2010.

In the same Order, NGCP was directed to cause the publication of the Notice of Public Hearing, at its own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last said publication to be made not later than ten (10) days before the scheduled date of initial hearing.

The Office of the Solicitor General (OSG), the Commission on Audit (COA) and the Committees on Energy of both Houses of Congress were furnished with copies of the Order and the Notice of Public Hearing and were requested to have their respective duly authorized representatives present at the initial hearing.

Likewise, the Office of the Mayor of Quezon City was furnished copies of the Order and the Notice of Public Hearing for the appropriate posting thereof on its bulletin board.

During the January 7, 2010 initial hearing of this case, it was disclosed that NGCP failed to comply with the jurisdictional requirements of the



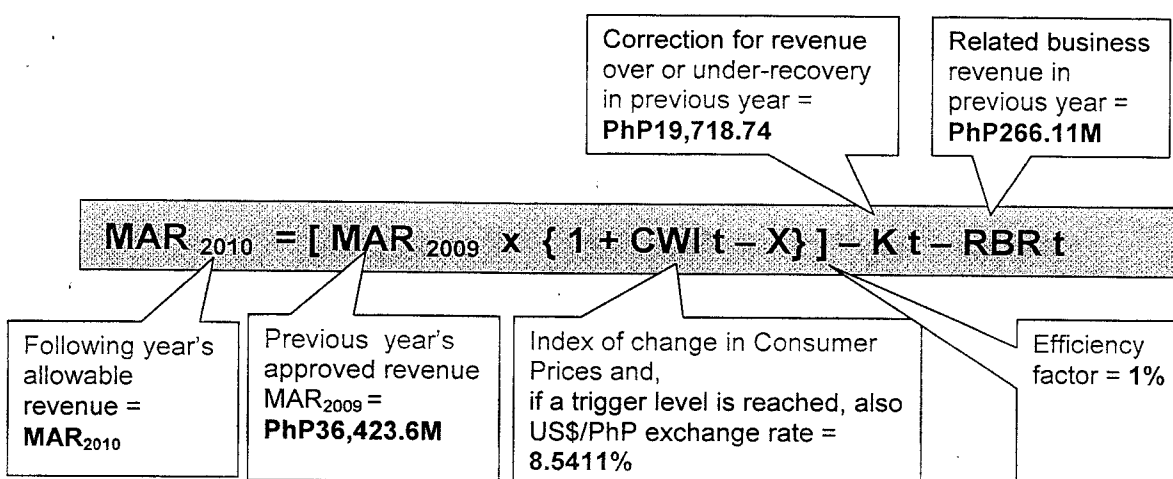


Commission. Thus, the Commission deemed it necessary to suspend the proceedings.

Acting on NGCP's prayer for provisional authority, the Commission initially reviewed the instant application, as follows:

Determination of the MAR 2010

In the determination of the Maximum Annual Revenue (**MAR₂₀₁₀**) cap, the Commission calculated the revenue cap for calendar year 2010 (excluding the benefits of the PIS) in accordance with the following formula:



- a. Maximum Annual Revenue (MAR₂₀₀₉) cap for previous year;
- b. Change in Weighted Index (CWI_t);
- c. Differential Amount (DA_t);
- d. Over/Under Recovery from the previous year (K_t); and
- e. Revenue from Related Businesses (RBR_t).

Thus,

$$\begin{aligned}
 \text{MAR}_{2010} &= [\text{MAR}_{2009} \times \{1 + \text{CWI}_t - X\}] - K_t - \text{RBR}_t \\
 \text{MAR}_{2010} &= [36,423.60 \times \{1 + 0.084045 - 0.01\}] - (-19,718.74) - 266.11 \\
 \text{MAR}_{2010} &= [\text{PhP}39,170.34 \text{ Million}] + 19,718.74 - 266.109 \\
 \text{MAR}_{2010} &= \text{PhP}58,622.97 \text{ Million}
 \end{aligned}$$

Shown below is a comparison of the Commission's and NGCP's proposed

MAR₂₀₀₈:

PARTICULARS	NGCP	COMMISSION
MAR ₂₀₀₉	36,423.6	36,423.60
P _o	0	0
CWl _t	8.4155%	8.5411%
X	1%	1%
MAR _t	39,124.6	39,170.34
MRR	7.67%	7.67%
K _t	(19,718.2)	(19,718.74)
RBR _t	4.9	266.11
MAR₂₀₁₀	58,838.5	58,622.97

The difference between the NGCP's proposed MAR and that of the Commission's are the results of : a) rounding off the figures into two decimal places; b) the computation of the CWl_t; and c) the computation of the RBR_t, resulting to a MAR₂₀₁₀ amounting to PhP58,622.97 Million. It should be noted that the rounding off of figures into two decimal places is consistent with the Commission's Decision in ERC Case No. 2007-151 RC dated August 5, 2008.

In the computation of the CWl_t, NGCP used an estimated USER for the quarter ending August 2009 while the Commission used the actual average of the Philippine Peso/United States Dollar inter-bank mid-rates prevailing on each of the last five (5) business days of the said quarter, as provided in the RTWR. The Commission computed a USER (48.597) higher than the proposed USER (48.187) which resulted to a higher computation of the CWl_t.

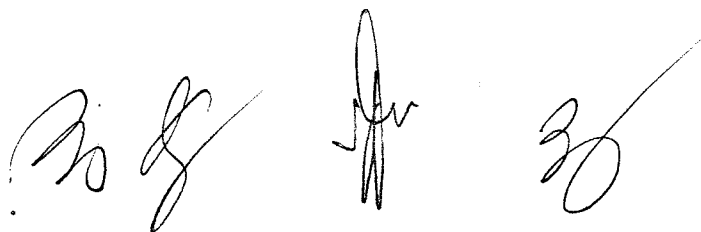
With regard to the RBR_t, since all the expenses associated with the provision of the services that gave rise to related business revenue (RBR_t) are included in the revenue requirement, the income generated must also be

considered. In addition, since the assets (pole and transformer) that gave rise to these items of revenue (rentals) are allowed a return and depreciation allowance in the revenue requirement, a certain percentage from this revenue generated must be deducted from its revenue requirement.

The Commission resolves that only fifty percent (50%) of the earnings derived by NGCP from utilizing assets (earnings from co-location activities and rentals) which already forms part of its rate shall be deducted from the MAR. This is consistent with Section 4.2.1 of the RTWR and Section 20 of the EPIRA which state that a portion of income from related business shall be used to reduce the transmission wheeling rates but not to exceed fifty percent (50%) of the said income.

On the other hand, since labor costs and equipments that gave rise to the items of revenue related with management fee, technical services rendered and system impact study and other rentals are allowed an OPEX allowance, return and depreciation allowances respectively, in the revenue requirement, the Commission believes that such income should be deducted from the MAR at full amount, otherwise, this would result to a double compensation for NGCP.

Thus, the Commission deems it prudent to approve a total RBR_t of PhP266.11Million as a deduction from MAR as against NGCP's deduction proposal of PhP4.9 Million.



Side Constraints for 2010 Using SC_t at 2%

Under Article 6.4 of the RTWR, the maximum transmission wheeling rates that may be charged by NGCP is subject to the Side Constraints, as defined by the following equation:

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

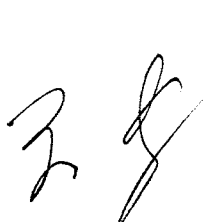
In the Orders dated August 2, 2006 and August 24, 2006, the Commission set the Side Constraint factor for the last regulatory year of the Second Regulatory Period at two percent (2%). Notably, in applying the aforementioned formula, the forecast collection breaches the Side Constraint limitation.

NGCP proposes the lifting of the side constraints to allow it to fully recover its proposed MAR_{2010} of PhP58,838.5 Million. It alleged that it may not recover its allowed MAR if it is not allowed to recover in full at the present regulatory year due to the restriction provided under Section 5.14.2 of the RTWR, as follows:

"Notwithstanding Section 5.1.1, if the Correction Factor for the first Regulatory Year of the Third Regulatory Period (as calculated in accordance with Section 4.3):

- (a) *would be negative; and*
- (b) *the absolute value of that Correction Factor would be greater than 5% of the maximum allowed revenue for the last Regulatory Year of the Second Regulatory Period (as calculated under Section 4.2.1)*

Then, for purposes of determining the revenue cap for the first Regulatory Year of the Third Regulatory Period pursuant to Section 5.1.1, the amount of that Correction Factor (which will be a negative amount) will be treated as being limited to five percent (5%) of that maximum allowed revenue (and the Regulated Entity will not be entitled to recover any more of that excess, whether in that Regulatory Year or in any subsequent Regulatory Year)."



However, Section 6.4.1 of the same Rules is explicit that the side constraints limitations should not be breached. The Commission believes that for purposes of issuance of provisional authority, the MAR_{2010} should be restricted or should not be allowed to breach the side constraints. NGCP's proposal to breach the side constraints shall be evaluated upon final resolution of the instant case.

The Commission estimated the effective revenue cap (without consideration of the PIS reward). The recovery would be **PhP44,991.45 Million** if the projected billing determinants arise for the full 2010 year. The table below shows the calculation of the MAR_{2010} without breach of SC_i:

Customer Segment	SC Limitation – Not to Breach SC	CR k,t-1	Constrained MAR_{2010}
	(a)	(b)	(a x b)
Luzon	1.1730	28,043.10	32,895.29
Visayas	1.1732	4,847.30	5,686.68
Luzon-Visayas	1.1730	32,890.4	37,054.32
Mindanao	1.1710	5,473.4	6,409.48
Philippines	1.1728	38,363.80	44,991.45

PIS Reward/Penalty

The Performance Incentive Scheme (PIS) rewards or penalizes NGCP to the extent that the actual level of performance of the grid for the regulatory year (i.e. from September 2008 to August 2009) exceeds or falls below the target level of performance as defined in the Final Determination. NGCP claims a net performance incentive reward of **PhP234 Million** applicable for calendar year 2009, broken down for each grid as follows:

Grid	PhP, Million
Luzon	(13.00)
Visayas	98.00
Mindanao	149.00
Total	234.00

However, pending verification of the PIS reward as proposed by NGCP, the Commission, in the meantime, excludes such in the determination of the "effective" MAR₂₀₁₀ cap.

NGCP Rates

The Commission reviewed the calculation of NGCP pursuant to the methodology required by the OATS Rules under Clause F (All) 1, thus, provisionally approved as follows:

System Operator Charge

Firm (PhP/kW/Month)	Non-Firm (PhP/kW/Month)
23.12	0.7601

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

Metering Service Provider Charge

	(PhP/Meter Point/Month)
Common Asset Charge	3,644

Voltage Level(s)	(PhP/Meter Point/Month)	
	First	2 nd up to last
230 kV	38,808	22,283
138 / 115 kV	26,069	19,067
69 / 67 kV	12,673	4,352
34.5 / 23 kV	7,331	4,352
13.8 kV	5,539	4,352
Below 13.8 kV	4,753	4,259

On the basis of this new "effective" revenue cap excluding the PIS reward, the Commission estimated the indicative Power Delivery Service (PDS) charges as shown in the following table (where these charges are assumed to apply on average for the whole of the calendar year 2010 and the billing determinant as forecast by NGCP):

GRID	Power Delivery Service Rate (PhP/kW/month)		
	2009 Average	2010 (w/out PIS)	Change 2010 from 2009
Luzon	314.90	355.94	13.02%
Visayas	342.50	334.51	(2.32%)
Mindanao	323.78	330.97	2.22%

Notably, from the foregoing table on PDS, the adjustment for each grid significantly differs. The Commission found, among others, that the following revenue requirements pertaining to the System Operator and Metering Service Charge likewise differ significantly for each grid, which is the primary cause of the different levels of increase per grid.

	Luzon	Visayas	Mindanao
AR- SO	876.69	876.69	876.69
AR – Metering	90.52	1.33	2.65
Total	967.22	878.03	879.34
% from the Computed MAR ₂₀₁₀	2.94%	15.44%	13.72%

WHEREFORE, the foregoing premises considered, the Commission hereby **PROVISIONALLY APPROVES** the application filed by the National Grid Corporation of the Philippines (NGCP) for approval of its Maximum Allowable Revenue (MAR) for Calendar Year 2010 in the amount of **Forty-Four Billion**

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Nine Hundred Ninety-One Million Four Hundred Fifty Thousand Pesos
(PhP44,991,450,000.00).

Meanwhile, the jurisdictional hearing, expository presentation pre-trial conference and evidentiary hearing are reset to the following dates and venue:

DATE	TIME	VENUE	PARTICULARS
February 3, 2010 (Wednesday)	Eleven o' clock in the Morning (11:00 A.M.)	15 th Floor, Pacific Center Bldg., San Miguel Avenue, Pasig City	Jurisdictional Hearing, Expository Presentation and Pre-trial Conference
February 4, 2010 (Thursday)	Two o' clock in the Afternoon (2:00 P.M.)		Evidentiary Hearing (Reception of Evidence and Presentation of Witnesses)

To facilitate the evaluation of the instant application, NGCP is hereby directed to submit the derivation of the monthly average rate for 2009 and an explanation on why the revenue requirements pertaining to the SO and metering services differ from each grid, within ten (10) days from receipt hereof.

SO ORDERED.

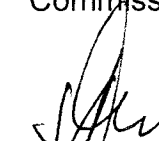
Pasig City, January 19, 2010.


ZENaida G. CRUZ-DUCUT
Chairperson


RAUF A. TAN
Commissioner


ALEJANDRO Z. BARIN
Commissioner

(On Official Travel)
MARIA TERESA R. CASTAÑEDA
Commissioner


JOSE C. REYES
Commissioner

Copy Furnished:

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7. House Committee on Energy
Batasan Hills, Quezon City, Metro Manila
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