

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF THE
NATIONAL GRID
CORPORATION OF THE
PHILIPPINES' BUSINESS
SEPARATION AND
UNBUNDLING PLAN (BSUP)
AND ACCOUNTING AND
COST ALLOCATION
MANUAL (ACAM) WITH
MOTION FOR
CONFIDENTIAL
TREATMENT OF
INFORMATION AND
ISSUANCE OF A
PROTECTIVE ORDER**

ERC CASE NO. 2020-013 MC

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

Promulgated:
January 07, 2021

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NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 17 November 2020, National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 11 November 2020, seeking the Commission's approval of its Business Separation and Unbundling Plan (BSUP) and Accounting and Cost Allocation Manual (ACAM), with motion for confidential treatment of information and issuance of a protective order.

The pertinent provisions of the said *Application* are hereunder quoted as follows:

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1. NGCP is a corporation created and existing under the laws of the Republic of the Philippines, with principal office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City where it may be served with notices, orders, resolutions, and other issuances of this Honorable Court through its Office of the General Counsel;
2. NGCP is the concessionaire that operates and maintains the nationwide transmission system pursuant to Republic Act No. (RA) 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA)¹ after NGCP was granted with a franchise under RA 9511,² to operate, manage and maintain, and in connection therewith, to engage in the business of conveying or transmitting electricity through high voltage back-bone system of interconnected transmission lines, substations and related facilities, systems operations, and other activities that are necessary to support the safe and reliable operation of a transmission system and 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. As the transmission service provider, NGCP is an Electric Power Industry Participant as defined under RA 9136.³;
4. One of the obligations of an Electric Power Industry Participant as stated in Section 36 of RA 9136 is to *structurally*⁴ and *functionally*⁵ unbundle its business activities and rates in accordance with the following sectors: **generation, transmission, distribution, and supply**;
5. In line with this, Section 3 of Rule 10 of the Implementing Rules and Regulations (IRR) of the EPIRA laid down the procedures for the structural and functional unbundling activities, which require the Electric Power Industry Participant to (1) identify its business activities according to each major business function, *i.e. power generation, transmission, distribution, supply of electricity* including collection and metering, related businesses, and other electricity related services; and (2) submit the Business Separation and Unbundling Plan (BSUP) for the Honorable Commission's approval;

¹ Republic Act No. 9136 entitled, "An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes";

² Republic Act No. 9511 entitled "An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-bone System or Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes";

³ Defined under Section 4(S) of Republic Act No. 9136 as any person or entity engaged in the generation, transmission, distribution or supply of electricity;

⁴ *Structural unbundling* shall mean the separation of different activities through the creation of separate divisions or departments within a single company or, at the option of the Electric Power Industry Participant, a separation into different juridical entities, with a clear separation of accounts between regulated and non-regulated business activities (Section1 Rule 10, EPIRA IRR);

⁵ *Functional unbundling* shall mean the separation of functions into different components. (Section1 Rule 10, EPIRA IRR);

6. Thus, this Honorable Commission adopted the Business Separation Guidelines which set out the framework and rules for the structural and functional unbundling of the business activities of an Electric Power Industry Participant. The Business Separation Guidelines was later amended through the issuance of Resolution No. 49 Series of 2006 entitled “*A Resolution Amending the Business Separation Guidelines*”;

7. Notably, NGCP is expressly prohibited to hold any interest in any generation company or distribution utility. Section 45 of RA 9136 states:

“SEC. 45. *Cross Ownership, Market Power Abuse and Anti-Competitive Behavior.* –

xxx Likewise, the TRANSCO, or its concessionaire or any of its stockholders or officials or any of their relatives within the fourth civil degree of consanguinity or affinity, shall not hold any interest, whether directly or indirectly, in any generation company or distribution utility. xxx”

8. This restriction is likewise stated in Article 5.5 of the Business Separation Guidelines which states:

“5.5 Restriction on activities of transmission business

TRANSCO or its Buyer or Concessionaire must not engage in any of the following business activities:

- (a) power generation; or
- (b) the conveyance of electric power other than through the Grid;
- (c) the sale of electricity; or
- (d) the business of an IPP Administrator.”

9. In view thereof, NGCP is only engaged in the business of providing transmission services which is primarily governed by this Honorable Commission’s Open Access Transmission Service Rules⁶ and NGCP’s rates and charges are governed primarily by the Transmission Wheeling Rate Guidelines;⁷

10. Nevertheless, one of the conditions imposed by the Honorable Commission in NGCP’s *Provisional Certificate of Authority (PCA) to act as Wholesale Electricity Spot Market Metering Service Provider* dated 06 July 2020 is the filing and approval of BSUP and ACAM;

11. The Honorable Commission further enjoined NGCP to strictly comply with the terms and conditions stated in the PCA, otherwise, the PCA may not be made permanent;

⁶ ERC Case No. 2006-015RC.

⁷ ERC Resolution No. 21 Series of 2009.

12. Hence, in compliance with one of the conditions stated in the PCA dated 06 July 2020, NGCP respectfully submits its BSUP and ACAM for consideration and approval of this Honorable Commission.

**BUSINESS SEPARATION AND
UNBUNDLING PLAN (BSUP)**

13. NGCP respectfully submits to the Honorable Commission its BSUP,⁸ relating to the five (5) services relevant to the transmission business operation of NGCP which are Transmission Services, System Operations, Metering Services, Excluded Services, and Related Businesses;
14. The BSUP is divided into six (6) sections, as follows:
 - a. Current Structure
 - b. Details of Business Segments
 - c. Accounting Separation
 - d. Description of Separation
 - e. Milestones and Highlights
 - f. Code of Conduct
15. The BSUP likewise contains NGCP's undertakings and express statements as to the incorporation of pertinent provisions in the Business Separation Guidelines to NGCP's accounting separation of businesses;

**ACCOUNTING AND COST
ALLOCATION MANUAL (ACAM)**

16. Pursuant to Section 2.2.1 of the Business Separation Guidelines, as Amended, an Electric Power Industry Participant is likewise required to prepare an ACAM, which provides full and proper documentation of the accounting policies and principles used to prepare the Accounting Separation Statements, and submit the same to the ERC;
17. In view thereof, NGCP respectfully submits to the Honorable Commission its ACAM⁹ which is divided into six (6) parts as follows:
 - a. Accounting and Reporting Principles
 - b. Chart of Accounts
 - c. Application of Accounting Concepts
 - d. Allocation Methods
 - e. Inter-segmental Transactions and Transfer Pricing Policies
 - f. Financial Reports and Appendices
18. Likewise, as required under Section 3.1 of the Business Separation Guidelines, NGCP hereby submits its Accounting

⁸ Hereto attached as Annex "A".

⁹Attached as Annex "B" to the BSUP.

Separation Statements¹⁰ and its 2019 Audited Financial Statements;¹¹

19. In view of the foregoing, NGCP respectfully prays that NGCP's BSUP and ACAM be approved;

**ALLEGATIONS IN SUPPORT OF NGCP'S MOTION FOR
CONFIDENTIAL TREATMENT OF INFORMATION
AND ISSUANCE OF A PROTECTIVE ORDER**

20. The information contained in the documents marked as **Annex "A," "B,"** and **"C"** pertain to sensitive business information, confidential financial information, and information on corporate organization and processes, which, if disclosed to the public, will have an adverse effect on NGCP; and
21. Hence, pursuant Rule 4 of the ERC Rules of Practice and Procedure, NGCP respectfully prays for the issuance of a **protective order** and declare the information contained in Annexes "A," "B," and "C" as confidential information. NGCP hereby submits one copy of said confidential documents in a sealed envelope with the envelop and each page of the document marked with the word "Confidential."

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission to (1) DECLARE the information in Annexes "A," "B," and "C" confidential; (2) issue a PROTECTIVE ORDER to keep the such information confidential; and (3) APPROVE NGCP's Business Separation and Unbundling Plan (BSUP) and Accounting and Cost Allocation Manual (ACAM).

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

The Commission has set the instant *Application* for the determination of compliance with the jurisdictional requirements, expository presentation, pre-trial conference, and presentation of evidence on the following dates and online platform for the conduct thereof, pursuant to Resolution 09, Series of 2020¹², dated 24 September 2020:

(This space is intentionally left blank.)

¹⁰ Attached hereto as Annex "C.";

¹¹ Attached hereto as Annex "D."; and

¹² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

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Date	Platform	Activity
02 February 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Determination of compliance with the jurisdictional requirements and Expository Presentation
09 February 2021 (Tuesday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams	Pre-trial Conference and Presentation of Evidence

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, all persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph, a verified Petition to Intervene at least five (5) calendar days prior to the date of the initial virtual hearing and subject to the requirements under Rule 9 of the 2006 ERC Rules of Practice and Procedure, indicating therein the docket number and title of the case and stating the following:

- 1) The petitioner's name, mailing address, and e-mail 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.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon at least five (5) calendar days prior to the initial

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virtual hearing and subject to the requirements under Rule 9 of the 2006 ERC 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, mailing address, and e-mail 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 Applicant that they be furnished with the same prior to the date of the initial hearing. Applicant is hereby directed to furnish all those making such request with copies of the *Application* and its attachments, through any of the available modes of service, upon their agreement, 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. In the alternative, those persons who wish to have an electronic copy of the *Application* may request the Commission for the e-mail addresses of the Applicant by sending an e-mail to docket@erc.ph and records@erc.gov.ph, copy furnish the Legal Service through legal@erc.ph. Nonetheless, any person may also access the *Application* as posted by the Commission in its official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled initial virtual hearing by providing the Commission, thru legal.virtualhearings@erc.ph with their respective e-mail addresses and indicating therein the case number of the instant *Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearing.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN, CATHERINE P. MACEDA, FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 6th day of January 2021 in Pasig City.


AGNES VST DEVANADERA
Chairperson and CEO