



Customer Bulletin 2019-34

September 18, 2019

Order on ERC Case No. 2016-179RC

On 07 October 2016, NGCP filed an application with the Energy Regulatory Commission (ERC) entitled, In the Matter of the Application of the National Grid Corporation of the Philippines for the Approval of Force Majeure Event Regulated FM Pass-Through for Typhoon Lando in Luzon and Sabotage Incidents in Mindanao, in accordance with the Rules for Setting Transmission Wheeling Rates, with Prayer for Provisional Authority, docketed as ERC Case No. 2016-179RC.

The application was filed by NGCP pursuant to Section 19, in relation to Section 43 (f) of Republic Act No. 9136 which provides that Transmission Charges shall be filed with and approved by ERC. In computing the proposed charges, NGCP was guided by the provisions of the Rules for Setting Transmission Wheeling Rates (RTWR), which prescribe for, among others, the methodology for calculating the Force Majeure (FM) Pass Through Amount to recover the reasonable costs incurred for the repair, restoration, and rehabilitation of the damaged transmission assets and other related facilities due to the occurrence of an FME.

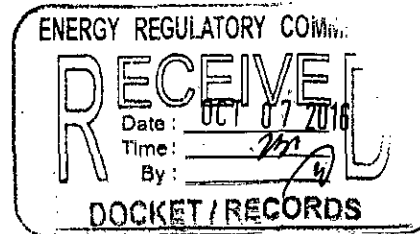
The ERC set the case for jurisdictional hearing, expository presentation, pre-trial conference, and presentation of evidence on the following dates:

DATE	TIME	VENUE	PARTICULARS
October 8, 2019 (Tuesday)	10:00 AM	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Jurisdictional and Expository Presentation
October 16, 2019 (Wednesday)	2:00 PM	ERC Mindanao Field Office Mintrade Bldg. Monteverde Ave. cor. Sales St. Davao City	Expository Presentation
October 23, 2019 (Wednesday)	2:00 PM	ERC Hearing Room 15 th Floor, Pacific Center Bldg. San Miguel Ave. Pasig City	Pre-trial Conference and Presentation of Evidence

A copy of the Order may be downloaded from www.erc.gov.ph.

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 EVENT REGULATED FM PASS-THROUGH FOR TYPHOON LANDO IN LUZON AND SABOTAGE INCIDENTS IN MINDANAO, IN ACCORDANCE WITH THE RULES FOR SETTING TRANSMISSION WHEELING RATES, WITH PRAYER FOR PROVISIONAL AUTHORITY

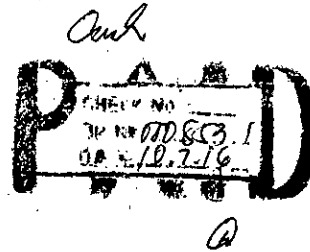


ERC CASE NO. 2016-179 RC

NATIONAL GRID CORPORATION OF THE PHILIPPINES,

APPLICANT

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APPLICATION

Applicant **NATIONAL GRID CORPORATION OF THE PHILIPPINES (NGCP)**, by counsel, respectfully states:

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. It is the concessionaire which assumed the power transmission functions of the National Transmission Corporation (TRANSCO) pursuant to Republic Act No. (RA) 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).¹

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"

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2. Under RA 9511,² NGCP 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 15 January 2009, NGCP assumed the transmission functions of TRANSCO, including the operation, management and maintenance of the nationwide electrical grid.

STATEMENT OF FACTS

A. Typhoon Lando in Luzon

4. From 14 to 21 October 2015, Typhoon Lando was inside the Philippine Area of Responsibility (PAR) with maximum winds of 185 kilometers per hour (kph) and gustiness of 220 kph. Due to its rains and gusty winds, NGCP's transmission assets and other related facilities in Luzon were damaged causing widespread power interruption over the area. A copy of the Certification dated 18 January 2016 issued by the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA) is attached hereto as **Annex "A."**

5. In compliance with Article X of the Rules for the Setting of Transmission Wheeling Rates (RTWR), NGCP filed with this Honorable Commission a Force Majeure Event (FME) Notice dated 12 January 2016, a copy of which is attached hereto as **Annex "B."**

B. Sabotage Incidents in Mindanao

6. On 9 October 2015, sabotage incidents occurred in Pikit, Cotabato, causing damage to NGCP's transmission assets and other related facilities in Mindanao. Copies of the Investigation Report dated 10 October 2015 issued by Pikit Municipal Police Station and After Clearing Report dated 21 October 2015 issued by the 6th Infantry (K) Division of the Philippine Army in Pikit North Cotabato are attached hereto as **Annexes "C" and "D."**

7. In compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice dated 3 November 2015,

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"

a copy of which is attached hereto as **Annex "E."** In response thereto, the Honorable Commission issued an Acknowledgment Letter dated 3 December 2015, a copy of which is attached hereto as **Annex "F."**

8. Further, on or about 29 October 2015, sabotage incidents occurred in Marinaut, Islamic City of Marawi, causing damage to NGCP's transmission assets and other related facilities in Mindanao. Copies of the Memorandum Report dated 29 October 2015 and Investigative Report dated 28 January 2016 issued by Marawi City Police Station are attached hereto as **Annexes "G" and "H."**

9. In compliance with Article X of the RTWR, NGCP filed with this Honorable Commission an FME Notice dated 27 January 2016, a copy of which is attached hereto as **Annex "I."** In response thereto, the Honorable Commission issued an Acknowledgment Letter dated 29 February 2016, a copy of which is attached hereto as **Annex "J."**

10. Immediately after the devastation of Typhoon Lando in Luzon and sabotage incidents in Mindanao, NGCP started the repair, restoration and rehabilitation of its damaged transmission assets and other related facilities in order to restore transmission service to its customers and the public. As a result, NGCP incurred additional costs for the repair, restoration and rehabilitation of the said damaged transmission assets.

FORCE MAJEURE EVENT CLAIM

11. Under Section 1.3(a) of the RTWR, an FME is defined as a "**typhoon**, storm, tropical depression, flood, drought, volcanic eruption, earthquake, tidal wave or landslide; or an act of public enemy, war (declared or undeclared), **sabotage**, blockade, revolution, riot, insurrection, civil commotion or any violent or threatening actions."

12. Lando was categorized by PAGASA as a "Typhoon" in its Certification dated 18 January 2016. On the other hand, the bombing incidents in Mindanao are clearly acts of sabotage considering that unknown perpetrators unlawfully destroyed NGCP's transmission assets using improvised explosive devices. Therefore, Typhoon Lando and the sabotage incidents in Mindanao fall within the definition of an FME in accordance with Section 1.3 of the RTWR.

13. Pursuant to Section 10.1.1 of the same RTWR, NGCP is allowed to recover the cost it incurred in the repair, restoration, and

rehabilitation of its transmission assets and other related facilities damaged by Typhoon Lando in Luzon and sabotage incidents in Mindanao through an FM Pass-Through Amount (FM PTA).

14. Within three (3) months after the occurrence of Typhoon Lando in Luzon and sabotage incidents in Mindanao, NGCP filed before the Honorable Commission FME Notices dated 12 January 2016, 3 November 2015 and 27 January 2016, pursuant to Sections 10.2.1 and 10.2.2 of the RTWR.³

15. Thereafter, within twelve (12) months after the occurrence of the FME Typhoon Lando in Luzon and sabotage incidents in Mindanao, NGCP hereby files the instant FME Application, in accordance with Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

16. It must be noted that NGCP has not recovered any amount from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS) for the year 2015 as compensation for the damage and cost it incurred in the repair, restoration and rehabilitation of the transmission assets and other related facilities damaged by the FMEs Typhoon Lando in Luzon and sabotage incidents in Mindanao. Thus, it is but proper for NGCP to file the instant FME Claim Application to recover the cost it incurred for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by the FMEs Typhoon Lando in Luzon and sabotage incidents in Mindanao.

17. The cost NGCP incurred as additional FME Capital Expenditure (CAPEX) and Operating Expenditure (OPEX) for the repair, restoration and rehabilitation of its transmission assets and other related facilities damaged by Typhoon Lando in Luzon and sabotage incidents in Mindanao is **Thirteen Million Four Hundred Forty-Eight Thousand, Ten Pesos and Eighty-Seven Centavos (PhP13,448,010.87)**.

18. Further, the recoverable value or the Net Fixed Asset Value (NFAV) of the assets destroyed by Typhoon Lando in Luzon is **Two Million One Hundred Eighty-Four Thousand, Seventy-One Pesos and Thirty Centavos (PhP2,184,071.30)**. The summary of the expenses⁴ is shown in the table below:

³ Please see Annexes "B," "E," and "I."

⁴ Exclusive of Permit Fees

FME/ REGION	FME OPEX/CAPEX (in PhP)	NFAV	Total
Typhoon Lando	6,850,454.97	2,184,071.30	9,034,526.27
Sabotage Incidents In Mindanao	6,597,555.90	-	6,597,555.90
TOTAL	13,448,010.87	2,184,071.30	15,632,082.17

19. NGCP proposes the FM Pass-Through Amounts, in P/kW-month, as additional network charges in Luzon and Mindanao starting the billing period of November 2016 to December 2020, or until such time that the amounts incurred are fully recovered, computed as shown in the tables below:

Luzon	2016	2017	2018	2019	2020
P/kW-mo.	0.23	0.01	0.01	0.01	0.01
P/kWh	0.00044	0.00002	0.00002	0.00002	0.00002

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.54	0.05	0.05	0.05	0.04
P/kWh	0.0011	0.0001	0.0001	0.0001	0.0001

20. NGCP proposes the FM Pass-Through Amounts for the years 2016 to 2020 to allow the recovery of the CAPEX incurred relative to the FMEs Typhoon Lando in Luzon and sabotage incidents in Mindanao pending the reset process for the Transmission Services for the Fourth Regulatory Period.

21. Considering that an FM Pass-Through Amounts are not included in NGCP's Final Determination for any regulatory period, the proposed FM Pass-Through Amounts can be recovered pursuant to Section 10.1.1 of the RTWR where NGCP is allowed to recover the cost incurred for the repair, restoration, and rehabilitation of damage sustained by its transmission assets and other related facilities as a result of an FME. A copy of the FM Pass-Through Amount Computation is hereto attached as **Annex "K."**

22. Further, the FM Pass-Through Amounts in this Application will not breach the Force Majeure Threshold Amount (FMTA) of PhP0.0341/kWh in accordance with the RTWR. A copy of the FMTA Computation is hereto attached as **Annex "L."**

23. Also, NGCP considered the NFAV of the transmission assets and other related facilities damaged by the FMEs Typhoon Lando in Luzon and sabotage incidents in Mindanao given that NGCP would have normally fully recovered the return of capital on said assets

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for the duration of their economic lives had these assets not been damaged or destroyed by said FMEs.

JUSTIFICATION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

24. NGCP respectfully moves for the issuance of a provisional approval for the immediate recovery of the FM Pass-Through Amounts pursuant to Section 3, Rule 14 of the ERC Rules of Practice and Procedure.

25. NGCP needs to immediately recover the actual expenses incurred for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities. It must be emphasized that the rehabilitation of the assets damaged by the aforementioned FMEs in Luzon and Mindanao required capital infusion, the recovery of which should be allowed immediately in order to avoid any financial strain in the operation of NGCP and to allow the continuous provision of transmission service to the grid customers.

26. In addition, the timely implementation of the FM Pass-Through Amounts will allow the equal or even spread of the increases or decreases in tariffs from the initial implementation of the recovery of the cost.

27. A copy of the Judicial Affidavit of Agnes F. Dela Cruz, Head, Tariff Design and Billing Management Division, Revenue and Regulatory Affairs, in support of the instant Application, is hereto attached as **Annex "M."**

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Commission to:

1. **DECLARE** Typhoon Lando in Luzon and sabotage incidents in Mindanao as Force Majeure Events (FMEs);

2. Immediately **GRANT Provisional Approval** to implement and bill the following FM Pass-Through Amounts to Luzon and Mindanao customers starting November 2016 billing month to December 2020 billing month or until such time that the amount incurred is fully recovered:

Luzon	2016	2017	2018	2019	2020
P/kW-mo.	0.23	0.01	0.01	0.01	0.01
P/kWh	0.00044	0.00002	0.00002	0.00002	0.00002

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.54	0.05	0.05	0.05	0.04
P/kWh	0.0011	0.0001	0.0001	0.0001	0.0001

3. **APPROVE** the CAPEX and OPEX amounting to **PhP13,448,010.87** incurred by NGCP for the repair, restoration and rehabilitation of the damaged transmission assets and other related facilities due to FMEs Typhoon Lando in Luzon and sabotage incidents in Mindanao;

4. **APPROVE**, after due notice and hearing, the proposed FM Pass-Through Amounts to be collected from the Luzon and Mindanao customers starting November 2016 billing month to December 2020 billing month or until such time that the amounts incurred are fully recovered, as follows:

Luzon	2016	2017	2018	2019	2020
P/kW-mo.	0.23	0.01	0.01	0.01	0.01
P/kWh	0.00044	0.00002	0.00002	0.00002	0.00002

Mindanao	2016	2017	2018	2019	2020
P/kW-mo.	0.54	0.05	0.05	0.05	0.04
P/kWh	0.0011	0.0001	0.0001	0.0001	0.0001

5. **APPROVE** and **ALLOW** the recovery of the Net Fixed Asset Value of the transmission assets and other related facilities damaged by the FMEs Typhoon Lando in Luzon amounting to **PhP2,184,071.30**, given that it would have been fully recovered by NGCP if these transmission assets and other related facilities have not been damaged or destroyed by the said FMEs; and

6. **EXCLUDE** the proposed Pass-Through Amounts from the side constraint calculation.

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

Quezon City for Pasig City, 03 October 2016.

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OFFICE OF THE GENERAL COUNSEL
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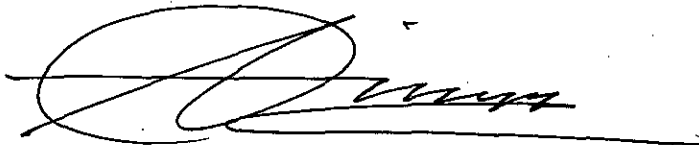
RONALD DYLAN P. CONCEPCION

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COURTESY COPY FURNISHED TO:

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NATIONAL TRANSMISSION CORPORATION
Office of the President
Quezon Avenue cor. BIR Road
Diliman, 1101 Quezon City

**POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION**
Office of the President
7th Floor, Bankmer Building,
6756 Ayala Ave., Makati City


Post Office

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RD 672 172 179 ZZ



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OCT 7 2016

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REPUBLIC OF THE PHILIPPINES)
Quezon City) S.S.

VERIFICATION

I, **MA. CYNTHIA Y. MANRIQUE**, after having been duly sworn to in accordance with law, hereby depose and say that:

1. I am presently the Head of the Revenue and Regulatory Affairs Department of the National Grid Corporation of the Philippines (NGCP);

2. I am duly authorized to sign the Verification and Certification of Non-Forum Shopping for and on behalf of NGCP as evidenced by the Secretary's Certificate hereto attached as **Annex "A - Verification"**;

3. I have caused the preparation of the foregoing Application;

4. I have read the foregoing Application and I attest that the allegations therein are true and correct of my personal knowledge and based on authentic records;

5. I further attest that NGCP has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of my knowledge, no such other action or claim is pending therein;

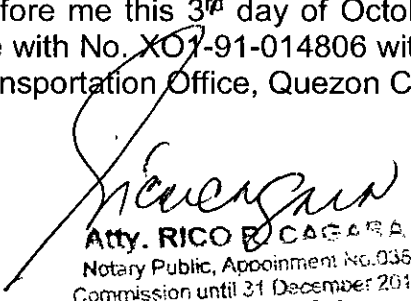
6. If I should thereafter learn that the same or similar action or claim has been filed or is pending, I shall report that fact to this Commission within five (5) days therefrom.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 3rd day of October 2016, in Quezon City, Philippines.


MA. CYNTHIA Y. MANRIQUE
Affiant

SUBSCRIBED AND SWORN to before me this 3rd day of October 2016, affiant exhibited to me her Driver's License with No. XO1-91-014806 with expires on 2017-06-13 and issued by the Land Transportation Office, Quezon City.

Doc. No. 279 ;
Page No. 17 ;
Book No. 26 ;
Series of 2016.


Atty. RICO B. CAGASA
Notary Public, Appointment No. 036
Commission until 31 December 2017
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