

Order on ERC Case No. 2019-085RC

On 29 October 2019, NGCP filed an application with the Energy Regulatory Commission (ERC) entitled, *In the Matter of the Application for the Approval of Force Majeure Event Regulated FM Pass-Through for Typhoon "Rosita" in Luzon, in accordance with the Rules for Setting Transmission Wheeling Rates, with Prayer for Provisional Authority*, docketed as ERC Case No. 2019-085RC.

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.

Relative to the foregoing, the ERC set the case for jurisdictional hearing, expository presentation, pre-trial conference and presentation of evidence on **12 February 2020, Wednesday, at ten o'clock in the morning (10:00 AM), at the ERC Hearing Room, 15th floor, Pacific Center Building, San Miguel Avenue, Pasig City.**

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

RECEIVED BY: KW

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF FORCE MAJEURE
EVENT REGULATED FM PASS-
THROUGH FOR TYPHOON
"ROSITA" IN LUZON, IN
ACCORDANCE WITH THE RULES
FOR SETTING TRANSMISSION
WHEELING RATES, WITH
PRAYER FOR PROVISIONAL
AUTHORITY**

ERC CASE NO. 2019-085 RC

**NATIONAL GRID CORPORATION
OF THE PHILIPPINES,**

Applicant.

X -----X

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 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

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.

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. Pursuant to Section 10.1.1 of the Rules for Setting Transmission Wheeling Rates (RTWR), NGCP is allowed to recover the cost incurred for the repair, restoration, and rehabilitation of its transmission assets and other related facilities damaged as a result of a Force Majeure Event (FME), as defined in Article I, Section 1.3 of the RTWR.

STATEMENT OF FACTS

4. From 27 October 2018 to 31 October 2018, Typhoon "Rosita" was prevailing in Luzon and affected provinces within the service areas of the NGCP North Luzon Operations and Maintenance (NLOM).

5. The Philippine Atmospheric Geophysical and Astronomical Services Administration (PAGASA) confirmed, among others, that Typhoon "Rosita" entered the Philippine Area of Responsibility (PAR) on 27 October 2018 and exited on 31 October 2018; and said typhoon brought maximum winds of two hundred kilometers per hour (200km/h) and gustiness of two hundred forty five (245) km/h. A copy of the PAGASA Tropical Cyclone Summary of Typhoon Rosita, is attached hereto as **Annex "A"**.

6. On 29 October 2018 to 30 October 2018, some of NGCP's transmission assets and facilities within the service area of the NGCP NLOM District 4, particularly in the Isabela-Northern Aurora area, where PAGASA raised storm signal warnings number (no.) 2 and no. 3, were damaged, due to the intensity of Typhoon "Rosita". This also resulted in the interruption of NGCP NLOM District 4's operations.

FME CLAIM

7. After the occurrence of the foregoing, NGCP immediately started the restoration, repair and rehabilitation of its damaged transmission assets and facilities in order to fully restore transmission service to its customers. Attached hereto is the Before and After Rehabilitation Pictures of Affected Assets FME Typhoon Rosita - NLOM District 4, as **Annex "B"**.

8. The total cost incurred by NGCP for the repair, restoration and rehabilitation of the transmission assets and facilities damaged by Typhoon "Rosita", including the recoverable values of the damaged assets (Net Fixed Asset Value) is Two Million Six Hundred Fifty Two Thousand One Hundred Seventeen Pesos and Eighteen Centavos (**Php2,652,117.18**), breakdown of which is shown in the table below:

	AMOUNT
Capital Expenditure (CAPEX)	1,010,370.90
Operating Expenditure (OPEX)	891,340.43
Net Fixed Asset Value (NFAV)	750,405.85
Total	2,652,117.18

**Capital Expenditures/Operating Expenditures, exclusive of VAT (pursuant to TRAIN law) and Permit Fees*

9. Under Section 10.1.1 of the RTWR, NGCP is allowed to recover the cost for such repair, restoration, and rehabilitation. Thus, pursuant to Article X, Sections 10.2.1 and 10.2.2 of the RTWR, NGCP filed with the Honorable Commission within three (3) months from the occurrence of the FME Typhoon "Rosita", its FME Notice, dated 21 December 2018, and was received on 27 December 2018, copy is attached hereto as **Annex "C"**. Receipt of said Notice was acknowledged by the Honorable Commission in its Letter dated 11 January 2019, copy is attached hereto as **Annex "D"**.

10. Within twelve (12) months after the occurrence of Typhoon "Rosita" and its destruction of NGCP transmission assets and facilities in Luzon, NGCP hereby files the instant FME Application, in accordance with Article X, Sections 10.2.1 and 10.2.3 of the RTWR.

FM PASS-THROUGH AMOUNT COMPUTATION

11. NGCP has not recovered the cost incurred in the restoration, repair and rehabilitation of its affected transmission assets and facilities from its Industrial All-Risk (IAR) Insurance Policy procured from the Government Service Insurance System (GSIS), by express exclusion of said IAR Policy of the circumstances attendant to the affected transmission assets and facilities due to Typhoon "Rosita". Specifically, some of the affected assets and facilities are located beyond the one thousand (1000)-meter radius from the nearest substation perimeter fence while the rest may be within such radius, but the cost incurred for the restoration, repair and rehabilitation thereof, falls within the deductible amount of the policy. Attached hereto is a copy of the Certification of the NGCP Trade and Insurance Manager, as **Annex "E"**.

12. Thus, it is but proper for NGCP to file the instant FME Application to recover the cost it incurred for the repair, restoration and rehabilitation of the transmission assets and facilities in Luzon which were damaged by the FME above-described, pursuant to the RTWR.

13. NGCP proposes the FM Pass-Through Amounts, in P/kW-month, as additional network charges for Luzon starting the billing

month of January 2020 until December 2020, or until such time that the amounts incurred are fully recovered, computed in the table below:

Luzon	2020
P/kW-mo.	0.0153
P/kWh	0.00003

14. NGCP proposes the FM Pass-Through Amounts for the year 2020, to allow the recovery of the expenditures incurred by NGCP relative to the FME Typhoon "Rosita", pending the reset process for the next Regulatory Period. A copy of the proposed FM Pass-Through Amounts computation is attached hereto as **Annex "F"**.

15. Further, the FM Pass-Through Amounts in this Application do not breach the Force Majeure Threshold Amount (FMTA) of PhP0.0377/kWh, as computed in accordance with the relevant formula prescribed by the RTWR. A copy of the FMTA Computation is hereto attached as **Annex "F-1"**.

16. Also, NGCP considered the NFAV of the transmission assets and facilities damaged by Typhoon "Rosita" in the FME claim, given that NGCP would have normally fully recovered the return of capital on said assets for the duration of their economic lives had these assets not been damaged or destroyed by said FME. As for the NFAV of the other assets which are yet to be retired, it is proposed that the same be considered during the updating of the costs prior to the evaluation/approval of the case or during the Fourth/Fifth Regulatory Period (4th/5th RP Reset Process). A copy of the Details of the NFAV in relation to the assets affected by FME Typhoon "Rosita", is attached hereto as **Annex "G"**.

JUSTIFICATION FOR THE ISSUANCE OF PROVISIONAL AUTHORITY

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

18. NGCP seeks to immediately recover the actual expenses incurred for the repair, restoration and rehabilitation of the damaged transmission assets and facilities. It must be emphasized that the rehabilitation of the assets damaged by the FME 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 services to the grid customers.

19. 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.

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

PRAYER

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

1. **DECLARE** the occurrence of Typhoon "Rosita" in Luzon which resulted in an increase in costs incurred by the NGCP to restore, repair and rehabilitate various affected transmission assets and facilities in the NGCP North Luzon Operations and Maintenance District 4, as a Force Majeure Event (FME);

2. Immediately **GRANT Provisional Authority** to implement and bill the following FM Pass-Through Amounts to Luzon customers starting the billing month of January 2020 to December 2020, or until such time that the amounts incurred are fully recovered:

Luzon	2020
P/kW-mo.	0.0153
P/kWh	0.00003

3. **APPROVE** the FME CAPEX and OPEX amounting to **One Million Nine Hundred One Thousand Seven Hundred Eleven Pesos and Thirty Three Centavos (Php1,901,711.33)** incurred by NGCP for the repair, restoration and rehabilitation of the damaged transmission assets and facilities due to FME Typhoon "Rosita";

4. **APPROVE** and **ALLOW** the partial recovery of the Net Fixed Asset Value of the transmission assets and facilities damaged by the FME Typhoon "Rosita" amounting to **Seven Hundred Fifty Thousand Four Hundred Five Pesos and Eighty Five Centavos (Php750,405.85)**, given that it would have been fully recovered by NGCP if these transmission assets and facilities have not been damaged or destroyed by the said FME; and the NFAV of other assets and facilities affected by the same typhoon, which are yet to be retired, be **CONSIDERED** during the updating of the costs prior to the evaluation/approval of the case or during the next Reset Process.

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

Luzon	2020
P/kW-mo.	0.0153
P/kWh	0.00003

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, 25 October 2019.

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By:


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COURTESY COPY FURNISHED TO:

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EXPLANATION

(Pursuant to Section 2, Rule 10 of the ERC Rules of Practice and Procedure)

This Application is served by registered mail due to lack of Personnel to effect personal service.

MELANIE ROSE MARIE B. RADOVAN

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 Vice President and 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 25th day of October 2019, in Quezon City, Philippines.


MA. CYNTHIA Y. MANRIQUE
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of October 2019, affiant exhibited to me her Non-Professional Driver's License, with no. X01-91-014806, issued on March 09, 2018 and expires on June 13, 2022, issued by the Land Transportation Office, Quezon City.

Doc. No. 410 :
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Book No. 31 :
Series of 2019.


Atty. RICO R. CAGARA
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