

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR THE
APPROVAL OF FORCE
MAJEURE EVENT
REGULATED FM PASS-
THROUGH FOR TYPHOON
NONA IN LUZON AND
VISAYAS AND SABOTAGE
INCIDENTS IN MINDANAO,
IN ACCORDANCE WITH THE
RULES FOR SETTING
TRANSMISSION WHEELING
RATES, WITH PRAYER FOR
PROVISIONAL AUTHORITY**

ERC CASE NO. 2016-196 RC

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

Promulgated:
April 18, 2022

X-----X

ORDER

On 12 December 2016, National Grid Corporation of the Philippines (NGCP) filed an *Application* dated 07 December 2016 for the approval of its Force Majeure Event Regulated FM Pass-Through for Typhoon Nona in Luzon and Visayas, and sabotage incidents in Mindanao, in accordance with the Rules for Setting Transmission Wheeling Rates, with prayer for provisional authority.

On 05 April 2017, the Commission issued an *Order* and a *Notice of Public Hearing*, both dated 22 March 2017, setting the *Application* for hearing on the following dates: (a) 07 June 2017 for the determination of compliance with jurisdictional requirements and Expository Presentation for Luzon Stakeholders; (b) 14 June 2017 for the Expository Presentation for Visayas Stakeholders; (c) 19 June 2017 for the Expository Presentation for Mindanao Stakeholders; and (d) 21 June 2017 for Pre-trial Conference and presentation of evidence.

However, on 05 May 2017, NGCP filed a *Motion to Reset* wherein it prayed that the scheduled dates for hearing be set to later dates due to the non-availability of its witnesses.

NGCP alleged that its witnesses will be attending other equally important matters on the said dates. NGCP further alleged that it anticipates that it may not be able to complete the compilation of its documentary evidence in time for the said hearings due to the voluminous documents involved.

On 06 August 2019, NGCP filed its *Motion (to Set Case for Hearing)* dated 01 August 2019.

On 09 February 2022, the Commission issued an *Order* dated 25 January 2022, setting anew the instant *Application* for the determination of compliance with the jurisdictional requirements and expository presentation on 15 March 2022; and the Pre-trial Conference and presentation of evidence on 22 March 2022.

However, on 22 February 2022, NGCP filed a *Motion to Reset (Motion)* hearing of even date, wherein it alleged that it would not be able to complete the preparation and updating of its documents necessary to prepare the expository presentation and the documentary evidence in due time due to the voluminous documents involved that needs to be updated.¹

During the scheduled hearing on 15 March 2022, the Commission called the case wherein Applicant NGCP and Petitioner-Intervenors Manila Electric Company (MERALCO), Davao Light and Power Company, Inc. (DLPC), Visayan Electric Company, Inc. (VECO), and National Transmission Corporation (TransCo), appeared.

NGCP manifested that it filed a *Motion* to reset the hearings and before adjourning the proceeding, the Commission declared that another Order will be issued resetting the instant case for hearing. Subsequently, the next scheduled hearing on 22 March 2022 was cancelled.

WHEREFORE, in view of the foregoing, the Commission hereby sets the *Application* anew for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and

¹ *Motion to Reset*, 22 February 2022, Allegation no. 3.

online platform for the conduct thereof, pursuant to Resolution No. 09, Series of 2020,² dated 24 September 2020 and Resolution No. 01,³ Series of 2021, dated 17 December 2020 (ERC Revised Rules of Practice and Procedure).

Date	Platform	Activity
20 May 2022 (Friday) at two o'clock in the afternoon (2:00 P.M.)	Microsoft Teams Application	Determination of compliance with jurisdictional requirements and Expository Presentation
27 May 2022 (Friday) at two o'clock in the afternoon (2:00 P.M.)		Pre-trial Conference and Presentation of Evidence

RELATIVE THERETO, NGCP is hereby directed to:

- 1) Cause the publication of the attached *Notice of Virtual Hearing* in two (2) newspapers of nationwide circulation in the Philippines at its own expense, twice (2x) within two (2) successive weeks, the dates of publication not being less than seven (7) days apart, and the date of the last publication to be made not later than ten (10) days before the date of the scheduled initial hearing;
- 2) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing* the Offices of the Governors, the City and the Municipal Mayors, and the Local Government Unit (LGU) legislative bodies affected by the *Application* for the appropriate posting thereof on their respective bulletin boards;
- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, its reasons therefor, and of the scheduled virtual hearings thereon;
- 4) Furnish with copies of this *Order* and the attached *Notice of Virtual Hearing*, the Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress. They

² A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

³ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

are hereby requested, if they so desire, to send their duly authorized representatives and attend the scheduled hearings; and

- 5) Furnish with copies of the *Application* and its attachments all those making requests therefor, subject to the resolution of the prayer for confidential treatment of information, if any, and reimbursement of reasonable photocopying costs.⁴

Within five (5) calendar days prior to the date of the initial hearing, NGCP must submit to the Commission via electronic mail (e-mail) at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, the scanned copies of its written compliance with the aforementioned jurisdictional requirements attaching therewith, methodically arranged and duly marked the following:

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavit of the Editors or Business Managers of the newspapers where the said *Notice of Virtual Hearing* was published, and the complete issues of the said newspapers;
- 2) The evidence of actual posting of this *Order* and the attached *Notice of Virtual Hearing* consisting of certifications issued to that effect, signed by the aforementioned Governors, Mayors, and LGU legislative bodies or their duly authorized representatives, bearing the seals of their offices;
- 3) The evidence of other means employed by NGCP to inform the consumers affected of the filing of the *Application*, its reasons therefor, and of the scheduled hearings thereon;
- 4) The evidence of receipt of copies of this *Order* and the attached *Notice of Virtual Hearing* by the OSG, COA, and the Committees on Energy of both Houses of Congress;
- 5) The evidence of receipt of copies of the *Application* and its attachments, except those covered by motion for confidential treatment of information, by all those making requests therefor, if any; and
- 6) Such other proof of compliance with the requirements of the Commission.

⁴ For the e-mail address of the Applicant, please see page 7.

Moreover, NGCP is hereby required to post on its bulletin boards, the scanned copies of the foregoing jurisdictional requirements, together with the newspaper publications and certifications issued by the concerned Office of the Governors, Mayors, and Local Legislative Bodies, and to submit proof of its posting thereof.

NGCP and all interested parties are also required to submit via e-mail at docket@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days before the date of the scheduled virtual hearing and Pre-trial Conference, their respective Pre-Trial Briefs containing, among others:

- 1) A summary of admitted facts and proposed stipulation of facts;
- 2) The issues to be tried or resolved;
- 3) The documents or exhibits to be presented, stating the purposes and proposed markings therefor, which should also be attached to the Pre-trial Brief; and
- 4) The number and names of the witnesses, with their written testimonies in a Judicial Affidavit form attached to the Pre-trial Brief.

NGCP must ensure that all the documents or exhibits proposed to be presented have already been duly submitted to the Commission at least five (5) calendar days before the date of the scheduled virtual hearing and Pre-trial Conference pursuant to the preceding paragraph.

Failure of NGCP to comply with the above requirements within the prescribed period, or another motion to reset the scheduled hearings be filed, shall be a ground to dismiss the instant *Application*, without prejudice to re-filing.

NGCP must also be prepared to make an expository presentation of the *Application*, aided by whatever communication medium that it may deem appropriate for the purpose, in order to put in plain words and explain, for the benefit of the consumers and other concerned parties, the nature of the *Application* with relevant information and pertinent details substantiating the reasons and justifications being cited in support thereof.

NGCP is hereby directed to file a copy of its Expository Presentation via e-mail at doCKET@erc.ph, copy furnish the Legal Service through legal@erc.ph, at least five (5) calendar days prior to the scheduled virtual hearing. NGCP shall also be required, upon the request of any stakeholder, to provide an advance copy of its expository presentation, at least five (5) calendar days prior to the scheduled virtual hearing.

Any interested stakeholder may submit its comments and/or clarifications at least one (1) calendar day prior to the scheduled virtual hearing, via e-mail at doCKET@erc.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.

NGCP is hereby directed to submit, either through personal service, registered or ordinary mail/private courier, one (1) set of the original or certified true hard/printed copy/ies of its Jurisdictional Compliance, Expository Presentation, Pre-trial Brief, and Judicial Affidavit/s of witness/es, within five (5) working days from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission. Similarly, all interested parties who filed their Petition for Intervention or Opposition are required to submit the hard/printed copy thereof within the same period through any of the available modes of service.

Finally, NGCP, including its authorized representative/s and witness/es, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, with their respective e-mail addresses upon receipt of this *Order*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

SO ORDERED.

Pasig City, 04 April 2022.



FOR AND BY AUTHORITY
OF THE COMMISSION:



AGNES VST DEVANADERA
Chairperson and CEO

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Copy furnished:

1. National Grid Corporation of the Philippines (NGCP)
Applicant
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Email: litigation®ulatory@ngcp.ph and corpcom@ngcp.com.ph
2. Attys. Luis Manuel U. Bugayong, Ronald Dylan P. Concepcion, Anthony S. Actub, and Atty. Ari Vergil P. Fabros
Counsel for Applicant NGCP
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NGCP Building, Quezon Avenue corner BIR Road
Diliman, Quezon City
Email: lubugayong@ngcp.ph, rpconcepcion@ngcp.ph, msactub@ngcp.ph and apfabros@ngcp.ph
3. Office of the Solicitor General (OSG)
134 Amorsolo Street, Legaspi Village, Makati City
Email: docket@osg.gov.ph
4. Commission on Audit (COA)
Commonwealth Avenue, Quezon City
Email: citizensdesk@coa.gov.ph
5. Senate Committee on Energy
GSIS Building, Roxas Boulevard, Pasay City
Email: senateenergycommittee@gmail.com
6. House Committee on Energy
Batasan Hills, Quezon City
Email: committee.energy@house.gov.ph
7. National Transmission Corporation (TransCo)
Petitioner-Intervenor
TransCo Main Building, Quezon Avenue corner BIR Road
Diliman, Quezon City
Email: OVP-Legal@transco.ph
8. Manila Electric Company (MERALCO)
Petitioner-Intervenor
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Barangay Ugong, Pasig City
Email: regaffairs@meralco.com.ph
9. Davao Light and Power Company, Inc. (DLPC)
Petitioner-Intervenor
C. Bangoy Street, Davao City
Email: davaolight@aboitiz.com and rancy.gonzales@aboitiz.com
10. Visayan Electric Company, Inc. (VECO)
Petitioner-Intervenor
J. Panis Street, Banilad, Cebu City
Email: info@visayanelectric.com and rancygonzales@aboitiz.com
11. Office of the City Mayor
Quezon City
12. Office of the Sangguniang Panlungsod
Quezon City
13. Office of the Governor
Province of La Union
14. Office of the Sangguniang Panlalawigan
Province of La Union

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15. Office of the City Mayor
San Fernando, La Union
16. Office of the Sangguniang Panlungsod
San Fernando, La Union
17. Office of the Governor
Province of Laguna
18. Office of the Sangguniang Panlalawigan
Province of Laguna
19. Office of the City Mayor
Biñan, Laguna
20. Office of the Sangguniang Panlungsod
Biñan, Laguna
21. Office of the Governor
Province of Lanao del Norte
22. Office of the Sangguniang Panlalawigan
Province of Lanao del Norte
23. Office of the City Mayor
Iligan City
24. Office of the Sangguniang Panlungsod
Iligan City
25. Office of the City Mayor
Davao City
26. Office of the Sangguniang Panlungsod
Davao City
27. Office of the City Mayor
Cebu City
28. Office of the Sangguniang Panlungsod
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