

Republic of the Philippines
ENERGY REGULATORY COMMISSION
Pasig City

**IN THE MATTER OF THE
APPLICATION FOR
APPROVAL OF THE
ANCILLARY SERVICES
PROCUREMENT
AGREEMENT BETWEEN
THE NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND
UNIVERSAL POWER
SOLUTIONS, INC. (MALITA
BESS), WITH PRAYER FOR
THE ISSUANCE OF
PROVISIONAL
AUTHORITY**

ERC CASE NO. 2023-073 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND
UNIVERSAL POWER
SOLUTIONS, INC.**

Applicants.

X-----X

Promulgated:
July 17, 2023

NOTICE OF VIRTUAL HEARING

TO ALL INTERESTED PARTIES:

Notice is hereby given that on 20 June 2023, the National Grid Corporation of the Philippines (NGCP) and Universal Power Solutions, Inc. (UPSI) (Malita BESS) filed their *Application (With Prayer for Immediate Issuance of Provisional Authority)* dated 16 May 2023, seeking the Commission’s approval of their Ancillary Services Procurement Agreement (ASPA), with prayer for the issuance of provisional authority.

The pertinent allegations in the said *Application* are hereunder quoted, as follows:

NATURE OF THE CASE

1. This Application is for the approval of the Ancillary Services Procurement Agreement (“ASPA” or “Agreement”) dated 02 May 2023, entered into by the NGCP and UPSI, pursuant to Department of Energy (DOE) Department Circular No. DC 2021-10-0031 (the “AS-CSP Circular”) prescribing the conduct of Ancillary Services Competitive Selection Process (AS-CSP); in relation to the Ancillary Services – Cost Recovery Mechanism (AS-CRM) promulgated by the Energy Regulatory Commission in its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.

THE PARTIES

2. Applicant NGCP is a corporation created and existing under the laws of the Philippines, with office address at NGCP Building, Quezon Avenue corner BIR Road, Diliman, Quezon City. It holds a congressional franchise granted under Republic Act No. 9511, and is authorized to engage in the business of conveying or transmitting electricity through high-voltage back-bone systems of interconnected transmission lines, substations and related facilities, and for other purposes. The NGCP is authorized to conduct activities necessary to support the safe and reliable operation of the transmission system.
3. Applicant UPSI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal place of business at 5th Floor, #100 Eulogio Rodriguez Jr. Avenue, C5 Road Bo. Ugong, Pasig City, 1604 Metro Manila,
4. UPSI is the owner and operator of a power plant composed of a Battery Energy Storage System (BESS), with a rated capacity of 20 MW continuous output at 60Hz, including required ancillaries and spare parts, located in Malita, Davao Occidental (the “Generation Facility”), which was certified and accredited by the NGCP as capable of providing Regulating Reserve (RR).
5. NGCP and UPSI may be served with orders, notices, pleadings and other legal processes through their respective counsels at the addresses indicated below.

ANTECEDENT FACTS

6. Republic Act No. 9136, also known as the Electric Power Industry Reform Act (“EPIRA”), provides that it is the responsibility of NGCP to ensure and maintain the reliability, adequacy, security, stability and integrity of the nationwide electrical grid in accordance with the performance standards for its operations and maintenance, as set forth in the Philippine Grid Code (“PGC”), adopted and promulgated by the Honorable

Commission, and to adequately serve generation companies, distribution utilities and suppliers requiring transmission service and/or ancillary services (“AS” or “Ancillary Services”) through the transmission system.

7. Similarly, the PGC provides that NGCP is responsible for determining, acquiring, and dispatching the capacity needed to supply the required Grid AS and for developing and proposing Wheeling Charges and AS tariffs of the ERC.
8. Ancillary Services is defined in Section 4 (b) of the EPIRA as referring “to those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with this Act.” These services are essential in ensuring reliability in the operation of the transmission system and consequently, in the reliability of the electricity supply in the Luzon, Visayas and Mindanao grids.
9. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (“ASPP”) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (“AS-CRM”) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
10. In order to implement and regulate the procurement of AS, the Honorable Commission approved the Ancillary Services Procurement Plan (“ASPP”) through its Order dated 9 March 2006 in ERC Case No. 2002-253 and the Ancillary Services-Cost Recovery Mechanism (“AS-CRM”) through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.

Competitive Selection Process

11. On 04 October 2021, the DOE issued the AS-CSP Circular providing the policy for the conduct of the Competitive Selection Process (CSP) for the procurement of Ancillary Services by the System Operator (NGCP). Among the policies set by the AS-CSP Circular was the creation of an independent Third-Party Bids and Awards Committee (TPBAC) to spearhead and manage the CSP.
12. In its Letter dated 22 November 2022, the DOE approved the Terms of Reference (TOR) and Instruction to Bidders, and instructed NGCP to proceed with the publication and posting of the same pursuant to Sec. 7.4 and 7.5 of the AS-CSP Circular.
13. On 26 January 2023, the TPBAC approved its Notice of Invitation to Bid informing the public of the pending AS-CSP for Regulating Reserve (RR), Contingency Reserve (CR), Dispatchable Reserve (DR), Reactive Power Support (RPS), and Black Start Service (BSS); and inviting all interested grid-connected merchant plants and Independent Power Producers to apply for eligibility and participate in the competitive bidding for the procurement of AS.

The Notice of Invitation to Bid likewise provided any interested grid-connected merchant plants a copy of the DOE approved TOR and Instruction to Bidders.

- 14. Subsequently, the Notice of Invitation to Bid was published on 31 January 2023 with the Malaya Business Insight and the Philippine Star. The same Notice was also published on 07 February 2023 with the Business Mirror and the Manila Bulletin.
- 15. UPSI was declared by the TPBAC as eligible to participate in the AS-CSP and submit its bid for the provision of Regulating Reserve.
- 16. Under Bid Bulletin 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before 15 March 2023.
- 17. Thereafter, pursuant to Bid Bulletin 2023-02, the TPBAC conducted the opening of bids timely submitted by all the eligible bidders whereby UPSI’s bid/offer for the provision of RR by its Generation Facility was considered for award after sufficiently complying with the post-qualification requirements.
- 18. On 12 April 2023, the TPBAC issued and submitted to the NGCP’s Board of Directors its Resolution and Evaluation Report on the conduct of the CSP indicating UPSI as one of the winning bidders. The TPBAC’s Evaluation Report was thereafter confirmed by the NGCP’s Board of Directors through a resolution dated 18 April 2023.¹⁸
- 19. On 18 April 2023, the TPBAC issued a Notice of Award in favor of UPSI informing the latter that it is to be awarded with a contract for the Provision of Ancillary Services in the Mindanao Grid. The details of the award are as follows:

Type of AS to be provided	AS Facility/Unit	Capacity Payment Rate (P/kW/h)	Duration
Regulating Reserve	Malita BESS	2.0800	2.0800

- 20. On 02 May 2023, NGCP and UPSI executed an ASPA pursuant to the AS-CSP Circular.

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

- 21. Section 3 of the ASPA states that UPSI shall provide the AS in accordance with Schedule 1 of the ASPA, as follows:

Contracted Capacities:

Regulating Reserve (“RR”):

Malita BESS - ± 20MW (40MW)

UPSI_MALITA	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
3	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
4	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
5	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
6	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
7	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
8	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
9	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
10	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
11	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
12	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40

22.Schedule 3 of the ASPA provides for the formula for the computation of the Ancillary Service Payment, and the applicable rates for Capacity Payment:

A. Ancillary Service Payment

1.
1. For RR, Ancillary Service Payment is the total of the Capacity Payment and the Incidental Energy Payment in B and C below.

Ancillary Service Payment RR = Capacity Payment

Incidental Energy Payment

B. Applicable Rates for Capacity Payment:

Malita BESS (Regulating Reserve): PhP 2.0800/kW/h

Formula for Capacity Payment = Undispatched Scheduled Capacity x Capacity Payment Rate e

Where:

- Undispatched Scheduled Capacity = Scheduled Capacity – G
- Capacity Payment Rate = Applicable Rate per AS type

C. Incidental Energy Payment

The Cost of Incidental Energy (“IE”) is the cost of actual energy generated for the firm Scheduled Capacity which shall be paid and computed using the formula below:

Payment of Cost of Incidental Energy (IE) computed as follows:

Incidental Energy Payment

= {G X (Capacity Payment Rate + Energy Fees}}

– (WESM Revenue – WESM Payment)

Where:

- G = For Regulating Reserve, the dispatched energy which is the summation of the absolute value of the energy charged and discharged by the BESS, in kWh
- Energy Fees, in PhP/kWh = Fuel Cost + Fixed and Variable O&M Cost, in PhP/kWh

- Fuel Cost, in Php/kWh = 0.0000
- Fixed O&M Cost, in Php/kWh = 0.0000
- Variable O&M Cost, in Php/kWh = 1.0539
- WESM Revenue = summation of WESM revenue based on market clearing price at the generator's trading node, arising from G.
- WESM Payment = summation of WESM purchases based on market clearing price at the generator's trading node, for generator's feedback power if applicable.

23. In compliance with the Honorable Commission's document checklist, NGCP submits the following:

Document	Annex
AS Rates Offered by the AS Provider during the AS-CSP	"L"
Actual AS Data on Required, Scheduled, and Dispatched (MW) for the Grid for the previous year	"M"
Implementing Guidelines of the ASPA	"N"
Locational Map of the Generation Facility	"O"
Certification from NGCP as required under item D of the ERC Checklist	"P"

24. UPSI submits that the rates represent a reasonable recovery of its opportunity cost in making available generation capacity to provide the procured AS.

AS Type	Indicative Rate Impact	
	P/kW – month	P/kwh
CR	37.9828	0.0805

A copy of the Rate Impact Simulation for UPSI is attached to this Application.²⁰

25. Consistent with the AS-CRM, all the related and incidental expenses which NGCP will incur as a result of the procurement and operation of the ancillary services shall be recovered from all the load customers in the Mindanao Grid.
26. As provided under Section 2.1 of the ASPA, the same shall become effective upon the approval by the ERC, either through a Provisional Authority (PA), or Interim Relief (IR), or final Decision, whichever comes first, unless if a different effective date is provided by the ERC in its Order or Decision, and shall remain effective for a period of five (5) years, subject to Section 13 (Termination) of the ASPA.
27. UPSI, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving UPSI's due registration as a generation company, relevant permits to operate the Generation Facility and audited financial statements, as well as other documents required by the Honorable Commission

Document	Annex
Articles of Incorporation	“S”
Latest SEC GIS/Proof of Business Registration	“T”
Certification issued by ERC on extension request of Provisional Authority to Operate	“U”
Latest Audited Financial Statement	“V”
WESM Registration	“W”
Computation of True Cost of Generation (PhP/kW & PhP/kWh)	“X”
Summary of computed Consumer Price Index (CPI) indexation for Variable Operation and Maintenance (VOM) Cost, including their computations.	“Y”
Written Explanation on Inapplicability of Distribution Wheeling Service (DWS) Agreement and Summary of DWS Charges	“Z”
Single-Line Diagram Connection	“AA”
Written Explanation on Certification of Endorsement from the Department of Energy that the Generation Facility is included in the Power Development Plan and Transmission Development Plan	“BB”
Certification on No Existing Power Supply Agreement	“CC”

28.While UPSI is a co-applicant, it manifests that the instant Application shall neither modify, diminish nor constitute a waiver of its rights nor expand its obligations and responsibilities as a generation company under the EPIRA.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR CONFIDENTIAL TREATMENT OF INFORMATION

- 29.Under Rule 4 of the ERC Rules of Practice and Procedure, the Honorable Commission may, upon request of a party and determination of existence of conditions that would warrant such remedy, treat certain information submitted to it as confidential.
- 30.The Computation of True Cost of Generation and the Summary of computed Consumer Price Index for Variable Operation and Maintenance (VOM) Cost, attached to this Application as Annex “X” and Annex “Y”, contain commercially valuable and sensitive information and data that reflect UPSI’s investments, business operations, calculations, and other trade secrets.
31. UPSI thus respectfully moves that these documents are not disclosed and treated as confidential documents in accordance with Section 1, Rule 4 of the Honorable Commission’s Rules of Practice and Procedure. Accordingly, UPSI submits one (1) copy of said documents in a sealed envelope, with the envelope and each page of the document stamped with the word “Confidential”.

**ALLEGATIONS IN SUPPORT OF THE PRAYER FOR
PROVISIONAL AUTHORITY**

32. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power. To this end, there is a need to comply with the system requirements for AS to ensure grid system security and reliability. As mentioned above, NGCP has the mandate to procure the required AS. However, the Honorable Commission must first approve the ASPA before the same can be implemented.
33. As the demand for power in Mindanao increases, the requirements of the system likewise increases. Ensuring the integrity of the system is essential to protect the interests of the public. The absence of system reliability and stability will certainly discourage investments and growth.
34. Applicants respectfully submit that the immediate approval of the ASPA by this Honorable Commission is a necessity to maintain the present reliability and security of the Grid. In support of these allegations, NGCP submits a copy of the Judicial Affidavit of Ms. Lisaflor B. Kater, which is attached to this Application.

PRAYER

WHEREFORE, premises considered, Applicants respectfully pray that the Honorable Commission:

1. Immediately **ISSUE** a provisional authority to implement the subject ASPA executed on 02 May 2023; and
2. **APPROVE**, after notice and hearing, the subject ASPA.
3. **ISSUE** an Order treating the Computation of True Cost of Generation²³ and the Summary of computed Consumer Price Index for Variable Operation and Maintenance (VOM) Cost²⁴ as confidential information pursuant to Section 1, Rule 4 of the ERC Rules of Practice and Procedure and prescribing the guidelines for the protection thereof.

Other just and equitable reliefs are likewise prayed for.

Pasig City and Quezon City for Pasig City, 16 May 2023.

The Commission sets the instant *Application* for determination of compliance with the jurisdictional requirements, expository presentation, Pre-Trial Conference and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant

to Resolution No. 09, Series of 2020¹ and Resolution No. 01, Series of 2021² (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
21 August 2023 (Monday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
28 August 2023 (Monday) at two o'clock in the afternoon (2:00 P.M)		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 initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph and 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, any person who has 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 copy furnishing 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. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state 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

¹ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
² A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 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 copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. 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 interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **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.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Application* through the Commission's official website at www.erc.gov.ph.

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Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, through legal.virtualhearings@erc.ph, 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 hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL** and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 17th day of July 2023 in Pasig City.

Mcdimalanta

MONALISA C. DIMALANTA
Chairperson and CEO


LS: BBB/JGGW/MCCG

ERC

Office of the Chairperson and CEO



MCD2023-005988