

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 ONE
SUBIC POWER GENERATION
CORPORATION WITH
PRAYER FOR THE ISSUANCE
OF PROVISIONAL
AUTHORITY**

ERC CASE NO. 2023-066 RC

**NATIONAL GRID
CORPORATION OF THE
PHILIPPINES AND ONE
SUBIC POWER GENERATION
CORPORATION,**

Applicants.

X-----X

Promulgated:
June 26, 2023

ORDER

On 19 June 2023, the National Grid Corporation of the Philippines (NGCP) and One Subic Power Generation Corporation (OSPGC) filed their *Application (With Prayer for Immediate Issuance of Provisional Authority)* dated 18 May 2023, seeking the Commission's approval of their Ancillary Services Procurement Agreement (ASPA), with prayer for the issuance of provisional authority.

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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 2023¹, entered into by the NGCP and OSPGC, 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. 9511,² 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 OSPGC 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 Causeway Extension, Subic Gateway District, Subic Bay Freeport Zone.
 - 3.1 OSPGC is the owner and operator of a Bunker-C Fired Thermal Power Plant, with a rated capacity of 120.000 MW continuous output at 60Hz, including required ancillaries and spare parts, located at Causeway Road Extension, Subic Gateway District, Subic Bay Freeport Zone (the “**Generation Facility**”), which was certified and accredited by the NGCP as capable of providing Dispatchable Reserve Services.
4. NGCP and OSPGC may be served with orders, notices, pleadings and other legal processes through their respective counsels at the addresses indicated below.

¹ A copy of the Ancillary Services Procurement Agreement (ASPA) dated 02 May 2023 is attached as Annex “A”

² 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 of Interconnected Transmission Lines, Substations and Related Facilities, and for other Purposes.

ANTECEDENT FACTS

5. 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**”),³ 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**”)⁴ through the transmission system.⁵
6. 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.⁶
7. 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.
8. 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 AS-CRM through its Decision dated 3 October 2007 in ERC Case No. 2006-049RC.
9. The NGCP certified that the units of the Generation Facility have met and complied with the Standard Ancillary Services Technical Requirements of the ASPP as capable of providing Dispatchable Reserve Service. A copy of NGCP Accreditation Certificate No. AS2022-L002 in favor of OSPGC and valid from 01 April 2022 to 31 March 2024 is attached to this Application.⁷

Competitive Selection Process

10. On 04 October 2021, the DOE issued the AS-CSP Circular providing the policy for the conduct of the Competitive Selection

³ ERC Resolution No. 22, series of 2016, entitled “A Resolution Approving the Publication of the Approved Philippine Grid Code 2016 Edition”. See also Section 9(c), EPIRA.

⁴ Section 4(b), EPIRA. “Ancillary Services” refer 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.

⁵ Section 9(d), EPIRA.

⁶ Chapter 6, Grid Operations (“**GO**”), GO Section 6.3.1.2, PGC.

⁷ Copy of NGCP Accreditation Certificate No. AS2022-L002 with corresponding test report/s, is attached as Annex “**B**”.

Process (“CSP”) for the procurement of Ancillary Services by the System Operator (i.e. 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.

11. In its Letter dated 22 November 2022,⁸ the DOE approved the Terms of Reference (“TOR”)⁹ and Instruction to Bidders¹⁰, 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.
12. On 26 January 2023, the TPBAC approved its Notice of Invitation to Bid¹¹ 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.
13. Subsequently, the Notice of Invitation to Bid was published on 31 January 2023 with the *Malaya Business Insight*¹² and the *Philippine Star*.¹³ The same Notice was also published on 07 February 2023 with the *Business Mirror*¹⁴ and the *Manila Bulletin*.¹⁵
14. OSPGC was declared by the TPBAC as eligible to participate in the AS-CSP and submit its bid for the provision of AS to be provided by the Generation Facility.
15. Under Bid Bulletin 2023-02 issued by the TPBAC, eligible bidders may submit their bids on or before 5:00 PM of 13 March 2023 for the Luzon grid.
16. Thereafter, pursuant to Bid Bulletin 2023-02, the TPBAC conducted the opening of bids timely submitted by all the eligible bidders whereby the OSPGC’s bid/offer¹⁶ for the provision of Dispatchable Reserve by its Generation Facility was considered

⁸ DOE Letter dated 22 November 2022 approving the Terms of Reference and Instruction to Bidders is attached as Annex “C”

⁹ DOE Approved Terms of Reference is attached as Annex “C-1”

¹⁰ DOE Approved Instruction to Bidders is attached as Annex “C-2”

¹¹ Notice of Invitation to Bid is attached as Annex “C-3”

¹² The 31 January 2023 edition of the *Malaya Business Insight* and the page on which the Notice of Invitation to Bid appears are attached as Annexes “D” and “D-1”, respectively. The Affidavit of Publication issued by the *Malaya Business Insight* is likewise attached as Annex “D-2”.

¹³ The 31 January 2023 edition of the *Philippine Star* and the page on which the Notice of Invitation to Bid appears are attached as Annexes “E” and “E-1”, respectively. The Affidavit of Publication issued by the *Philippine Star* is likewise attached as Annex “E-2”.

¹⁴ The 07 February 2023 edition of the *Business Mirror* and the page on which the Notice of Invitation to Bid appears are attached as Annexes “F” and “F-1”, respectively. The Affidavit of Publication issued by the *Business Mirror* is likewise attached as Annex “F-2”.

¹⁵ The 07 February 2023 edition of the *Manila Bulletin* and the page on which the Notice of Invitation to Bid appears are attached as Annexes “G” and “G-1”, respectively. The Affidavit of Publication issued by the *Manila Bulletin* is likewise attached as Annex “G-2”.

¹⁶ Copy of OSPGC’s bid/ offer is attached herein as Annex “H”.

for award after sufficiently complying with the post-qualification requirements.

17. 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 CSP¹⁷ indicating OSPGC 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
18. On 18 April 2023, the TPBAC issued a Notice of Award in favor of OSPGC,¹⁹ informing the latter that it is to be awarded with a contract for the Provision of Ancillary Services in the Luzon Grid. The details of the award are as follows:

Type of AS to be provided	Unit	Rate ²⁰ (P/kWh)	Duration
Dispatchable Reserve	01S_ENRO_GO1	0.91354062072	Five (5) years

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

**CONTRACTED CAPACITY RATES
AND IMPACT SIMULATION**

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

Contracted Capacities:

Dispatchable Reserve ("DR"):

OSPGC	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	15	4	22	15	20	5	22	31	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2	12	17	5	0	10	30	17	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	89	73	57	52	50	49	3	19	105	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	73
4	110	110	110	110	110	110	82	107	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
5	110	110	110	110	21	13	3	7	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
6	110	110	110	110	30	26	25	29	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
7	110	110	110	110	110	110	110	110	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
8	110	110	110	110	110	110	110	110	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
9	110	110	110	110	110	110	110	110	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
10	110	110	110	110	110	110	110	110	110	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
11	110	110	110	110	110	110	110	110	108	107	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110
12	99	86	90	89	87	84	74	89	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	108

Note that the capacities in the hourly profile are the maximum ancillary service capacities that can be provided by each unit. However, declaration and schedule shall be based on the latest AS Accreditation Certificate, which shall not exceed the Firm capacities in the hourly profile.

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

¹⁷ The TPBAC Resolution and Evaluation Report dated 12 April 2023 indicating OSPGC's bid/offer for its Generation Facility as one of the winning bids is attached as Annex "I".
¹⁸ NGCP Secretary's Certificate certifying the BOD's Resolution confirming the TPBAC's Evaluation Report is attached as Annex "J".
¹⁹ Notice of Award in favor of OSPGC is attached as Annex "K".
²⁰ Simulated Average AS Cost Rate.

A. Ancillary Service Payment

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

$$\text{kVAR Payment} = (\text{Incidental kVARh Rate} \times \text{Compensable kVARh})$$

$$\text{Ancillary Service Payment}_{DR} = \text{Capacity Payment} + \text{Incidental Energy Payment}$$

B. Applicable Rates for Capacity Payment:

Dispatchable Reserve (DR): **PhP 0.5457/kW/h**

Formula for Capacity Payment = Undispatched Scheduled Capacity x 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:

$$\begin{aligned} \text{Incidental Energy Payment} &= \{G \times (\text{Capacity Payment Rate} + \text{Energy Fees})\} \\ &- (\text{WESM Revenue} - \text{WESM Payment}) \end{aligned}$$

Where:

- G = summation of actual energy generated or dispatched from the Scheduled Capacity, in kWh
- Energy Fees, in PhP/kWh = Fuel Cost + Fixed and Variable O&M Cost, in PhP/kWh
- Fuel Cost, in PhP/kWh = based on the Fuel Cost Formula below.
- Variable O&M Cost, in PhP/kWh = **2.5470 PhP/kWh** x (Current CPI ÷ Base CPI); where Base CPI is CPI of December 2022.
- 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.

- **Fuel Cost Formula:**

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$$FC_n = HFOR_n + LOR_n + SFOR_n$$

where:

FC_n = Fuel Cost in Philippine Peso per kWh (PhP/kWh) for billing period n

$HFOR_n$ = Heavy Fuel Oil Rate in PhP/kWh which is a variable component for billing month n

$$HFOR_n = HFO_{CRn} \times Price_{HFO_n}$$

HFO_{CRn} = Heavy Fuel Oil consumption rate in L/kWh for billing month n

$Price_{HFO_n}$ = Heavy Fuel Oil Price in PhP/L for billing month n composed of the following variables.

$$Price_{HFO_n} = \left\{ \left[\begin{matrix} MOPS & + & FP \\ LF & + & SF \end{matrix} \right] \times \left[\begin{matrix} FX \\ PC & + & GPC \end{matrix} \right] \right\} + Duty + TS + Wharfage$$

MOPS = As published in the Platts Asia Pacific/Arab Gulf Marketscan. The product marker to be used shall be the MOPS for HSFO 180 for 3% Regular Fuel Oil in a Month-1 (M-1) schema, quoted in US Dollar per MT. Pricing for the current month's delivery (e.g., March 1-31, 2021) is based on average daily MOPS of the previous calendar month (e.g., February 1-28, 2021). Conversion factors are 1MT = 6.5000 barrel (bbl), 1bbl = 158.9840 liters.

FP = Fixed Premium for the for the relevant calendar year. This component is variable per annum which is currently set at 13.25 US\$/bbl for 2023.

FX = Foreign Exchange rate in PhP/US\$ based on the previous month's average for the billing period with reference to the Philippine Dealing System (PDS). This component is variable monthly.

DR = Duty Rate currently set to zero per Executive Order (EO) 890. In case of re-imposition, duty will be computed based on the sum of MOPS and Premium.

TS = Transshipment is the applicable cost of shipping the FUEL via sea vessel from Fuel suppliers's original source point to the fuel suppliers's relevant source point or direct to the delivery point of the Ancillary Service provider currently set at 1.2066 PhP/L for 2023. This component is variable annually.

Wharfage = is the applicable government-imposed rate due to Philippine Ports Authority for the use of pier facilities. This is a variable component changing annually currently set at 0.0174 PhP/L for 2023.

LF = Local Freight is the applicable cost of shipping the Fuel via lorries from fuel suppliers's relevant source point to the delivery point of the Ancillary Service provider. This is a variable component changing annually currently set at 0.0000 PhP/L for 2023.

SF = Sealing Fee is the applicable cost of seals used in every tank truck delivery. This is a variable component changing annually currently set at 0.0000 PhP/L for 2023.

PC = Pumping Charge is the applicable cost of pumping the Fuel to the storage facilities of the Ancillary Service provider whenever the pumping unit of the delivering tank truck is utilized. This is a variable component changing annually currently set at 0.0000 PhP/L for 2023.

GPC = Any Government Passthrough Charges (GPC) applicable such as but not limited to excise tax, VAT, etc. shall be a complete passthrough charge to the Ancillary Service buyer.

LOR_n = Lube Oil Rate for billing month n

$$LOR_n = LO_{CRn} \times Price_{LO_n}$$

LO_{CRn} = Lube Oil consumption rate in L/kWh for billing month n

$Price_{LO_n}$ = Lube Oil Price in PhP/L for billing month n computed based on the formula below

$$Price_{LO_n} = \left[\frac{ICIS - LOR + Premium}{1.145} \times FX \right] + FPC + FDC + GPC$$

ICIS - LOR = Previous month's average of base oil SN500 Ex-Tank Singapore as quoted in Independent Commodity Information service - London Oil Reports. It is quoted in US\$ per Metric Ton (US\$/MT) with a fixed conversion factor of 1.145 L/MT.

Premium = This Premium assumes the incremental cost of additives and other lube oil components, quoted in US\$/MT (fixed conversion factor of 1.145 L/MT). Premium for 2023 are the following:

- a. Petromar HF4040: 1.368 US\$/MT.
- b. Petromar HF5040: 1.519 US\$/MT.
- c. Petromar HF5540: 1.506 US\$/MT.

FX = Foreign Exchange rate in PhP/US\$ based on the previous month's average for the billing period with reference to the Philippine Dealing System (PDS). This component is variable monthly.

FPC = Production cost equal to 6.50PhP/L.

FDC = Fixed Delivery Charge equal to 0.8415 PhP/L.

GPC = Any Government Passthrough Charges (GPC) applicable such as but not limited to excise tax, VAT, etc. shall be a complete passthrough charge to the Ancillary Service buyer.

$SFOR_n$ = Special Fuel Oil Rate in PhP/L for billing month n.

$$SFOR_n = SFO_{CRn} \times Price_{SFO_n}$$

SFO_{CRn} = Special Fuel Oil Rate in L/kWh for billing month n.

$Price_{SFO_n}$ = Special Fuel Oil Price in PhP/L. Note that Product Cost and Premiums mentioned in the Formula below are converted using the applicable Foreign Exchange rate in PhP/US\$.

III. MOPS PRICING FORMULA FOR SPECIAL FUEL OILS

The pricing will be on a MOPS-based Pricing Scheme with the following formula:

Delivered Price, PhP/li = Product Cost + Duty + Transshipment + Wharfage + Local Freight + Sealing Fee + Pumping Charge + CME + FMF + Excise Tax + 12% VAT

Where:

1. Product Cost - The sum of MOPS' and Fixed Premiums, computed using the formula: $[(MOPS_1 + Fixed\ Premium_{IFO}) \times X\%] + [(MOPS_2 + Fixed\ Premium_{ADO}) \times Y\%]$, where:
 - a. SFO 100 - X% is equivalent to 52% and Y% is equivalent to 48%
 - b. SFO 1%S - X% is equivalent to 30% and Y% is equivalent to 70%
 - c. SFO 400 - X% is equivalent to 76% and Y% is equivalent to 24%
2. MOPS₁ - As published in the Platts Asia Pacific/Arab Gulf Marketscan. The product marker to be used shall be the MOPS for HSFO 180 for 3% Regular Fuel Oil in a Month-1 (M-1) scheme, quoted in US Dollar per MT. Pricing for the current month's delivery (e.g., March 1-31, 2023) is based on average daily MOPS of the previous calendar month (e.g., February 1-28, 2023).
3. MOPS₂ - As published in the Platt's Oilgram Price Report, particularly Gasoil 0.001% Sulfur, quoted in US\$/bbl. The reference for the current month's delivery (e.g., March 1-31, 2023) is based on average daily MOPS of the previous calendar month (e.g., February 1-28, 2023)
4. The following Fixed Premiums during the term:
 - a. IFO (Fixed Premium_{IFO}) - US \$13.25/bbl
 - b. ADO (Fixed Premium_{ADO}) - US \$14.00/bbl
5. The following are the Transshipment, Local Freight, Fuel Marking Fee (FMF), Sealing Fee, Wharfage and Pumping Charge:

Delivery Points	In PhP/li					
	Transshipment	Freight	FMF	Pumping	Wharfage	Sealing
BPGC	0.7585	0.6458	0.0320	0.0400	0.0131	0.0040
OSPGC	0.7585	2.2629	0.0320	0.0400	0.0131	0.0040
CIPP	0.7916	3.1773	0.0431	0.0400	0.0131	0.0040

Note:

- a. Above figures refer to SFO 100 and SFO 1%S for BPGC/OSPGC and CIP, respectively;
 - b. Other details as per SLHBTC offer dated 21 November 2022
6. CME (Coconut Methyl Ester) - Blended with ADO as part of the Department of Energy's (DOE) direction to lessen the emissions significantly. This is mandated as Republic Act 9367 or the Biofuels Act of 2006. The CME is based on the previous month's average, in PHP/liter, proportional to the ADO content of the SFO variant.
 7. Excise Tax - PhP 6.00/li
 8. PhP/US \$ Exchange Rate - Previous month's average of the daily "BAP Weighted Average" as published by the Bankers Association of the Philippines (BAP).
 9. Conversion Rates: 1MT = 6.3500 barrel
1 barrel = 158.984 liters

D. Submission of Documents for Computation of Fuel Costs

AS Provider shall submit the necessary documents detailing the actual fuel costs (e.g., invoice or official receipts, relevant fuel indices) along with the bill.

Failure to submit the necessary documents within the next billing period after the relevant billing period will forfeit the payment to AS Provider for IE. NGCP shall only pay for the Applicable Rate for the undispached scheduled capacities and shall not be obligated to pay for the IE.

NGCP shall provide due notice to AS Provider for any additional documents that may be required in relation to the computation of Fuel Cost.

E. The cost of Replacement AS Capacity shall be shouldered by the AS Provider.

NGCP shall pay the corresponding Capacity Payment and Incidental Energy Payment based on A to C of this Schedule 3, or the actual cost of Replacement AS Capacity, whichever is lower.

F. Resulting accumulated amount due to excess WESM Revenue shall be returned/reimbursed by AS Provider to NGCP upon expiration of this ASPA.

1. Reactive Power Support (RPS): PhP 4.00/kVAR/hr
2. Black Start Services (BSS): PhP 3.5531/kWh

22. 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 OSPGC	"O"
Certification from NGCP as required under item D of the ERC Checklist	"P"

23. AS Provider 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
DR	1.7807	0.0035

A copy of the Rate Impact Simulation for OSPGC is attached to this Application.²¹

24. 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 Luzon Grid.

²¹ Rate Impact Simulation is attached as Annex "Q".

25. 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 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.

26. OSPGC, as a generation company, falls within the ambit of Section 6 of the EPIRA. Attached are copies of relevant documents proving OSPGCs 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
Certificate of Incorporation	“S”
Articles of Incorporation and By-Laws	“T”
Latest SEC GIS/ Proof of Business Registration	“U”
Certificate of Compliance issued by ERC including Annexes A & B	“V”
Latest Audited Financial Statement	“W”
WESM Registration	“X”
Write up and computation of True Cost of Generation (PhP/kW & PhP/kWh) for OSPGC	“Y”
Summary of computed Consumer Price Index (CPI) indexation and Start-Up and Shut-Down Costs (SSC) as part of the monthly Variable Operation and Maintenance (O&M) Cost, including their computations.	“Z”
Distribution Wheeling Service (DWS) Agreement (for embedded generators, if applicable)	“AA”
Summary of Distribution Wheeling Service Charges from MERALCO, if any, including copy of the Statement of Accounts	“BB”
Single-Line Diagram Connection and Locational Map	“CC”
Certification of Endorsement from the Department of Energy that the Generation Facility is included in the Power Development Plan and Transmission Development Plan	“DD”
Certification of No Power Supply Agreement	“EE”

27. While OSPGC 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**

28. 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.

29. Documents attached to this Application particularly **Annexes Y** and **Z** contain commercially valuable and sensitive information

and data that reflect OSPGC's investments, business operations, calculations, and other trade secrets.

30. OSPGC 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 Revised Rules of Practice and Procedure. Accordingly, OSPGC 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**

31. It is a declared policy of the State to ensure the quality, reliability, security and affordability of the supply of electric power.²² 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 contract before the same can be implemented.
32. As the demand for power in Luzon 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.
33. 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,²³ 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 **Annexes Y and Z** 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.

²² Section 2(b), EPIRA.

²³ Judicial Affidavit of Ms. Lisaflor B. Kater is attached as Annex "R"

Finding the said *Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same 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 2020²⁴ and Resolution No. 01, Series of 2021²⁵ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
28 July 2023 (Friday) at one o'clock in the afternoon (1:00 PM)	Microsoft Teams or Zoom Application	Determination of compliance with the jurisdictional requirements and expository presentation
04 August 2023 (Friday) at one o'clock in the afternoon (1:00 PM)		Pre-Trial Conference and presentation of evidence

RELATIVE THERETO, NGCP and OSPGC are 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 their 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 Provincial Governors, the Mayors and the Local Government Unit (LGU) legislative bodies, where NGCP and OSPGC principally operate, including NGCP's regional offices for the appropriate posting thereof on their respective bulletin boards;

²⁴ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.

²⁵ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.

- 3) Inform the consumers within the affected area, by any other means available and appropriate, of the filing of the *Application*, their 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 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, except those subject of a motion for confidential treatment of information, all those making requests therefor, if any, subject to reimbursement of reasonable photocopying costs.

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

- 1) The evidence of publication of the attached *Notice of Virtual Hearing* consisting of affidavits 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 and OSPGC to inform the consumers affected by the filing of the *Application*, their 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, the 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 subject of a 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.

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

Applicants NGCP and OSPGC, and all interested parties are also required to submit via e-mail at docket@erc.ph, and 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.

Applicants NGCP and OSPGC 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 and OSPGC to comply with the above requirements within the prescribed period shall be a ground for cancellation of the scheduled hearings, and the resetting of which shall be six (6) months from the said date of cancellation.

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

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

Applicants NGCP and OSPGC are further directed to submit, through personal service, registered mail or ordinary mail/private courier, one (1) set of the original or certified true hard copies of their Jurisdictional Compliance, Expository Presentation, Pre-Trial Brief, and Judicial Affidavits of witnesses, **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.

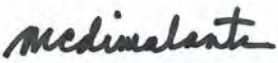
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Finally, NGCP and OSPGC, including their authorized representatives and witnesses, are hereby directed to provide the Commission, through legal.virtualhearings@erc.ph, their respective e-mail addresses upon receipt of this *Order*. The Commission will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

SO ORDERED.

Pasig City, 26 June 2023.

FOR AND BY AUTHORITY
OF THE COMMISSION:


MONALISA C. DIMALANTA
Chairperson and CEO

ERC
Office of the Chairperson and CEO



MCD2023-005331


LS: NMK/ARG/MCCG

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Copy Furnished:

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5. Office of the Solicitor General (OSG)
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6. Commission on Audit (COA)
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7. Senate Committee on Energy
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8. House Committee on Energy
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10. Office of the City Mayor
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11. Office of the Sangguniang Panlungsod
Quezon City
12. Office of the Governor
Province of La Union
13. Office of the Sangguniang Panlalawigan
Province of La Union
14. Office of the City Mayor
San Fernando, La Union
15. Office of the Sangguniang Panlungsod
San Fernando, La Union

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16. Office of the Governor
Province of Laguna
17. Office of the Sangguniang Panlalawigan
Province of Laguna
18. Office of the City Mayor
Binan, Laguna
19. Office of the Sangguniang Panlungsod
Binan, Laguna
20. Office of the Governor
Province of Lanao del Norte
21. Office of the Sangguniang Panlalawigan
Province of Lanao del Norte
22. Office of the City Mayor
Iligan City
23. Office of the Sangguniang Panlungsod
Iligan City
24. Office of the City Mayor
Davao City
25. Office of the Sangguniang Panlungsod
Davao City
26. Office of the City Mayor
Cebu City
27. Office of the Sangguniang Panlungsod
Cebu City
28. Office of the City Mayor
Makati City
29. Office of the Sangguniang Panlungsod
Makati City
30. Office of the Municipal Mayor
Subic, Zambales
31. Office of the Sangguniang Bayan
Subic, Zambales
32. Office of the Governor
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33. Office of the Sangguniang Panlalawigan
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