

Republic of the Philippines  
**ENERGY REGULATORY COMMISSION**  
San Miguel Avenue, Pasig City

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Received By: \_\_\_\_\_

**IN THE MATTER OF THE 17<sup>TH</sup>  
APPLICATION FOR THE  
RECOVERY OF INCREMENTAL  
FUEL AND INDEPENDENT  
POWER PRODUCER (IPP) COSTS  
UNDER THE GENERATION RATE  
ADJUSTMENT MECHANISM (17<sup>TH</sup>  
GRAM), WITH PRAYER FOR  
PROVISIONAL AUTHORITY**

**ERC CASE NO. 2010-074 RC**

**NATIONAL POWER  
CORPORATION (NPC) AND  
POWER SECTOR ASSETS AND  
LIABILITIES MANAGEMENT  
CORPORATION (PSALM),  
Applicants.**

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**D O C K E T E D**  
Date: NOV 10 2010  
By: \_\_\_\_\_

**ORDER**

On June 25, 2010, the National Power Corporation (NPC) and Power Sector Assets and Liabilities Management Corporation (PSALM) filed an application for recovery of Incremental Fuel and Independent Power Producer (IPP) Costs under the Generation Rate Adjustment Mechanism (GRAM), with prayer for provisional authority.

In the said application, NPC and PSALM alleged, among others, that:

1. Under Section 3 (g) of the NPC Charter, NPC the authority to sell electric power in bulk to electric cooperatives, private distribution utilities, government owned distribution utilities or local government units which have exclusive franchise to operate a distribution system. Under Section 47 (j) of Republic Act No. 9136 ("Electric Power Industry Reform Act or EPIRA"), NPC may continue to generate and sell electricity from the undisposed generating assets and Independent Power Producer (IPP) contracts of PSALM;

2. NPC is filing the instant application in its capacity as the implementing agency for the unbundled generation rates as stated in the Orders of the Commission dated September 6 and 20, 2002 in ERC Case No. 2001-901, provisionally approved generation charges in the Orders dated February 16, 2009 and March 23, 2009 for the Luzon/Mindanao and Visayas Grid, respectively, under ERC Case No. 2009-004 RC, and the provisionally approved deferred charges in ERC Order dated December 15, 2008 under ERC Cases Nos.: 2008-043 RC, 054 RC and the Order dated January 19, 2009 under ERC Case No. 2008-064 RC. PSALM is filing the instant application in its capacity as transferee, owner and administrator of the generating assets of NPC pursuant to Section 49 of the EPIRA;
3. In the Order dated February 24, 2003, the Commission issued and adopted the Implementing Rules for the Recovery of the Incremental Currency Exchange Rate Adjustment (ICERA) providing, among others, the required mechanisms for the recovery/(refund) of the deferred incremental costs/(savings) on foreign currency exchange rate fluctuations and carrying charges;
4. The instant application is being filed consistent with Section 4 (e) Rule 3 of the Implementing Rules and Regulations (IRR), as amended of R.A. No. 9136 dated June 8, 2001;
5. The application for the recovery of Deferred Accounting Adjustment (DAA) is being filed with the Commission pursuant to the Implementing Rules for the Recovery of Fuel and Independent Power Producer Costs under ERC Order dated February 24, 2003 in relation to ERC Case No. 2003-44 which, among others, provides the mechanism for the recovery/refund of deferred Incremental Fuel and Independent Power Producer (IPP) costs/savings in the base rate, and the imposition of carrying charges;
6. They are filing the application pursuant to the Rules for the Automatic Cost Recovery Mechanism approved and adopted by the Commission under Resolution No. 19, Series of 2009, as amended by ERC Resolution No. 25, Series of 2009, particularly on the Final Filing under the GRAM/ICERA in Article VI. Section 2 thereof which provides that an application for recovery of all unfiled and unverified DAA shall be submitted within one hundred (120) days from effectivity of this Rules or, on or before June 27, 2010;
7. The instant application covers the test period from January 2010 to April 2010. They have fully complied with the Commission's monthly reportorial requirements, to support the calculated allowable costs covering the said test period, as evidenced by the submitted reports/compliances duly received by the Commission;
8. On February 16, 2009 and March 23, 2009, the Commission issued two (2) Orders in ERC Case No. 2009-004 RC granting NPC/PSALM provisional authority (PA) to implement new basic generation rates of PhP4.3648/kWh for Luzon and PhP2.8177/kWh for Mindanao, and PhP3.7255/kWh for Visayas, respectively. Accordingly, the GRAM DAA calculations considered the new base rate for fuel and

PhP3.7255/kWh for Visayas, respectively. Accordingly, the GRAM DAA calculations considered the new base rate for fuel and purchased power costs based on CY 2007 level effective March 2009 billing period;

9. They propose to recover as Deferred Accounting Adjustments (DAAs), the difference between allowable fuel and purchased power costs and the amounts recovered through the approved basic generation rate during the above-stated test period, excluding the balance of previously approved GRAM applications and GRAM applications pending resolution by the Commission, and were calculated with due consideration of the (i) ERC-approved allowable costs for purchased power costs; (ii) the heat rate per power plant as approved by the Commission in its Decision dated June 30, 2008 in ERC Case No. 2004-111, and (iii) corresponding Actual Energy Sales for the test period;
10. Consistent with previous GRAM applications, the GRAM DAA calculation excludes the costs of purchased power from Naga (Salcon), pending Commission's resolution of the application for their inclusion and recovery through the power rates;
11. The GRAM DAA calculation includes the cost of purchased power from the following IPPs, namely, Malaya-Caliraya-Botocan-Kalayaan (CBK), and Mindanao Coal (STEAG) under ERC Case No. 2005-032 RC, 2007-159 RC and 2001-811 RC, respectively, as well as the purchased power costs of Casecan Multipurpose Project under the Power Purchase Agreement (PPA) between the NPC and National Irrigation Administration pursuant to ERC Case No. 2001-457 RC;
12. The calculation for the GRAM DAA likewise includes the operating costs under the Operations and Maintenance Service Contract (OMSC) entered into between them:
  - a. PSALM/NPC and Alstom covering contract extension until January 18, 2010 for Limay A and B after the Operation, Maintenance and Repair (OMR) contracts expired on April 19, 2008 and October 18, 2008, respectively. The purchased Power Costs included in the calculation are only those that are covered in the test period of the application;
  - b. PSALM/NPC and Burmeister and Wain Scandinavian Contractor A/S covering contract extension for Power Barge (PB) 117 and PB 118 after the Electricity Supply, Operation and Maintenance Agreement (ESOMA) contracts expired on March 31, 2009 and August 5, 2009, respectively. PB 117 and PB 118 were successfully turn-over to its winning bidder on March 1, 2010 and February 6, 2010, respectively. In the same way, operating costs included in the calculation are only those that are covered in the test period;
13. The calculation excludes the purchased power costs after the effective date of transfer of the contracted capacities under the following IPP contracts to its IPP Administrator (IPPA):

IPP	Effective Date
Pagbilao	October 1, 2009
Sual	November 6, 2009
San Roque HEP	January 26, 2010
Bakun (Luzon Hydro)	February 23 2010

14. Considering the foregoing and pursuant to all the relevant Decisions and Orders of the Commission, they calculated the total deferred costs for recovery under this instant application comprising of the deferred fuel and IPP costs and the corresponding carrying charges for the Luzon, Visayas and Mindanao grids covering the test period from July 2009 to December 2009, current portion only:

**GRAM Deferred Costs for Recovery/(Refund) to Customers**  
 For the Test Period January 2010 to April 2010 (in PhP)

	LUZON	VISAYAS	MINDANAO
Principal	1,578,620,347	756,847,278	1,421,498,791
Carrying Charges	28,074,300	11,762,804	22,583,152
<b>TOTAL DAA</b>	<b>1,606,694,646</b>	<b>768,610,082</b>	<b>1,444,081,942</b>

15. The proposed DAA excludes the balance of previously approved GRAM applications, as well as GRAM applications with pending resolution by the Commission. PSALM reserves the right to file the appropriate pleading in each of the applications pending once the same be resolved by the Commission;
16. They likewise seek the approval of the Commission to recover the above-stated deferred costs over the following recovery periods:

LUZON	VISAYA	MINDANAO
4	4	4

17. In accordance with the Implementing Rules of the GRAM, they utilized the carrying charge based on the BSP-established ninety one (91) day Treasury Bill rates plus three percent (3%), as approved by the Commission, as follows:

**Allowable Carrying Charge Interest Rates**

Billing Period	Prevailing 91-day T-Bill Rate <sup>1</sup>	Authorized Allowance <sup>2</sup>	Allowable Rate
January 2010	3.9060%	3.00%	6.9060%
February 2010	3.9280%	3.00%	6.9280%
March 2010	3.8800%	3.00%	6.8800%
April 2010	3.8430%	3.00%	6.8430%

<sup>1</sup>-Source: Bangko Sentral ng Pilipinas

<sup>2</sup>-As authorized in the ICERA Implementing Rules

18. To recover/(refund) the above-stated deferred costs over a period of four (4) months, Applicants are proposing the approval of the following DAA Charges which were derived using the Projected Energy Sales under the NPC's proposed CY 2007 Budget:

**GRAM Deferred Costs for Recovery/(Refund) to Customers**  
For the Test Period January 2010 to April 2010 (in PhP/kWh)

In PhP/kWh	LUZON	VISAYAS	MINDANAO
<b>TOTAL DAA</b>	0.1897	0.3816	0.4716

19. In accordance with ERC Resolution No. 20, Series of 2005, the Value Added Tax (VAT) to be imposed to consumers will be based on the gross receipts or the total amount paid for electricity sold from non-renewable energy portion of the generation mix corresponding to the billing period of the cost recovery/(refund);
20. The proposed GRAM DAA is fair and reasonable as it allows the recovery/(refund) of deferred costs consistent with the principles of a free and competitive electricity market as provided under R.A. No. 9136 and all pertinent Orders/Decisions issued by the Commission;
21. They pray for the issuance of a provisional authority to implement rates for the recovery/refund of the following:
- a. DAA under this instant application; and
  - b. The estimated DAA balances under the 13<sup>th</sup> to 15<sup>th</sup> GRAM applications for Luzon and 10<sup>th</sup> to 15<sup>th</sup> GRAM applications for the Visayas and Mindanao grids.
22. As of this filing, they are implementing the 12<sup>th</sup> GRAM charges in Luzon, pending resolution of the 13<sup>th</sup>, 14<sup>th</sup>, to 15<sup>th</sup> GRAM applications under ERC Case Nos. 2009-032 RC, 2009-056 RC and 2010-003 RC, respectively. For the Visayas and Mindanao Grids, starting the billing period January 26 to February 25 2010 and July 26 to August 25 2009, respectively, no GRAM charges are being imposed to electricity consumers considering that the amount authorized were already fully collected/(refunded) and applications for the 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> GRAM under ERC Case Nos. 2008-042 RC, 2008-053 RC, 2008-063 RC, 2009-032 RC, 2009-056 RC and 2010-003 RC, respectively, are still pending resolution by the Commission;

23. They pray unto the Commission that consistent with ERC Case No. 2003-44 adopting the Implementing Rules for the Recovery of Fuel and Independent Power Producer Costs: Generation Rate Adjustment Mechanism (GRAM) and Section 4(e) Rule 3 of the IRR, as amended, of RA 9136 or EPIRA, the following deferred costs/(refund), recovery period, and proposed Deferred Accounting Adjustment (DAA) charges covering the current DAA be approved:

PARTICULARS	LUZON	VISAYAS	MINDANAO
TOTAL DAA FOR RECOVERY (in PhP)	1,606,694,646	768,610,082	1,444,081,942
TOTAL DAA CHARGE (in PhP/kWh)	0.1897	0.3816	0.4716
PROPOSED RECOVERY PERIOD (months)	4	4	4

24. They further pray for the issuance of a Provisional Authority for the immediate implementation of the above proposed rates for Luzon, Visayas and Mindanao Grids, as well as the early resolution of the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> GRAM applications for Luzon under ERC Case Nos. 2009-032 RC, 2009-056 RC and 2010-003 RC, respectively, and the 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> GRAM applications for the Visayas and Mindanao grids under ERC Case Nos. 2008-042 RC, 2008-053 RC, 2008-063 RC, 2009-032 RC, 2009-056 RC and 2010-003 RC, respectively, and the Consolidated Omnibus Motion under ERC Case Nos. 2008-042 RC and 2008-053 RC filed before the Commission.

Finding the said application to be sufficient in form and substance with the required fees having been paid, the same is hereby set for jurisdictional hearing, expository presentation, pre-trial conference and evidentiary hearing on the following dates and venues:

Date and Time	Venue	Particulars
<b>Luzon</b>		
December 7, 2010 – Two o'clock in the afternoon (2:00 P.M.)	ERC Hearing Room, 15 <sup>th</sup> Floor, Pacific Center Building, San Miguel Avenue, Pasig City	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearings

<b>Visayas</b>		
<b>January 11, 2011</b> –Two o'clock in the afternoon (2:00 P.M.)	Cebu Field Office, Machay Building, Gorordo Avenue, Lahug, Cebu City	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearings
<b>Mindanao</b>		
<b>January 18, 2011</b> –Two o'clock in the afternoon (2:00 P.M.)	Davao Field Office, Mezzanine Floor, Mintrade Building, Monteverde corner Sales Streets, Davao City	Jurisdictional, Expository Presentation, Pre-Trial Conference and Evidentiary Hearings

NPC and PSALM are hereby directed to cause the publication of the attached Notice of Public Hearing, at their own expense, twice (2x) for two (2) successive weeks in two (2) newspapers of general circulation in the Philippines, with the date of the last publication to be made not later than ten (10) days before the scheduled date of initial hearing.

Let copies of the application, this Order, and the attached Notice of Public Hearing be furnished 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 at the scheduled hearing.

Likewise, let copies of this Order and the attached Notice of Public Hearing be furnished the Offices of the Mayors of Quezon City, Cebu City, Davao City and Provincial Governors in Luzon, Visayas and Mindanao, where NPC principally operates for the appropriate posting thereof on their respective bulletin boards.

NPC and PSALM are hereby directed to furnish all those making requests therefor with copies of the application and its attachments, subject to reimbursement of reasonable photocopying costs.

On the date of the initial hearing and pre-trial conference, NPC and PSALM must submit to the Commission their written Compliance with the jurisdictional requirements attaching therewith, methodically arranged and duly marked, the evidences on the actual posting and publication of the Notice of Public Hearing consisting of certifications issued to that effect, signed by the afore-mentioned Mayors and Governors or their duly authorized representatives, bearing the seals of their offices, and the affidavits of the Editors or Business Managers of the newspapers where the said Notice of Public Hearing were published together with the complete issues of the said newspapers, and such other proofs of compliance with the requirements of the Commission.

NPC and PSALM and all interested parties are directed to submit, at least five (5) days before the date of initial hearing and pre-trial conference, their respective Pre-Trial Briefs containing, among others:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved;
- (c) The documents or exhibits to be presented, stating the purposes thereof and proposed markings therefore; and
- (d) The number and names of the witnesses, with their written testimonies in an individual affidavit form, to be attached to the Pre-Trial Brief.

Failure of NPC and PSALM to submit the required Pre-Trial Brief and Judicial Affidavits of their witnesses within the prescribed period shall be a

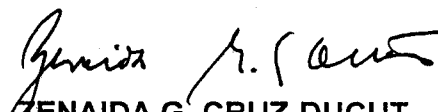
ground for cancellation of the scheduled hearing, and the resetting of which shall be six (6) months from said date of cancellation.

As part of the pre-trial conference, NPC and PSALM must also be prepared to make an expository presentation on their 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 the consumers and other concerned parties, what the application is all about and the reasons and justifications being cited in support of the approval prayed for.

**SO ORDERED.**

Pasig City, November 8, 2010.

FOR AND BY AUTHORITY  
OF THE COMMISSION:

  
ZENAIDA G. CRUZ-DUCUT  
Chairperson  
*april 4*

**Copy Furnished:**

1. **ATTYS. CECILIO B. GELLADA, JR., ARLENE B. EVANGELIO, CAROLINE V. BALO-ATENCIA, and PIA ZOBEL Z. RUIZ-SAN DIEGO**  
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3. **ENGR. SIEGFRIEDO A. VELOSO**  
Representative  
The Federation of Village Association (FOVA)  
Don Jesus Boulevard Alabang Hills Village  
Muntinlupa City
4. **MR. PETE L. ILAGAN**  
President  
National Association of Electricity Consumers for Reforms, Inc.  
(NASECORE)  
No. 10 Bayside Court Compound, 680 Quirino Avenue  
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5. **PHILIPPINE ASSOCIATED SMELTING AND REFINING CORPORATION (PASAR)**  
Attention: Attys. **DANILO C. PEROLINO, ROVELSON R. VELMONTE**  
(Counsels for PASAR), and **DIONISIO A. TEJERO** of **D.A. TEJERO and AMORANTO LAW OFFICES** (collaborating Counsel)  
37<sup>th</sup> Floor, Philamlife Tower, 8767 Paseo de Roxas  
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6. **Commission on Audit**  
Commonwealth Avenue  
Quezon City 1121
7. **Senate Committee on Energy**  
GSIS Building, Roxas Boulevard  
Pasay City 1307
8. **House Committee on Energy**  
Batasan Hills, Quezon City 1126
9. **National Electrification Administration (NEA)**  
Quezon Avenue, Quezon City  
Metro Manila
10. **Mr. Edgardo G. Lacson**  
President  
Philippine Chamber of Commerce and Industry (PCCI)  
3<sup>rd</sup> Floor, ECC Building, Sen. Gil Puyat Avenue  
Makati City
11. **The City Mayor**  
Quezon City

12. The City Mayor  
Cebu City
13. The City Mayor  
Davao City
14. The Provincial Governor  
Province of Ilocos Sur
15. The Provincial Governor  
Province of Ilocos Norte
16. The Provincial Governor  
Province of Cagayan
17. The Provincial Governor  
Province of Isabela
18. The Provincial Governor  
Province of Nueva Viscaya
19. The Provincial Governor  
Province of Abra
20. The Provincial Governor  
Province of Benguet
21. The Provincial Governor  
Province of Ifugao
22. The Provincial Governor  
Province of Kalinga Apayao
23. The Provincial Governor  
Mountain Province
24. The Provincial Governor  
Province of Aurora
25. The Provincial Governor  
Province of Tarlac
26. The Provincial Governor  
Province of Nueva Ecija
27. The Provincial Governor  
Province of Pampanga
28. The Provincial Governor  
Province of Bataan
29. The Provincial Governor  
Province of Zambales
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Province of Laguna
31. The Provincial Governor  
Province of Batangas
32. The Provincial Governor  
Province of Quezon

33. The Provincial Governor  
Province of Occidental Mindoro
34. The Provincial Governor  
Province of Oriental Mindoro
35. The Provincial Governor  
Province of Marinduque
36. The Provincial Governor  
Province of Romblon
37. The Provincial Governor  
Province of Palawan
38. The Provincial Governor  
Province of Camarines Sur
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Province of Camarines Norte
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Province of Zamboanga del Sur

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Province of Misamis Occidental
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Province of Misamis Oriental
59. The Provincial Governor  
Province of Bukidnon
60. The Provincial Governor  
Province of Lanao del Norte
61. The Provincial Governor  
Province of North Cotabato
62. The Provincial Governor  
Province of South Cotabato
63. The Provincial Governor  
Province of Sultan Kudarat
64. The Provincial Governor  
Province of Agusan del Norte
65. The Provincial Governor  
Province of Agusan del Sur
66. The Provincial Governor  
Province of Surigao del Norte
67. The Provincial Governor  
Province of Surigao del Sur