

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

**IN THE MATTER OF THE ADOPTION OF
THE GENERATION RATE ADJUSTMENT
MECHANISM (3rd GRAM), WITH PRAYER
FOR PROVISIONAL AUTHORITY**

ERC CASE NO. 2007-097 RC

**NATIONAL POWER CORPORATION -
SMALL POWER UTILITIES GROUP
(NPC-SPUG),**

Applicant.

x ----- x

DOCKETED
Date: JAN 20 2011
By: [Signature]

ORDER

On August 9, 2007, the Commission issued an Order directing the cancellation of the various hearings of this case in view of the "Urgent Motion" filed by the National Power Corporation-Small Power Utilities Group (NPC-SPUG) on August 7, 2007.

On August 22, 2007, Intervenors/Oppositors, Mr. Dennis C. Alcancia, Mr. Francisco E. Atienza, Jr. and Mr. Honrado P. Vega filed a "Motion to Dismiss" praying that the instant application be dismissed for failure of the National Power Corporation-Small Power Utilities Group (NPC-SPUG) to comply with the jurisdictional requirements of Section 4 (e) of Republic Act No. 9136 (R.A. 9136) and Section 2, Rule 6 of the Commission's Rules of Practice and Procedure.

Acting thereon, the Commission issued an Order dated April 13, 2009 directing NPC-SPUG to file its comment on the said motion to dismiss. In compliance therewith, NPC-SPUG filed a "Comment with Motion for Resolution" on July 28, 2009.



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OFFICE OF THE
SECRETARY
ENERGY REGULATORY COMMISSION
SAN MIGUEL AVENUE, PASIG CITY

NPC-SPUG submitted its "Compliance with Jurisdictional Requirements" on July 7, 2007 with the following documents to prove that copies of the application and its annexes were served on the local government units (LGUs) of San Jose Del Monte City, Bulacan, Cebu City and Zamboanga City, in compliance with the Commission's pre-filing requirements:

1. The "Certification" dated March 6, 2007 issued by the Office of the Sangguniang Panglungsod of Cebu;
2. The "Certification of Receipt" dated March 16, 2007 issued by the Office of the City Secretary of San Jose Del Monte City; and
3. The "Certification" dated March 21, 2007 issued by the Office of the Sangguniang Panlungsod of Zamboanga.

Section 2, Rule 6 of the Commission's Rules of Practice and Procedure provides that:

"Section 2. Pre-filing Requirements for Rate Applications and Other Applications/Petitions for Relief Affecting the Consumers. – Before the Commission shall accept and docket rate applications and other applications or petitions for relief affecting the consumers, the applicant or petitioner must comply with the following requirements:

- (a) The applicant or petitioner must furnish the Local Government Unit (LGU) Legislative Body (and not the Office of the Mayor) of the city or municipality where it principally operates, a copy of the application or petition, and not a mere notice of application/petition, with all its annexes and accompanying documents. If such principal place of operation is a component city or a municipality, the applicant or petitioner shall likewise furnish the LGU Legislative Body of the province of which such component city or municipality is part.
- (b) The applicant or petitioner must cause the publication of the entire application or petition, excluding its annexes, and not a mere notice of filing or notice of application or petition, in a newspaper of general circulation within its franchise area or area where it principally operates."



During the pre-filing conference conducted by the Commission, it was established that NPC-SPUG's principal place of operation in Luzon, Visayas and Mindanao were located at San Jose Del Monte City, Bulacan, Cebu City and Zamboanga City, respectively. NPC-SPUG submitted the abovementioned documents to prove its compliance with Section 2, Rule 6 of the Commission's Rules of Practice and Procedure. Thus, upon review of the submissions made by NPC-SPUG during the pre-filing conference, the Commission found that it has substantially complied with the said Rules.

Consistent with Section 2 (a) of said Rule 6, the Commission interpreted the phrase "principal place of operation" to mean as principal offices of petitioner/applicants in rate applications/petitions. Since NPC-SPUG principally operates in San Jose Del Monte City, Bulacan, Cebu City and Zamboanga City, it is not necessary to require NPC-SPUG to furnish the LGU Legislative Body of the Province of Oriental Mindoro as contended by the intervenors/oppositors. The documents submitted by NPC-SPUG are sufficient compliance with the Commission's pre-filing requirements.

In view of the foregoing, the "Motion to Dismiss" filed by Intervenors/Oppositors, Mr. Dennis C. Alcancia, Mr. Francisco E. Atienza, Jr. and Mr. Honrado P. Vega is hereby **DENIED** for lack of merit.

Meantime, this case is set for hearing on the following dates and venues:



Date and Time	Venue	Particulars
March 3, 2011 - Nine o'clock in the morning (9:00 A.M.) to five o'clock in the afternoon (5:00 P.M.)	Astoria Hotel, Jaldon Street, Zamboanga City	Jurisdictional Hearing, Expository Presentation, Pre-Trial Conference and Evidentiary Hearing
March 29, 2011 - Eight thirty in the morning (8:30 A.M.)	Asia Stars Hotel, P. Zamora Street, Tacloban City	

NPC-SPUG is hereby directed to cause the publication of the attached Notice of Public Hearing, at its 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 date of the scheduled initial hearing. It is also directed to inform the consumers, by any other means available and appropriate, of the filing of the instant application, its reasons therefor, and of the scheduled hearings thereon.

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 who 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 the Cities/Municipalities and Provincial Governors where NPC-SPUG operates for the appropriate posting thereof on their respective bulletin boards.



NPC-SPUG is 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, NPC-SPUG must submit to the Commission its 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-SPUG is further directed to submit, at least five (5) days before the date of initial hearing, its Pre-trial Brief containing, among others, the following:

- a) a summary of admitted facts and proposed stipulations 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 witnesses, with their written testimonies in affidavit form, if already available, to be attached to the Pre-trial Brief.

As part of the pre-trial conference, NPC-SPUG must also be prepared to make an expository presentation of its 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



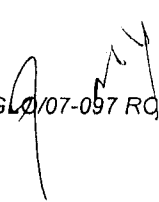
concerned parties, what the application is all about and the reasons and justifications being cited in support of the rate adjustments prayed for.

SO ORDERED.

Pasig City, January 18, 2011.

FOR AND BY AUTHORITY
OF THE COMMISSION:


ALEJANDRO Z. BARIN
Commissioner


GL 07-097 RC, NPC SPUG GRAM Ord 3

Copy furnished:

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6. **Commission on Audit**
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7. **Senate Committee on Energy**
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8. **House Committee on Energy**
Batasan Hills, Quezon City
9. All Electric Cooperatives
Visayas
10. All Electric Cooperatives
Mindanao